

# *Restoration*

OF NATIVE SOVEREIGNTY

## VAWA LEGISLATIVE UPDATE

*Restoration of  
Safety for  
Native Women*



VIOLENCE AGAINST WOMEN  
IS NOT TRADITIONAL

VOLUME II



Dear Friends,

Ten years ago Native women played a historic role in the passage of the Violence Against Women Act. Today, Native women are again steadfast in the efforts to re-authorize this life-saving legislation. In accordance with a resolution unanimously adopted during the 2003 Mid-Year Session, the National Congress of American Indians is working side-by-side with advocates for the safety of Native women to accomplish this critical task.

While violence against women is not our tradition Native women are victimized at rates higher than any other population in the United States. It is estimated that in their lifetime 1 of 3 Native women will be raped and 6 of 10 will be physically assaulted. If these statistics were true for any other population of women in the United States, it would be considered a national crisis requiring immediate attention.

This publication provides you with the proposed Native enhancements to the VAWA. Highlights of the draft language include: creation of a Native Title, criminal jurisdiction over non-Indians committing domestic violence within tribal jurisdiction, lifting of the current sentencing limitations on tribal courts in cases of domestic violence, a ten percent set-aside for Indian tribes, a national baseline study on violence against Indian women, and creation of a tribal division within the Violence Against Women Office.

We ask that you support these Native enhancements essential to the safety of Indian women. We ask that you join us in the effort to re-authorize the Violence Against Women Act. We ask that you stand together with Native women to stop the violence.

Juana Majel,  
Recording Secretary,  
National Congress of American Indians  
Chair, NCAI Task Force on Violence Against Women

Karen Artichoker,  
Management Team Director  
Cangleska, Inc.-Sacred Circle



# Title X. SAFETY FOR AMERICAN INDIAN AND ALASKA NATIVE WOMEN ACT

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## SECTION 801. ADMINISTRATION

The Violence Against Women Act of 1994 (108 STAT. 1902 et seq.), as amended by the Violence Against Women Act of 2000 (114 STAT. 1491 et seq.), and as further amended herein, is amended by adding at the end of the following:

**(a). SHORT TITLE**

This Title may be cited as the "Safety for Native Women Title of 2004"

**(b). FINDINGS - Congress finds that:**

- (1) 1 of 3 American Indian and Alaska Native women are raped in their lifetime;
- (2) American Indian and Alaska Native Women experience 7 sexual assaults per 1000 compared to 4 per 1000 among Black Americans, 3 per 1000 among Caucasians, 2 per 1000 among Hispanic women and 1 per 1000 among Asian women;
- (3) American Indian and Alaska Native women experience the violent crime of battering at a rate of 23.2 per 1000 compared to 8 per 1000 among Caucasian women;
- (4) American Indian women are stalked at a rate at least twice that of any other race;
- (5) About 8 in 10 American Indian and Alaska Native victims of rape or sexual assault were estimated to have assailants who were White or Black;
- (6) For American Indian females aged 15-34 years, homicide was the third leading cause of death, of which 75 % were killed by family members or acquaintances during 1979 - 1992;
- (7) American Indians and Alaska Native women are victimized by violent crimes at rates far greater than any other group of people in the United States;
- (8) American Indian tribes require additional resources to respond to violent assaults against women;
- (9) Native Americans living on tribal lands do not have access to the same services and programs available to other Americans, even though the government has a binding trust obligation to provide them;
- (10) The United States' unique legal relationship to Indian tribes creates a federal trust responsibility to assist tribal governments in safeguarding the lives of American Indian and Alaska Native women.

**(c). PURPOSE The purpose of this subtitle is to:**

- (1) decrease violent crimes against American Indian and Alaska Native women;
- (2) strengthen the response of Indian tribes to violent crimes committed against Indian women; and,
- (3) assure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

**(d). CONSULTATION**

- (1) In accordance with this Title, the Secretary of Health and Human Services and the Attorney General shall respectively conduct annual consultations with Indian tribal governments concerning:
  - (a) The fulfillment by the respective Department of the administration of the tribal funds and programs including, but not limited to, the following: timeliness of the award making process; amount awarded under each program directly to tribal governments, tribal organizations and tribal nonprofits; amount of tribal funds not awarded and explanation for not distributing such funds; any award made in violation of the eligibility guidelines to a non-tribal entity and explanation for such award; awarding of technical assistance grants for tribal grant programs or programs addressing the safety of Indian women.



(2) The consultations shall solicit recommendations from Indian tribes regarding administration of tribal funds and programs; recommendations to enhance the safety of Indian women including some incidents of domestic violence, dating violence, sexual assault, and stalking; and recommendations from Indian tribes for strengthening the Federal response to such violent crimes.

**(e). MATCHING PROHIBITION**

No matching funds shall be required of grants made to an Indian tribe, tribal organization, and tribal non-profit or subgrantee under this Title and grant funds may be expended for 100 % of the total cost of the individual projects described in the application.

**(f). DEFINITIONS**

"The term "Indian tribe" and "American Indian and Alaska Native" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

The term "tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant. The term "tribal court", "tribal court system", or "tribal justice system" means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods, trial courts, appellate courts, including inter-tribal appellate courts, and circuit rider systems, established by inherent tribunal authority whether or not they constitute a court of record.

