

# *Restoration*

OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN



## *VAWA Reauthorization 2012*

March 2012, Washington, DC

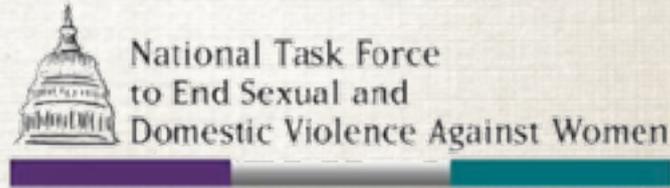
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*COVER: On October 11, 2011, Tribal leaders stood together, unified before the United States Government in Washington, DC during Tribal Unity Impact Week. **Senator Akaka, NCAI President Jefferson Keel, First Vice-President Juana Majel**, and other tribal leaders gathered in front of the U.S. Capitol Building to protect the Indian Budget, Land Restoration and Reauthorization of the Violence Against Women Act. Senator Akaka rallied those gathered to support the Stand Against Violence and Support Native Women Act, S. 1763. The Senator specifically called for support of the Department of Justice's legislative proposal, which would grant tribes concurrent criminal jurisdiction over both Indians and non-Indians who commit crimes of dating violence, domestic violence, and violations of protection orders in Indian country.*



Dear Friends,

Since 2003, the NCAI Task Force has diligently focused on increasing the safety of Native women. Building upon the passage of the Tribal Law and Order Act, we are now on the verge of making history. Since 1978, Native women have suffered the brutality of non-Indian abusers who are protected from criminal accountability by a race-based loophole in the law created by the Supreme Court’s decision in *Oliphant v. Suquamish Tribe*. The introduction of the Stand Against Violence and Empower Native Women (SAVE) Act by Senators Akaka and Franken directly challenges this race-based approach to federal law. Importantly, these tribal amendments were, through the introduction of S. 1925 by Senators Leahy and Crapo, incorporated into the 2011 reauthorization of the Violence Against Women Act.

S. 1925 addresses three major legal gaps/sentencing deficiencies involving tribal criminal and civil jurisdiction, and Federal criminal offenses. First, it recognizes certain tribes’ concurrent criminal jurisdiction to investigate, prosecute, convict, and sentence both Indians and non-Indians who assault Indian spouses, intimate partners, or dating partners, or who violate protection orders in Indian country. Second, it clarifies that tribal courts have full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian. Third, it amends federal assault statutes so that certain crimes often committed by abusers in Indian country can be punished with sentences on par to those handed out under state statutes: a one-year offense for assaulting a person by striking, beating or wounding; a five-year offense for assaulting a spouse, intimate partner or dating partner resulting in substantial bodily injury; and a ten-year offense for assaulting a spouse, intimate partner or dating partner by strangling or suffocating.

Additionally, S. 1925 strengthens the Department’s consultation process, ensures that research includes Alaska Native women, supports the important work of tribal coalitions and will reform grant programs aimed at helping Native victims. Furthermore, Title III amends the 2010 Tribal Law and Order Act (TLOA) to provide a much-needed one-year extension for the Indian Law and Order Commission, which Congress created to conduct a comprehensive study of law enforcement and criminal justice in tribal communities.

S. 1925 builds upon TLOA by acknowledging that Indian nations with adequate resources and legal authority can effectively address violence in their own communities. At the time of print, 54 Senators have signed-on to S. 1925. We applaud these Senators for their leadership and courage to stand up and say “no more”. Likewise, we applaud the Department of Justice for standing with Indian nations in promoting and supporting these life-saving changes. Thank you President Obama and Vice-President Biden for recognizing Native women deserve the same protections as all other women.

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



Juana Majel  
*1st Vice President*  
National Congress  
of American Indians



Terri Henry  
*Tribal Council Member*  
Eastern Band of  
Cherokee Indians

# SENATOR DANIEL K. AKAKA INTRODUCES BILL TO PROTECT NATIVE WOMEN AGAINST DOMESTIC VIOLENCE AND SEXUAL ASSAULT

## THE STAND AGAINST VIOLENCE AND EMPOWER NATIVE WOMEN (SAVE NATIVE WOMEN) ACT WOULD EMPOWER TRIBES TO PROSECUTE VIOLENT CRIMES AND IMPROVE PREVENTION PROGRAMS

U.S. Senate Indian Affairs Committee Chairman Daniel K. Akaka (D-Hawaii), on November 10, 2011 introduced S.1763, the Stand Against Violence and Empower Native Women (SAVE Native Women) Act. The bill would provide tribes with jurisdiction over non-Indians who commit crimes in Indian country, improve the Native programs under the Violence Against Women Act (VAWA), and improve data gathering programs to better understand and respond to sex trafficking of Native women.