**SEC 801 COMMENTARY:**

*This section was constructed to provide the justification for and changes to the Violence Against Women Acts of 1994 and 2000. Section (b) provides data and statistics from federal studies that focus on the nature and extent of violence against Indian women. These high numbers show Congress that there is a need that must be fulfilled. Section (c) explains the purposes of this new Act, with a focus on safety and sovereignty. Section (d) ensures that tribal leaders will be consulted in the implementation of this act, and that tribal nations receive priority for funding under this Act. Section (e) eliminates the burdensome "match" requirement for tribal governments that is currently imposed on tribes for the STOP Violence Against Indian Women discretionary grant program. Section (f) defines terms that are used throughout the Act. This language ensures that funding tribal governments and tribal organizations will be a priority, and that all forms of tribal courts will be recognized by the federal government for the purposes of this Act.*





## SECTION 802. SAFETY FOR INDIAN WOMEN WITHIN TRIBAL JURISDICTION

(a). Section 1301 (2) of the Indian Civil Rights Act of 1968 (25 U.S.C. Sec. 1301-1303) is amended by adding at the end:

"and criminal jurisdiction over all persons that:

(a) enter lands within the jurisdiction of an Indian tribe; (b) with the intent to injure, harass, intimidate, or otherwise abuse that person's spouse or intimate partner; and (c) who in the course of or as the result of such travel intentionally commits a crime of violence and thereby causes injury to such spouse or intimate partner."

(b). Section 1302(7) of the Indian Civil Rights Act of 1968 (25 U.S.C. Sec. 1301-1303) is amended by adding at the end:

"however, these restriction do not apply in the crime of domestic violence."

### ***SEC. 802 COMMENTARY***

*This section amends the Indian Civil Rights Act to allow tribes to prosecute all persons who enter a tribal jurisdiction to commit domestic violence. It also repeals the limitation on sentencing in cases of domestic violence, so a tribal nation could choose to impose harsher incarceration and fine penalties on repeat offenders.*

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## SECTION 803. ANALYSIS AND RESEARCH OF VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN

(a). NATIONAL BASELINE STUDY TO EXAMINE THE SCOPE OF VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN

(1) STUDY - The Attorney General through the Director of the Office on Violence Against Women shall provide for a national baseline study to examine the scope of violence against American Indian and Alaska Native women.

(2) SCOPE - The scope of the study shall examine violence committed against Indian women including the crimes of or resulting from domestic violence, dating violence, sexual assault, stalking and murder. The study shall address effectiveness of the local, State and Federal responses to domestic violence, dating violence, sexual assault, stalking committed against American Indian and Alaska Native Women. The study shall include, but is not limited to, the following: A) healthcare services provided to Indian women for rape and/or physical trauma resulting from domestic violence, dating violence, sexual assault, stalking, and crimes under the Federal Violence Against Women Act; B) crimes of domestic violence, dating violence, sexual assault, stalking, and crimes under the Federal Violence Against Women Act committed against American Indian and Alaska Native women reported to tribal, state, and Federal law enforcement agencies; C) investigations, prosecutions, and convictions of perpetrators of domestic violence, dating violence, sexual assault, stalking, and crimes under the Federal Violence Against Women Act committed against American Indian and Alaska Native women; D) offenders sentenced to prison, and sentenced to probation for the above crimes. The study shall examine the years of 1994 to 2004.

(3) NATIONAL BASELINE STUDY TASKFORCE - The Attorney General through the Director of the Office on Violence Against Women shall establish a taskforce to assist in the development and implementation of the study, with the advice and input from the Bureau of Justice Statistics, the National Institute of Justice, the Office for Victims of Crime, and Department of Health and Human Services Indian Health Services in carrying out this section. The Director shall appoint to the taskforce representatives from the following tribal organizations and tribal nonprofits to serve



as members of the taskforce: the National Congress of American Indians, National Resource Center to End Violence Against Native Women, Indian Section of the International Association of Chiefs of Police, Northern Plains Tribal Judicial Training Institute, Tribal Law and Policy Institute and Clan Star, Inc.

(4) REPORT - The Attorney General shall ensure that no later than 3 years after the date of the enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on Indian Affairs, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives. Based on the findings of the study required by subsection (a), the Attorney General shall prepare a report to Congress including an analysis of: A) the number of reported allegations and estimated number of unreported allegations of sexual assault of American Indian and Alaska Native women, and to whom the allegations are reported; B) the number of reported allegations and estimated number of unreported allegations of assault of American Indian and Alaska Native women resulting from domestic violence, dating violence, stalking, and crimes under the Federal Violence Against Women Act, and to whom the allegations are reported; C) the number of allegations of domestic violence, dating violence, sexual assault, murder, stalking and crimes under the Federal Violence Against Women Act of American Indian and Alaska Native women that result in federal or state criminal prosecution; D) the number of investigations, prosecutions, convictions, offenders sentenced to prison, and offenders sentenced to probation, of/or for such crimes by tribal, Federal and state agencies; and E) a comparison to other populations of the rate of occurrence and criminal response to such crimes; and F) the number of American Indian and Alaska Native women murdered in the United States and the number of such cases in which the cause of death was the result of/or occurred during a domestic violence, dating violence, sexual assault, stalking, crime under the Federal Violence Against Women Act, or hate crime.