Senators Al Franken (D-Minnesota), Tom Udall (D-New Mexico), Daniel K. Inouye (D-Hawaii), Mark Begich (D-Alaska), Patty Murray (D-Washington), Tim Johnson (D-South Dakota), Jeff Bingaman (D-New Mexico), Kent Conrad (D-North Dakota), Jon Tester (D-Montana), Max Baucus (D-Montana), Lisa Murkowski (R-Alaska), Harry Reid (D-Nevada), and Mike Crapo (R-Idaho) are cosponsors of the bill.

*"According to a study by the Department of Justice, two-in-five women in Native communities will suffer domestic violence, and one-in-three will be sexually assaulted in their lifetime. To make matters worse, four out of five perpetrators of these crimes are non-Indian, and cannot be prosecuted by tribal governments. This has contributed to a growing sense of lawlessness on Indian reservations and a perpetuation of victimization of Native women,"* said Senator Akaka.

*"American Indian women suffer disproportionately from domestic violence and sexual assault, and the Violence Against Women Act must be updated to more effectively address their unique needs,"* said Senator Franken.

*"This legislation works to ensure services are available to survivors of assault in native communities, repair a fragmented criminal justice system, and give tribes more power to prosecute those who are committing such heinous crimes against women,"* said Senator Udall.



*"By strengthening tribal jurisdiction we are empowering our Native communities with the tools they need to fight back against instances of violence,"* said Senator Begich.

*"We cannot let the next generation of young Native women grow up as their mothers have—in unbearable situations that threaten their security, stability, and even their lives,"* said Senator Akaka.

*"With the introduction of this legislation, the sponsors are sending a clear message that Congress intends to build on the incredible momentum of VAWA to ensure that the epidemic of violence against Native women will end*

*in our lifetime,"* said Sarah Deer, Amnesty International's Native American and Alaska Native Advisory Council Member.

*"Senator Akaka's SAVE Native Women Act has the potential to restore safety and justice for American Indian and Alaska Native women. It offers American Indian tribes the opportunity to increase life-saving protections for women living within tribal jurisdiction,"* said Terri Henry, Co-chair of the National Congress of American Indians (NCAI) Task Force on Violence Against Women.

*"This is an epidemic. It is unacceptable. And, we must stand against it,"* said Senator Akaka. *"I am committed to working with the co-sponsors, tribal leaders, NCAI and others who diligently work to protect at-risk Native women, to pass this much needed legislation."*

# LEAHY, CRAPO INTRODUCE BIPARTISAN BILL S. 1925 TO REAUTHORIZE LANDMARK VIOLENCE AGAINST WOMEN ACT

Nearly 20 years after the Violence Against Women Act was first signed into law, U.S. Senator Patrick Leahy (D-Vt.) introduced bipartisan legislation November 30, 2011 to further strengthen and improve the programs authorized under the landmark law to assist victims and survivors of domestic violence, dating violence, sexual assault, and stalking. The legislation is cosponsored by Senator Mike Crapo (R-Idaho).

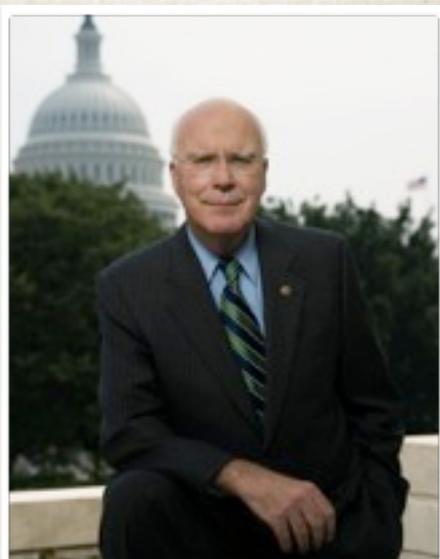
The Violence Against Women Act (VAWA) was first enacted in 1994 and has been the centerpiece of the federal government's efforts to stamp out domestic and sexual violence. Critical programs authorized under VAWA include support for victim services, transitional housing, and legal assistance. Leahy worked to secure reauthorization of the law in 2000 and in 2005.

*"As a prosecutor in Vermont, I saw firsthand the destruction caused by domestic and sexual violence," said Leahy. "Those were the days before VAWA, when too often people dismissed these serious crimes with a joke, and there were few, if any, services for victims. We have come a long way since then, but there is much more we must do."*

*"These dollars go directly to women and children who have been victimized by domestic violence," Crapo said. "The reauthorization of VAWA provides critical services to these victims of violent crime, as well as agencies and organizations who provide important aid to those individuals. I have been a strong supporter of prevention and elimination of domestic abuse since coming to Congress, and I intend to continue to fight to keep these funds intact for women and children."*

Leahy chairs the Senate Judiciary Committee, which has held a number of hearings in recent years focusing on the ongoing need for assistance for domestic and sexual violence victims and survivors, particularly at a time of

economic downturn. As chairman, Leahy invited testimony from representatives from Vermont's Women Helping Battered Women and the Vermont Network Against Domestic and Sexual Violence. In Vermont, VAWA funding helped the Vermont Network Against Domestic and Sexual Violence provide services to more than 7,000 adults and nearly 1,400 children in the last year alone, by providing shelter, transitional housing, counseling, and legal assistance.



The Violence Against Women Reauthorization Act includes important all-state minimum funding formulas for key grant programs, to ensure that small, rural states like Vermont have access to the victim services grants authorized under VAWA, including STOP grants, grants under the Sexual Assault Services Program, the Rural Program, Rape Prevention Education grants, and transitional housing grants, and includes important definitions to ensure that Vermont remains an eligible state under the definition of a rural jurisdiction. Leahy has long championed all-state minimum funding formulas for a variety of federal grant assistance programs.

*"The Violence Against Women Reauthorization Act reflects Congress's ongoing commitment to end domestic and sexual violence," said Leahy. "It seeks to expand the law's focus on sexual assault and to ensure access to services for all victims of domestic and sexual violence. The Violence Against Women Act has been successful because it has consistently had strong bipartisan support for nearly two decades. I am honored to*

*work now with Senator Crapo to build on that foundation. I hope that Senators from both parties will support this bill, which will provide safety and security for victims across America."*

The Violence Against Women Reauthorization Act S. 1925 contains several updates and improvements to the law.

*"These dollars go directly to women and children who have been victimized by domestic violence..."*

# CRIMINAL JURISDICTION OVER NON-INDIAN ABUSERS

The reality that non-Indian abusers commit domestic violence against Native women within tribal jurisdiction and typically face no criminal consequences is undisputed. The dangerous truth is that Indian tribes have no authority to prosecute non-Indian abusers, and the federal—and in some cases state and local entities—are far away from the crime scene, do not have the resources to prosecute these cases, and sometimes do not have the will. S. 1925 Section 904 proposes to fix this glaring loophole in federal law and send a loud signal that domestic and dating violence are serious crimes that will be prosecuted, regardless of the offenders' race.

## **Non-Indian abusers must have “sufficient ties to the Indian tribe.”**

The jurisdictional fix proposed under S.1925 is narrowly crafted to hold non-Indian offenders accountable and does not provide broad tribal jurisdiction over all persons or all types of crimes. To assume the proposed “special

*“Any opposition to tribal special domestic violence jurisdiction over non-Indians is unfounded since Indian tribes will be required to provide licensed defense counsel to non-Indian defendants that cannot afford to hire counsel. Indian tribes would need to meet this requirement in any criminal proceeding where imprisonment is possible.”*

Juana Majel  
1st Vice President  
National Congress of American Indians

domestic violence criminal jurisdiction” the statute requires that a tribe show that any non-Indian defendant being prosecuted has sufficient ties to the Indian tribe. To establish “sufficient ties” a tribe is required to prove the non-Indian defendant either: resides in the Indian country of the prosecuting tribe, is employed in the Indian country of the prosecuting tribe, or is either the spouse or intimate partner of a member of the prosecuting tribe.