(5) STAFFING - The Director shall support and staff this study and may enter into a contract or make a grant to carry out activities under this study.

(6) AUTHORIZATION AMOUNTS - There is authorized to be appropriated to carry out this section \$1,000,000 for each fiscal years 2006 and 2008. Amounts appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this section.

**(b). NUMBER AND COST OF INJURIES**

(1) STUDY - The Secretary of Health and Human Services, acting through the Indian Health Services and Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, dating violence, sexual assault, or stalking committed against Indian women, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

**SEC. 803 COMMENTARY:**

*This language acknowledges the importance of research and analysis of the crisis facing Native women in the United States. Section (a) requires the Department of Justice to do a comprehensive study of incidents of violence against Indian women, culminating in a national report that provides Congress with more detailed information about the nature and extent of violent crimes committed against Indian women. This study will provide further justification to support tribal governments in their efforts to protect women. As sovereign nations, we need to have comprehensive, accurate information in order to make the best decisions for our people. Section (b) requires the IHS and the CDC to study the nature and extent of injuries suffered by Native women as a result of the violence, with an analysis of the resulting expenses from these injuries. Moreover, this second study must contain recommendations to improve the situation.*





## SECTION 804. TRACKING OF VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN

### (a). AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES FOR INDIAN TRIBAL GOVERNMENTS

(1). ACCESS AND ENTRY - Section 534 of title 28, United States Code, is amended by adding at the end the following:

"(e)(2) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to tribal government law enforcement agencies for use in domestic violence, dating violence, sexual assault, and stalking.

(c) Tribal government law enforcement agencies are authorized to enter information into the national crime information databases."

### (b). TRIBAL PROTECTION ORDER AND SEX OFFENDER REGISTRY

(1) ESTABLISHMENT AND PURPOSE - The Attorney General shall enter into a contract with an Indian tribe, tribal organization or tribal nonprofit organization to develop and maintain a national tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions, and a sex offender registry.

(2) AUTHORIZATION AMOUNTS - There is authorized to be appropriated to carry out this section \$1,000,000 for each fiscal years 2006 through 2010. Amounts appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this section.

#### **SEC. 804 COMMENTARY:**

*Section (a) will ensure that tribal law enforcement officials will have access to NCIC and other national databases that track criminal history. This access will improve tribal law enforcement's ability to track, detain, and arrest persons wanted in other jurisdictions or persons who violate protection orders. Section (b) establishes a national database of tribal protection orders and tribal sex offenders. This database will facilitate the tracking and apprehension of serial offenders who may travel between and among different tribal governments.*

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## SECTION 805 - SAFETY FOR AMERICAN INDIAN AND ALASKA NATIVE WOMEN FORMULA GRANT PROGRAM

### (a). PROGRAM PURPOSE

The purpose of this Program is to increase tribal capacity to respond to domestic violence, dating violence, sexual assault and stalking crimes against Indian women; strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities; and enhance services to Indian women victimized by domestic violence, dating violence, sexual assault and stalking.

### (b). PROGRAM FUNDS

The Director of the Office on Violence Against Women shall combine the monies appropriated under the Grants to Combat Violent Crimes Against Women 42 USC 3796gg-1(b)(1), Grants to Encourage Arrest Policies and Enforce Protection Orders 42 USC 3796hh sec. 2101(e), Legal Assistance for Victims 42 USC 3796gg-6 sec. 1201(f)(2)(A), Safe Haven for Children Pilot Program 42 USC 10420(f), Rural Domestic Violence and Child Abuse Enforcement Assistance 42 USC 1397 (c)(3), to create a single formula grant program to enhance the response of Indian tribal governments to address the safety of American Indian and Alaska Native Women. Grants made under this Program shall be administered by the Tribal Division of the Office on Violence Against Women. Grants under this program shall be made to Indian tribes according to Sec. 503.



**(c). ELIGIBLE ENTITIES -**

**(1) General Grants**

The Attorney General through the Director of the Office on Violence Against Women shall make grants to Indian tribes and tribal organizations for the purposes described in Section 504 of this Title.

**(2) AMOUNTS -** Of the amounts appropriated for purposes of this section:



The Director of the Office on Violence Against Women shall distribute funds under this Program to Indian tribes according to the following process, timeline and allocation formula for disbursement of funds:

- 1) No later than 60 days after receiving an appropriation of funds supporting this Program, the Director of the Office on Violence Against Women shall:
  - A) publish within the Federal Register notification of the availability of funds under this Program to Indian tribes, total amount of funds available, the process by which tribes may participate in the program, and deadline for submission of a tribe's letter of intent to access these funds; and
  - B) mail each Indian tribe a notification of the availability of funds, amount of funds available, instructions on the application process, copies of the application forms, and the deadline for submission of the application.
- 2) An Indian tribe exercising the option to receive funds under this Program shall submit a letter of intent to the Director within 60 days of receiving notice of the availability of such funds from the Director.
- 3) No later than 180 days after receiving the appropriation, the Director shall distribute and make accessible Program funds to Indian tribes opting to participate in the Program.
- 4) The Director shall distribute the Program funds according to the following formula:
  - (A) 50 percent of the available funds shall be allocated equally to all Indian tribes who exercise the option to access the funds; and
  - (B) the remaining 50 percent shall be allocated to the same Indian tribes on a per capita basis, according to the population residing in the respective Indian tribe's service area;
- 5) The Director of the Office on Violence Against Women shall not place administrative burdens upon participating Indian tribes by requiring them to submit paperwork, forms, or other information not legally applicable to tribal governments.
- 6) No later than 120 days after receiving an appropriation for this Program, the Director of the Office on Violence Against Women shall set aside not less than 6% of the total amount of the funds made available under Section 502 for the purpose of entering into a cooperative agreement or contract with a tribal organization(s) with demonstrated expertise in providing training and technical assistance to Indian tribes in addressing violence against Indian women. At least one of these cooperative agreements or contracts shall be entered into with a single tribal organization to provide comprehensive technical assistance to participating tribal governments. Such training and technical assistance shall be specifically designed to address the unique legal, cultural, and geographic circumstances of the Indian tribes receiving funds under this Program, including the unique legal status of Indian tribes.

**(d). RECIPIENT REQUIREMENTS.**

- (1) Indian tribes may receive funds under this Program as individual tribes or as a consortium of tribes;
- (2) Participating tribes may make subgrants or enter into contracts or cooperative agreements with the funds allocated under Section 503 (b)(4) in order to enhance the safety of and end violence against Indian women.





(3) Participating tribes must set aside no less than 40 percent of their total allocation under this section for tribally specific domestic violence, dating violence, sexual assault, or stalking victim services and advocacy for Indian women. The services supported with Program funds must be designed to address the unique circumstances of the women to be served, including the customary practices and linguistic needs of the Indian women within the tribal community to be served. Tribes shall give preference to tribal organizations, non-profit tribal coalitions, or tribal nonprofit organizations providing advocacy services to Indian women within the community to be served such as an Indian women's safety center or shelter program. In the case where the above organizations do not exist within the participating tribe, the participation and support from Indian women in the community to be served is sufficient to meet this requirement.

**(e). PURPOSE AREAS**

The Director of the Office on Violence Against Women is authorized to make grants to Indian tribes for the purpose of enhancing participating tribes' capacity to address the safety of Indian women. Each participating tribe shall exercise its right of self-determination and self-governance in allocating and utilizing funds made available under this Program. Each participating tribe may utilize Program funds to support its specific tribally based response to increasing the safety of women within the broad parameters of the purpose areas below. Funds made available to Indian tribes under this Program may be used to support the following purpose areas:

(1) Enhancements to the Indian tribes' response to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including support for traditional tribal justice approaches. Funds may support, but are not limited to training of and support for, victim advocacy and services, tribal law enforcement, prosecution, legal services for victims, courts, probation, correction activities, native specific perpetrator re-education programs, systems change, and eliminating gaps in services;

(2) Development and maintenance of tribal safety centers for Indian women to assist Indian women in restoring the physical and spiritual well-being after their lives have been disrupted by acts of violence (including domestic violence, dating violence, sexual assault, and stalking). Activities provided by such safety centers may include, but are not limited to, traditional and customary tribal practices, tribal ceremonies for women, tribal linguistic services, talking or support circles, advocacy services, safe shelter, educational, G.E.D. and job skills training, childcare services, and support for health related services needed as the result of violence;

(3) Development of tribal educational awareness programs and materials documenting the historical role of women within the tribe to strengthen community awareness of tribal beliefs, traditional and customary practices of respect for women, and intolerance for acts of violence against women (including domestic violence, dating violence, sexual assault, and stalking). Such tribal awareness programs and materials may include, but are not limited to, video, audio, and written materials documenting teachings of respect for women from the elders, beliefs of respect for women illustrated through the tribal language, or traditional songs or social dances for women of the respective tribe;

(4) Support for customary tribal activities to strengthen the community's intolerance for violence against women and the community's understanding of the danger such violence creates for the stability, health and future of the Indian tribe. Such activities may include, but are not limited to, support for annual or seasonal tribal gatherings such as cultural or subsistence activities camps, women's or men's customary activities, and well-being retreats;

(5) Enhancements to the capacity of the tribal infrastructure to respond to violence against Indian women in a safe and confidential manner, including, but not limited to, the following: support for the development of tribal Internet services; development of tribal wireless communication systems; purchase of equipment; training of personnel in the utilization of technology to enhance the capacity of the tribal government and service providers to increase the safety of women;



(6) Development, implementation and maintenance of tribal electronic databases for tribal protection order registries, domestic violence offender registries and sex offender registries, participation in any Tribal, Federal, or State protection order or sex offender registries;

(7) Support for efforts of participating Indian tribes to increase collaboration with other Tribal, Federal or State agencies in the prosecution of perpetrators of violence against Indian women; such activities may include the hiring of tribal personnel to coordinate with Federal or State prosecution of cases of domestic violence, dating violence, sexual assault, stalking and the Federal Violence Against Women Laws;

(8) Support for efforts of the Indian tribe to enforce protection orders and to implement Full Faith and Credit educational projects and comity agreements between the Indian tribe and other tribal or state jurisdictions; and

(9) Any other tribally specific activity to develop policy, infrastructure, resources, or services that will enhance the safety of women.