The proposed fix allows an Indian tribe to assume “special domestic violence jurisdiction” over non-Indian abusers who live, work, and/or maintain intimate relationships in Indian country. It will prevent non-Indians from violating tribal laws with impunity just because of their non-tribal member status. It further recognizes that it is in the interest of public safety to hold violent abusers accountable for crimes of domestic violence at the early stage before their acts of violence escalate.

## **Constitutional safeguards are required.**

S. 1925, Section 904 requires tribes to guarantee Indian and non-Indian defendants the same constitutional rights to counsel that would be available in federal or state court. The proposed fix to the jurisdictional gap requires that an Indian tribe exercising such jurisdiction comply with two other federal statutes.

First, it requires that an Indian tribe provide non-Indian defendants all protected rights as provided by the Indian Civil Rights Act. In 1968, Congress enacted the Indian Civil Rights Act that protects individual liberties and constrains the powers of tribal governments in much the same ways that the Federal Constitution limits the powers of the Federal and State governments. The Indian Civil Rights Act protects numerous rights for defendants in tribal court including the following rights, among others:

- The right against unreasonable search and seizures.

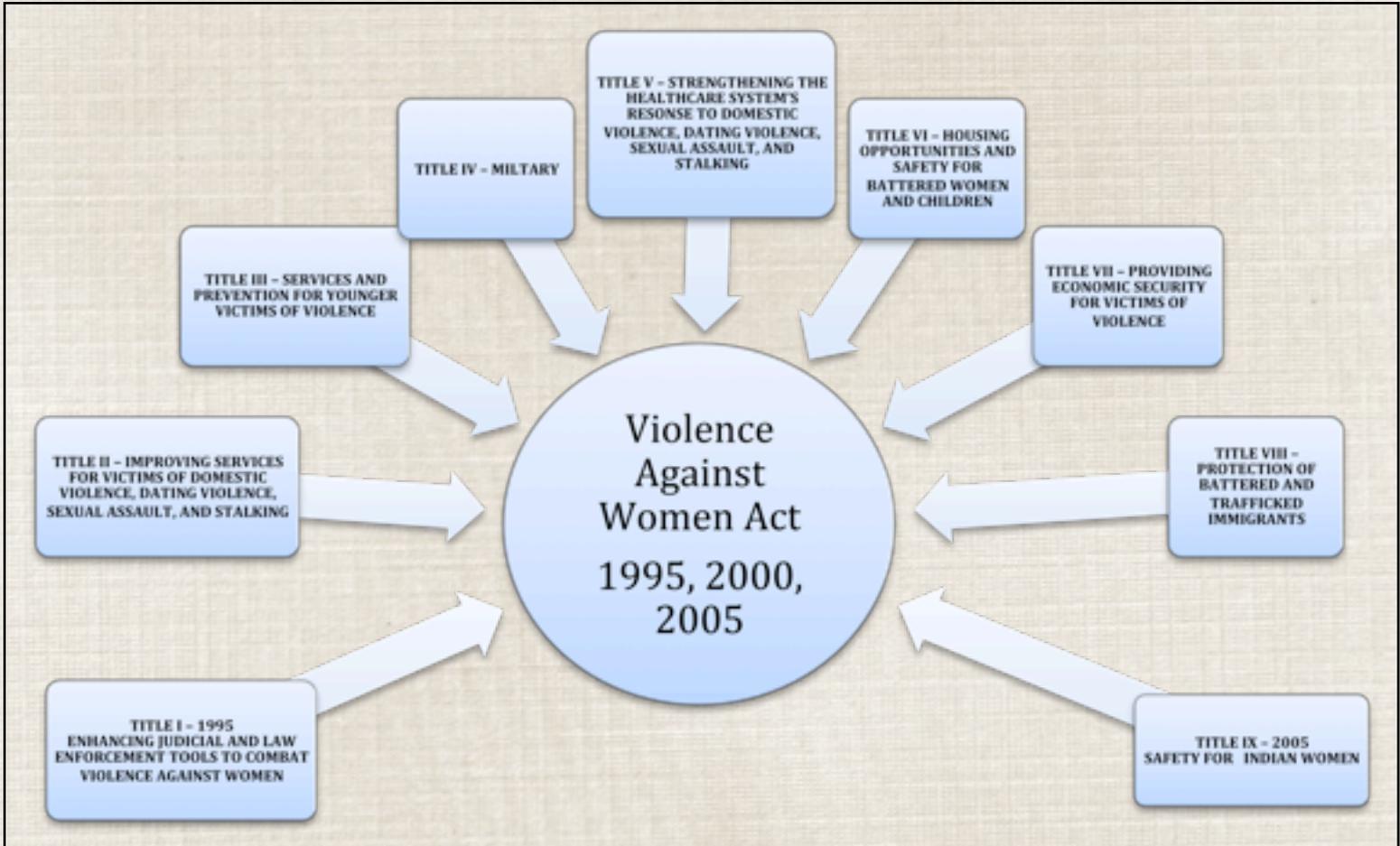
(e) RIGHTS OF DEFENDANTS.-In a criminal proceeding in which a participating tribe exercises special domestic-violence criminal jurisdiction, the tribe shall provide to the defendant-