**(f). RECIPIENT REQUIREMENTS**

(1) To ease the administrative burden for Indian tribes, the Director of the Office on Violence Against Women shall prepare an expedited application process for Indian tribes participating in the Program. The expedited process shall facilitate participating tribes' submission of information:

(a) outlining project activities;

(b) describing how the project activities will enhance the Indian tribe's response to violence against Indian women (domestic violence, dating violence, sexual assault, and stalking);

(c) identifying the tribal partner providing advocacy and related services for Indian women who are victims of crimes of domestic violence, dating violence, sexual assault, and stalking.

**(g). EVALUATION**

The Director shall award a contract or cooperative agreement to evaluate programs under this Title to an entity with the following demonstrated expertise:

(1) knowledge and experience in the development and delivery of services to Indian women victimized by domestic violence, dating violence, sexual assault, and stalking;

(2) knowledge and experience in the development and implementation of tribal governmental responses to domestic violence, dating violence, sexual assault, and stalking; and

(3) knowledge and experience in traditional and customary practices of Indian tribes to violence against Indian women (domestic violence, dating violence, sexual assault, and stalking).

**SEC. 805 COMMENTARY:**

*This section is designed to streamline the method by which tribal nations apply for grants from the Office on Violence Against Women. Currently, many tribes have to submit several separate applications per year in order to continue to receive funding. Section (a) defines the purposes of the newly-designed grant program. Section (b) requires OVW to combine the current monies available to Indian nations into a single funding stream. Section (c) explains the distribution plan for the monies. Each federally-recognized tribal government will have the opportunity to apply for funds from the OVW. Half of the money will be distributed equally to those tribal nations who express intent to participate. The remainder will be distributed based on the population of each tribal nation, with larger tribes receiving a larger proportion. Section (c) also requires OVW to spend a specified percentage of funds to tribal organizations that will provide training and technical assistance to the tribal governments receiving funding. Section (d) gives tribal governments the option of entering into partnerships to receive the funding, and also ensures that at least 40 percent of the dollars are spent on direct services to Native women who have experienced crime, including victim support and advocacy. Section (e) includes all of the purposes for which tribal nations can use the newly-designed funding. In addition to direct services, law enforcement, prosecution, courts, probation, and other tribal justice system components, the funds can be used to develop comprehensive educational programs and events that promote traditional tribal beliefs and language regarding the safety and sacredness of women. Section (f) is designed to streamline the process by which tribal governments apply for funding by eliminating many repetitive bureaucratic procedures. The newly-designed grant program will require a single application with basic information. Section (g) requires any evaluation of the grant programs to be undertaken by an entity that has background and experience in the specific area of violence against Indian women.*





NATIONAL CONGRESS OF AMERICAN INDIANS

THE NATIONAL CONGRESS OF  
AMERICAN INDIANS

RESOLUTION #PHX-03-034

**Title: Support for the 2005 Reauthorization of the Violence Against Women Act Including Enhancements for American Indian and Alaska Native Women**

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all of her rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people and their way of life, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, all Indigenous Native cultures have a belief that respects and honors Native women as cultural bearers, life-givers and care-givers of nations; and

**WHEREAS**, the interaction between immigrants and Indigenous cultures has caused a significant breakdown of this value of respect and honoring American Indian and Alaska Native women, resulting in a high rate of domestic violence and sexual assault directed toward American Indian and Alaska Native women; and

**WHEREAS**, it is necessary for the NCAI as the leadership of tribal governments to be proactive in the defense of American Indian and Alaska Native women to curtail and prevent violence against American Indian and Alaska Native women; and

**WHEREAS**, American Indian and Alaska Native women are battered, raped and stalked at far greater rates than any other group of women in the United States and these disproportional statistics have attracted little comment or concern from federal institutions with specific responsibilities in responding to these heinous crimes; and

**WHEREAS**, 1 of 3 American Indian and Alaskan Native women are raped in their lifetime, and American Indian and Alaska Native women experience 7 sexual assaults per 1000 compared to 4 per 1000 among Black Americans, 3 per 1000 among Caucasians, 2 per 1000 among Hispanic women and 1 per 1000 among Asian Americans, according to the November 2000 National Institute of Justice report; and

**WHEREAS**, American Indian and Alaska Native women experience the violent crime of battering at a rate of 23.2 per 1000 compared to 8 per 1000 among Caucasian women; and

**WHEREAS**, about 8 in 10 American Indian and Alaska Native victims of rape or sexual assault were estimated to have assailants who were White or Black, according to the US Department of Justice - American Indians and Crime Report from 1999; and

**WHEREAS**, Indian Tribes require additional resources to respond to violence assaults against American Indian and Alaska Native women and it is evident that there is an inadequate federal response to these serious crimes against American Indian and Alaska Native women; and