- (1) all rights protected by the Indian Civil Rights Act;
- (2) if a term of imprisonment of any length is imposed, all rights described in paragraphs (1) through (5) of section 1302(c); and
- (3) all other rights whose protection would be required by the United States Constitution in order to allow the participating tribe to exercise criminal jurisdiction over the defendant.

- The right not to be twice put in jeopardy for the same offense.
- The right not to be compelled to testify against oneself in a criminal case.
- The right to a speedy and public trial.
- The right to be informed of the nature and cause of the accusation in a criminal case.
- The right to be confronted with adverse witnesses.
- The right to compulsory process for obtaining witnesses in one's favor.
- The right to have the assistance of defense counsel, at one's own expense.
- The rights against excessive bail, excessive fines, and cruel and unusual punishments.
- The right to the equal protection of the tribe's laws.
- The right not to be deprived of liberty or property without due process of law.
- The right to a trial by jury of not less than six persons when accused of an offense punishable by imprisonment.
- The right to petition a Federal court for habeas corpus, to challenge the legality of one's detention by the tribe.

Second, S. 1925 requires that an Indian tribe provide non-Indian defendants the same rights afforded Indian defendants under the Tribal Law and Order Act of 2010. In 2010, Congress passed the Tribal Law and Order Act, which (among other things) amended the Indian Civil Rights Act to allow tribal courts to impose longer sentences. In return, the 2010 amendments require tribal courts imposing longer sentences to undertake additional measures to safeguard defendants' rights. The proposed legislation would apply these additional safeguards to domestic-violence cases with shorter sentences, as well. These rights include:

- The right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution.
- The right of an indigent defendant to the assistance of a licensed defense attorney at the tribe's expense.
- The right to be tried by a judge with sufficient legal training who is licensed to practice law.
- The right to access the tribe's criminal laws, rules of evidence, and rules of criminal procedure.
- The right to an audio or other recording of the trial proceeding and a record of other criminal proceedings.



# DOMESTIC VIOLENCE JURISDICTION OVER NON-INDIANS: NOW IS THE TIME

*“Since 1978 Indian tribes and Native women have lived a reality in which federal law has served as a protection for non-Indian abusers. The law has prevented the jurisdiction where the crime is committed from prosecution of these offenders and instead tied our governments’ hands from holding them accountable under the law. Fortunately over the past three decades Congress has increased its understanding of both domestic violence and Indian tribes,”* Terri Henry, Eastern Band of Cherokee Indians Tribal Council Member. *“The strongest statement of this increased awareness is the support of the USDOJ for enactment of tribal jurisdiction over non-Indians under VAWA 2012.”*



Attorney General Eric Holder and Associate Attorney General Tom Perrelli meet with tribal leaders.

On November 11, 2011, before the Senate Committee on Indian Affairs, Thomas Perrelli the Associate Attorney General of the US Department of Justice for the first time in US history recognized the need for jurisdictional change to close this long-standing gap in the law. Most importantly he recognized that Indian tribes have a fundamental role in holding non-Indian offenders accountable for their crimes and slowing the epidemic of violence against Native women that is a national embarrassment. Mr. Perrelli’s statement before the Committee presented a compelling argument that this change in federal law cannot wait.

*“The problems addressed by the SAVE Act are severe. Violence against Native women has reached epidemic rates. One regional survey conducted by University of Oklahoma researchers showed that nearly three out of five Native American women had been assaulted by their spouses or intimate partners. According to a nationwide survey funded by the National Institute of Justice (NIJ), one third of all American Indian women will be raped during their lifetimes. And an NIJ-funded analysis of death certificates found that, on some reservations, Native women are murdered at a rate more than ten times the national average. Tribal leaders, police officers and prosecutors tell us of an all-too-familiar pattern of escalating violence that goes unaddressed, with beating after beating, each more severe than the last, ultimately leading to death or severe physical injury.*

*Something must be done to address this cycle of violence. For a host of reasons, the current legal structure for prosecuting domestic violence in Indian country is inadequate to prevent or stop this pattern of escalating violence. Federal law-enforcement*

*resources are often far away and stretched thin. And Federal law does not provide the tools needed to address the types of domestic or dating violence that elsewhere in the United States might lead to convictions and sentences ranging from approximately six months to five years — precisely the sorts of prosecutions that can respond to the early instances of escalating violence against spouses or intimate partners and stop it.*

*Tribal governments — police, prosecutors and courts — should be essential parts of the response to these crimes. But under current law, they lack the authority to address many of these crimes. Until recently, no matter how violent the offense, tribal courts could only sentence Indian offenders to one year in prison. Under the Tribal Law and Order Act of 2010 (TLOA), landmark legislation enacted last year in no small part due to the efforts of this Committee, tribal courts can now sentence Indian offenders for up to three years per offense, provided defendants are given certain procedural protections, including legal counsel. But tribal courts have no authority at all to prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. Tribal police officers who respond to a domestic-violence call, only to discover that the accused is non-Indian and therefore outside the tribe’s criminal jurisdiction, often mistakenly believe they cannot even make an arrest. Not surprisingly, abusers who are not arrested are more likely to repeat, and escalate, their attacks. Research shows that law enforcement’s failure to arrest and*

*prosecute abusers both emboldens attackers and deters victims from reporting future incidents.*

*In short, the jurisdictional framework has left many serious acts of domestic violence and dating violence unprosecuted and unpunished.”*

### **Tribal Domestic Violence Criminal Jurisdiction: Three Specific Crimes Covered**

Under current law, Indian tribes have criminal jurisdiction over domestic-violence and dating-violence crimes committed by Indians in Indian country. Passage of the “special domestic violence criminal jurisdiction” statute will specifically provide tribes with criminal jurisdiction to prosecute non-Indians committing these same crimes.

This amendment simply eliminates the race of the offender from the equation. Race should not play a role in bringing an offender to justice, and in bringing justice to a victim.

The proposed legislation is narrowly tailored to cover three specific crimes commonly committed by non-Indians threatening the safety of Native women and stability of Indian communities. The three crimes enumerated and defined in Section 904 are: domestic violence, dating violence, and violations of protection orders. The basis for proving the elements of the crime would be the laws of the Indian tribe prosecuting the case.

## **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.

“NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support amendments to the Violence Against Women Act ... such as:

### ***Increasing criminal authority to Indian tribes to prosecute non-Indian rapist and batterers;”***

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

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 July 18, 2003.

## **S. 1925 ESTABLISHES PARITY OF FEDERAL AND STATE VIOLENCE AGAINST WOMEN LAWS**

Beginning in the 1980s a cultural shift was launched with the recognition that wife battering was not a private affair within the four walls of a home. With the education of criminal justice personnel by the movement for battered women, state laws were passed making domestic violence a crime. Within many states the belief that a husband had the absolute right to discipline his wife and children was replaced with recognition that domestic violence is a public safety issue. The door started to close on a time when police were trained to mediate “domestic disputes,” and prosecutors were told not to file these “no-win” cases.

Unfortunately, Federal criminal law has not developed over time to provide the same protection for Native women. While the devastating consequences of domestic violence against Native women and tribal communities are no less compelling, Federal laws have not provided the same response over the last three

decades. Empowering tribal governments to address domestic violence locally and amending the Federal Criminal Code to make it more consistent with State laws will ensure that abusers acting on Indian lands will be subject to similar potential punishments.

### **Appropriate Penalties to Signal Domestic Violence is Serious Crime.**

Existing Federal law subjects non-Indian offenders who abuse Native women on Indian lands to no more than a potential six-month misdemeanor for assault or assault-and-battery offenses. However, few federal prosecutors have the time or resources to handle many misdemeanor cases. In 2006, U.S. Attorneys prosecuted only 24 misdemeanor cases arising in Indian country, and only 21 in 2007.