**WHEREAS**, the U.S. Department of Justice has jurisdiction over felony crimes by or against Indians, including homicide, rape and aggravated assault; however, perpetrators of such violent crimes against American Indian and Alaska Native women are rarely, if at all, prosecuted; and

**WHEREAS**, the unique legal relationship between the U.S. and Indian Tribes creates a federal trust responsibility to safeguard the lives of American Indian and Alaska Native women; and

**WHEREAS**, the future of Indigenous nations rests in the capacity of Native Nations to preserve the safety, integrity, and well-being of its members, especially the sacred status of American Indian and Alaska Native women to live in an environment free of violence and sexual assault; and

**WHEREAS**, the current federal legislation does not adequately address the safety needs of American Indian and Alaska Native women.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI does hereby support reauthorization of the Violence Against Women Act of 2005; and

**BE IT FURTHER RESOLVED**, that the NCAI does hereby resolve to support amendments to the Violence Against Women Act to increase the Federal response to violence against American Indian and Alaska Native women such as:

1. Increasing the sentencing authority of Indian tribes in cases of domestic violence and sexual assault cases beyond one year and \$5,000;
2. Increasing criminal authority to Indian tribes to prosecute non-Indian rapists and batterers;
3. Increasing Federal support to Indian tribes to enhance their response to violence against American Indian and Alaska Native women; and

**BE IT FURTHER RESOLVED**, that the NCAI does hereby support amendments to the Violence Against Women Act to enhance the ability of non-profit, non-governmental American Indian and Alaska Native women's organizations providing services to survivors of domestic and sexual violence such as:

1. Creation of a grant program to provide Federal support to non-profit, non-governmental American Indian and Alaska Native women's organizations to provide services to survivors of domestic and sexual violence; and
2. Creation of a grant program to provide Federal support to non-profit, non-governmental Native women's organization providing services to survivors of domestic and sexual violence to build shelters and transitional housing for American Indian and Alaska Native women; and
3. Creation of a grant program to provide Federal support for the development and maintenance of Sexual Assault Forensic Exam and Sexual Response Team units to provide services to American Indian Tribes and Alaska Native villages; and

**BE IT FURTHER RESOLVED**, that the NCAI does hereby resolve to support amendments to the Violence Against Women Act to increase the Federal response to violence against American Indian and Alaska Native women; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of the NCAI until it is withdrawn or modified by subsequent resolution.

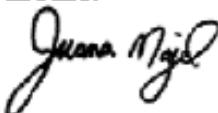
#### CERTIFICATION

The foregoing resolution was adopted at the 2003 Mid-Year Session of the National Congress of American Indians, held at the Sheraton Wild Horse Pass Gila River Indian Community, in Phoenix, Arizona on June 18, 2003 with a quorum present.



Tex Hall, President

#### ATTEST:



Juana Majel, Recording Secretary

Adopted by the General Assembly during the 2003 Mid-Year Session of the National Congress of American Indians, held at the Sheraton Wild Horse Pass Gila River Indian Community, in Phoenix, Arizona on June 18, 2003.



## SECTION 806. TRIBAL COALITION GRANTS

Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

### (d) TRIBAL COALITION GRANTS

(1) PURPOSE- The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of--

(A) increasing awareness of domestic violence and sexual assault against Indian women;

(B) enhancing the response to violence against Indian women at the Tribal, Federal, and State levels; and

(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

(2) GRANTS TO TRIBAL COALITIONS- The Attorney General shall award grants under paragraph (1) to--

(A) established or developing nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women.

(3) ELIGIBILITY FOR OTHER GRANTS- Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).

### ***SEC. 806 COMMENTARY***

*This section will insure that existing or developing tribal coalitions have access to continued funding and technical assistance to maintenance and expand the work of tribal coalitions to increase the safety of American Indian and Alaska Native Women.*

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## SECTION 807. ESTABLISHING THE TRIBAL DIVISION OF THE OFFICE ON VIOLENCE AGAINST WOMEN

-Title 42, section 3796gg-0 is amended by adding at the end-

(Section 2007. TRIBAL DIVISION. There is established in the Office on Violence Against Women a Tribal Division, which shall be headed by a Deputy Director for Tribal Affairs. The Deputy Director for Tribal Affairs shall administer grants to American Indian and Alaskan Native tribes and advise the Director of the Office on Violence Against Women about policies, legislation, implementation of laws, and other issues relating to violence against Indian women.)

### ***SEC. 807 COMMENTARY***

*This section insures that violence against native women will be a priority issue within the office on Violence Against Women and further the government-to-government relationship between the United States government and sovereign Indian nations.*





# A CALL FOR ACTION:

## *Native Women and Sexual Violence*

The rape and sexual assault of Native women has reached epidemic proportions. Almost every study on the rate of sexual assault in the last ten years which has included race or ethnicity as a factor has concluded that American Indian and Alaska Native women suffer a rate of sexual violence at least 2-3 times higher than any other group of women in the United States.

A compilation of data from 1992-2001 of the National Crime Victimization Survey found that the average rate of sexual assault for American Indians is 7.2 per 1,000 persons, compared to 1.9 per 1,000 persons for all races.

In 2000, the National Violence Against Women Survey concluded that 34.1% of American Indian/Alaska Native women will be raped during their lifetime – more than 1 in 3 Native women.