*"The VAWA Amendments of 2012 bring the federal criminal code into the 21st Century, and more importantly they take the necessary steps to bring justice to Indian country by empowering tribal courts to try cases against all offenders of domestic and dating violence on Indian lands."*

*John Harte  
Mapetsi Policy Group*

A Federal prosecutor typically can charge a felony offense against an Indian or a non-Indian defendant only when the victim's injuries rise to the level of "serious bodily injury," which may require life-threatening injury or permanent disfigurement. As a result, in assaults involving strangling or suffocating, substantial (but not serious) bodily injury, and striking, beating, or wounding — Federal prosecutors often find that they cannot seek sentences in excess of six months. When these misdemeanor cases committed by non-Indians go unprosecuted, the victim and the tribal community have nowhere to turn for justice. The offenders become emboldened and the level of violence increases in their attacks.

S. 1925 addresses this problem by increasing the maximum sentence from six months to one year for an assault by striking, beating, or wounding. Although the Federal offense would remain a misdemeanor, increasing the maximum sentence to one year would reflect the fact that this is a serious offense that often forms the first or second rung on a ladder to more severe acts of domestic violence.

Assaults resulting in substantial bodily injury sometimes form the next several rungs on the ladder of escalating domestic violence, but they too are inadequately covered today by the Federal Criminal Code. S. 1925 fills this gap by amending the Code to provide a five-year offense for assault resulting in substantial bodily injury to a spouse, intimate partner, or dating partner.

S. 1925 also amends the Code to provide a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling or suffocating. Strangling and suffocating — conduct that is not uncommon in

intimate-partner cases — carry a high risk of death. But the severity of these offenses is frequently overlooked because there may be no visible external injuries on the victim. As with assaults resulting in substantial bodily injury, Federal prosecutors need the tools to deal with these crimes as felonies, with sentences potentially far exceeding the six-month maximum that often applies today.

Finally, S. 1925 simplifies the Major Crimes Act to cover all felony assaults under section 113 of the Federal Criminal Code. That would include the two new felony offenses discussed above — assaults resulting in substantial bodily injury to a spouse, intimate partner, or dating partner; and assaults upon a spouse, intimate partner, or dating partner by strangling or suffocating — as well as assault with intent to commit a felony other than murder, which is punishable by a maximum ten-year sentence.

#### **Equal Consequences for Domestic Violence Crimes: Off and On Tribal Lands.**

These outdated Federal statutes represent just a few of the many systemic barriers separating Native women from all other women in the United States. These measures, taken together, have the potential to greatly improve the safety of women in tribal communities. They will equip Federal and tribal law-enforcement agencies, working in partnership, with appropriate legal consequences to hold all domestic violence abusers accountable for their crimes.

# CLARIFICATION OF TRIBAL CIVIL JURISDICTION

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

## **Martinez Case**

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

The Court raised many eyebrows in the logic of its ruling. "The Court does not construe the provisions of the VAWA as a grant of jurisdiction to the Suquamish Tribe to enter domestic violence protection orders as between two non-members of the Tribe that reside on fee land within the reservation. There is nothing in this language that explicitly confers upon the Tribe jurisdiction to regulate non-tribal member domestic relations. The grant of jurisdiction simply provides jurisdiction "in matters arising within the authority of the tribe."

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

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

Section 2265 of title 18, United States Code, is amended by striking subsection (e) and inserting the following:

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

S. 1925 would confirm the intent of Congress in enacting the Violence Against Women Act of 2000 by clarifying that every tribe has full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian.



## NATIONAL CONGRESS OF AMERICAN INDIANS

### ***SUPPORT S. 1925***

### **THE VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION STOPPING THE EPIDEMIC OF VIOLENCE AGAINST NATIVE WOMEN**

In 1978, the Supreme Court held that federal laws and policies divested tribes of criminal authority over non-Indians. 1 This decision has plagued Indian country ever since, and has led to the crisis of domestic and sexual violence facing tribal communities today. Race should not play a role in bringing an abuser or sexual offender to justice. **S. 1925 will recognize and affirm tribal authority to prosecute misdemeanor cases of domestic violence by all offenders, regardless of race. This will prevent domestic violence from escalating, and begin to reverse the epidemic of violence against Native women.**

**Violence against Native women has reached epidemic proportions.** Native women are 2.5 times more likely than other U.S. women to be battered or raped: 34% of Native women will be raped in their lifetimes and 39% will face domestic violence. 2 This statistical reality leaves young Native women wondering not “if” they will be raped, but “when.”