In 1999, The Bureau of Justice Statistics issued a report indicating that American Indians suffer a rate of sexual assault of 7 per 1,000 people, as compared to 2 per 1,000 for all races.

### **Other local and regional studies have also found facts consistent with the national studies:**

A 2003 report on sexual assault in Anchorage, Alaska, indicated that Alaska Native women are victims in over 45% of the city's reported sexual assaults. Alaska Native people constitute just over 10% of the city's population.

In 2001, the Washington State Office of Crime Victim Advocacy reported that American Indian women in Washington were more likely to experience sexual assault than women of other racial backgrounds.

In 1999, a study examining data collected between 1992-1997 at Michigan HIV counseling and testing sites in Michigan found that American Indians/Alaska Native female clients had the highest ratio of reported sexual assault.

Tribal governments face numerous challenges in responding to sexual violence. Jurisdictional restrictions, limited resources, and a history of widespread child sexual abuse in some communities (often perpetrated by outsiders) have resulted in a lack of immediate response to the rape and sexual assault of women. Many Native survivors have expressed a feeling of helplessness and confusion in the aftermath of sexual assault, due to the inaction of government officials. In addition, lack of adequate investigation and prosecution of these crimes sends a message to perpetrators that Native women are easy targets for sexual victimization.

Please join our efforts to re-authorize the Violence Against Women Act. We ask your support for (Title X Safety for American Indian and Alaska Native Women Act). Together we can restore safety for native women and stop the violence within our tribal nations.





# Native Women Experience Violent Victimization at a Rate Higher Than Any Other U.S. Population:

## *Understanding Why*

“In exchange for land and in compensation for forced removal from their original homelands, the government promised through laws, treaties, and pledges to support and protect Native Americans. However, funding for the programs associated with those promises has fallen short...” U.S. Commission on Civil Rights, 2003.

Despite the legal obligation of the United States to protect tribal nations, American Indian and Alaska Native women continue to experience extremely high rates of violent victimization. While violence is preventable, research to help understand why and how violence destroys the lives of Native women is not available. Since passage of the Violence Against Women Act, over one billion dollars has been spent to enhance the response to and research on violence against women. Yet not a single major study has focused on the unique legal, cultural, and jurisdictional issues which factor into violence against American Indian and Alaska Native women.

Understanding and responding to violence against Native women requires an adherence to the government-to-government relationship between Indian nations and the United States. Addressing the violence will require the United States to uphold its responsibilities to Indian tribes. To ensure the safety of Native women, Indian tribes will require a restoration of legal authority over perpetrators as well as additional resources to strengthen governmental responses to such crimes.

The historical pattern of violence perpetrated against Native women can be found in numerous Congressional reports. The federal policies of forced removal, boarding schools, loss of children, and sterilization have altered the lives of Native women and shaped American culture. The current rates of prevalence and severity of violence experienced by Native women are a continuation of this historical pattern of violence. This pattern is continued daily as perpetrators of rape, assault, and murder of Native women frequently suffer no legal consequences for such crimes.

### *What The Data Shows:*

From 1979-1992, homicide was the third leading cause of death for Native American women and girls (aged 15-34); 75 % of these women and girls knew their assailant, with almost one-third being killed by a family member; 23 % killed by cutting and stabbing; 36 % killed by blunt objects, bodily force, and strangulation; and 33 % killed by firearms. CDC, L.J. Wallace, et al, 1996.

**34.1 % of all American Indian and Alaska Native women will be raped in their lifetime. USDOJ / CDC, Tjaden & Thoennes, 1998.**

61.4 % of all American Indian and Alaska Native women will be physically assaulted in their lifetime. USDOJ / CDC, Tjaden & Thoennes, 1998.

**The Bureau of Indian Affairs Office of Law Enforcement Services indicated that they investigated 523 reported rapes in 1998; 603 in 1999; and 550 in 2000. USDOJ, BJS, 2003.**

In 1993, there were 69 federal convictions of sexual assault on Native American lands, 69 of the convicted defendants were male Native Americans. U.S. Sentencing Commission 2003.

### *What We Know About Non-Indian Perpetrators:*

**About 70% of all the violent victimizations experienced by American Indians are committed by persons not of the same race. USDOJ, Greenfeld & Smith, 1999.**

About 9 in 10 American Indian victims of rape / sexual assault were estimated to have had assailants who were white or black. USDOJ, Greenfeld & Smith, 1999.





**75% of the intimate victimizations of American Indians involved an offender of a different race. USDOJ, Greenfeld & Smith, 1999.**

These limited statistics convey the dangerous reality confronting American Indian and Alaska Native women. This reality threatens not only the future of Native women, but Indian tribes. The Violence Against Women Act can do more. It can provide a bridge for further research and analysis urgently needed to understand violence against Native women. It can provide a bridge to safety for American Indian and Alaska Native women.

***Native Women Need:***

**Comprehensive data regarding the percentage of cases of violence against Native women that result in conviction in both the federal and state systems;**

Research and analysis of the factors related to both preventing the violence and ameliorating the consequences of violence against Native women;

**Resources to support tribally-controlled research and evaluation of the context in which violence against Native women occurs.**





# FULL FAITH & CREDIT:

## Protection for Native Women Who are Battered

The enforcement of an order of protection can mean life or death for an American Indian or Alaska Native woman. The “Full Faith and Credit” provision of VAWA (18 U.S.C. 2265) is clear. The law states that:

*“Any protection order issued ... by the court of one State or Indian tribe ... shall be accorded full faith and credit by the court of another State or Indian tribe ... and enforced as if it were the order of the enforcing State or tribe.”*

The Full Faith and Credit provision of VAWA applies to both criminal and civil orders of protection. While this provision attempts to ensure that every protection order is recognized, a jurisdictional gap continues to threaten the safety of American Indian and Alaska Native women. This gap prevents Indian tribes from granting full faith and credit and criminal enforcement to orders of protection violated by non-Indian perpetrators. If the tribe has civil remedies available it can enforce those civil penalties against a non-Indian person.

The following story explains the frightening reality experienced by many American Indian and Alaska Native women. Rosie, a tribal member, was living outside of the jurisdiction of her tribe. Bill, her non-Native husband, was abusive towards Rosie. She requested and received a protection order from the state court system. Hoping that her family would help protect her, Rosie moved back to her tribal homeland to live with her mother. Bill, under pretenses of getting back together with Rosie, followed her onto tribal land and violated the protection order. Unfortunately, tribal police and prosecutors do not have criminal jurisdiction over Bill. Even if he violates the state protection order repeatedly, Rosie cannot rely on her tribal criminal justice system to respond.

The 2000 amendments to VAWA attempted to address this problem by clarifying that Indian tribes have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other “appropriate mechanisms.” Unfortunately, this amendment did not expand tribal jurisdiction, but merely clarified the lack of criminal jurisdiction. Some tribal law enforcement officials have described this problem as a “law enforcement vacuum.” Offenders can continually violate the terms of protection orders and there is no criminal accountability.

The safety of American Indian and Alaska Native women is dependent on the ability of Indian tribes to hold offenders criminally accountable. The ability to prosecute men who repeatedly batter, harass, or otherwise interfere with the safety of Native women is an important component of sovereignty.

In addition, some state governments are continuing to exhibit resistance to enforcing protection orders issued by tribal courts. Even though the federal law is clear, some states have made it difficult or impossible for a tribal protection order to be treated as valid and enforceable. In some communities, women’s advocates still recommend that Native women file for two protection orders – one in the tribal system and one in the state system. Unfortunately, there is currently no mechanism for ensuring state compliance with the federal law.

Native women travel across tribal and state boundaries on a regular basis. It is critical that valid protection orders are enforced in every jurisdiction, regardless of the issuing jurisdiction or the race of the perpetrator. Without strict and swift response to protection order violations, rates of violence against Native women will continue to rise.

### *Native Women Need:*

**Restoration of criminal jurisdiction over non-Indian offenders violating orders of protection;**

Continued widespread public education regarding “Full Faith and Credit”;

**Accountability from states that refuse to enforce tribal orders of protection;**

“Exclusion” of violators of orders of protection, non-Indian and Indian, from their tribal communities;

**Indian tribes to establish civil regulatory laws, including: a provision for civil contempt when violations of protection orders occur; subject non-Indians to tribal probation and offender management programs; create a registry for violent offenders; and public disclosure of offenders’ names.**

Additional resources at the tribal level to enhance data collection and access to protection order databases.





# *Warrior Women*

## THE HERSTORY

*Grandmother, mother  
Wailing your pain  
Small pox delivered  
And striking again*

*Genocide, massacres,  
Killing and greed  
Pain through the ages  
Your death they decreed*

*Lassoed your children  
Took them away  
Heart wrenched with pain  
as you prayed everyday*

*Forced to retreat  
On small plots of land  
Living in terror  
A child on each hand*

*Grandmother, mother  
Weeping your pain  
Boarding schools, foster homes  
They're striking again*

*Pain through the ages  
You seek some relief  
Heart ever aching you struggle with grief*

*Forced to question  
Your own worth and pride  
Hatred deep seeded  
You know how they lied*

*Grief from the loss  
Of your children so small  
Of culture, traditions  
They tried to take all*

*Grandmother, mother  
Acceptance is slow  
You've choked back your pain  
So your children could grow*

*Warrior women  
You've carried the weight  
Survived all the torture  
Transcended the hate*

*You survived many battles  
Tho trembling with fear  
Your heart is the drum  
It is this that we hear*

*Your strength through the ages  
Steadfast and true  
Grandmother, mother  
Our thanks is to you*

*Dedicated to every Native woman  
who has died from a broken heart, and  
to every woman who is still trying to attain  
peace and happiness for her children.*

*~by Sandy Davidson,  
Annishinabe, White Earth*



Rooted in the Plains, the mission of Sacred Circle,  
National Resource Center To End Violence Against Native Women,  
a project of Cangleska, Inc., is to change individual and institutional beliefs that justify  
the oppression of ALL Native women. The work to transform tribal families and communities  
into a circle of balance and harmony requires individual growth and systemic responsibility.

***We are dedicated to actions that promote the sovereignty and safety of women.***

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