Like most of the U.S., interracial marriage and cohabitation of mixed races has played out in Indian country. In 1978, it may have been rare for a non-Indian to intermarry with an Indian. However, the U.S. Census Bureau recently reported that 50% of all Native American married women have non-Indian husbands, and thousands of other Native American women cohabit with, are divorced from, or share children in common with non-Indian men.

**Current law is inadequate to stop Reservation domestic and dating violence.** The DOJ has found the current system of justice, in which tribal governments have no authority over non-Indians, “inadequate to stop the pattern of escalating violence against Native women.” In many cases, the federal government has exclusive responsibility to investigate and prosecute major and minor on-reservation crimes committed by non-Indians. Federal law enforcement resources are often far away and stretched thin.

Despite this responsibility, a 2010 GAO Report found that U.S. Attorneys declined to prosecute 67% of sexual abuse and related matters that occurred in Indian country from 2005-2009.<sup>3</sup> With regard to misdemeanor crimes, in 2006, U.S. Attorneys prosecuted only 24 misdemeanor crimes in Indian country, and only 21 in 2007. Again, the U.S. has *EXCLUSIVE* authority to investigate and prosecute misdemeanor crimes by non-Indians against Indians.<sup>4</sup>

Tribal leaders, police officers, and prosecutors have testified to patterns of escalating violence that goes unaddressed, with beating after beating, each more severe than the last, ultimately leading to death or severe physical injury. An NIJ-funded analysis of death certificates found that, on some reservations, Native women are murdered at a rate more than ten times the national average.

Tribal governments — police, prosecutors, and courts — have the most at stake and should be authorized to address all crimes of domestic violence within Indian lands. Under current law, they lack this authority. Changing the law to acknowledge tribal authority to stop these initial acts of domestic violence will prevent escalated attacks, such as aggravated assault, rape, and murder.

**The U.S. Supreme Court has approved similar congressional affirmations of “inherent tribal power”.** The Court in *U.S. v. Lara*, 541 U.S. 193 (2004), found that Congress has the authority to “recognize and affirm” the “inherent” authority of an Indian tribe. The Court held that the Constitution confers on Congress plenary power to enact legislation to limit and relax restrictions on tribal sovereign authority.

The legislation at issue in *Lara* was an amendment to the Indian Civil Rights Act (ICRA) that “recognized and affirmed” the “inherent” criminal authority of Indian tribes over non-member Indians (Indians from a different tribe). In upholding congressional power to enact this law, the Court reasoned that the law involved no interference with the power or authority of a State, nor raised questions of due process or equal protection. In addition, the law involved “recognition and affirmation” of tribal authority over non-member Indians, whom are not eligible to participate in tribal politics.

S. 1925 affirms carefully tailored/limited authority over non-Indians. Like the ICRA amendment at issue in *Lara*, no power is taken from the federal or state governments. Tribal power will be concurrent. S. 1925 limits tribal authority to crimes of domestic violence, dating violence, and violations of protection orders. Tribal court sentencing authority is limited to three years per offense. Full Constitutional protections are extended to the non-Indian defendants—including effective assistance of counsel and indigent counsel—and any case prosecuted under this tribal authority will be subject to tribal appellate and federal habeas review.

**Further, S. 1925, Section 904 requires the defendant have “sufficient ties to the Indian tribe.”** According to S.1925, the tribe must prove that any defendant being prosecuted under Section 904 either: resides in the Indian country of the prosecuting tribe, is employed in the Indian country of the prosecuting tribe, or is either the spouse or intimate partner of a member of the prosecuting tribe. Individuals who live, work, and/or maintain intimate relationships in Indian country should not be allowed to violate tribal laws with impunity just because of their non-tribal member status.

**The S. 1925, Title IX amendments have been the subject of Senate hearings.** The key tribal provisions of S.1925 are contained in S. 1763, the SAVE Native Women Act. The U.S. Senate Committee on Indian Affairs (SCIA), the committee of jurisdiction over Indian issues and tribal jurisdiction, held a legislative hearing on S.1763 and has held numerous oversight hearings to examine issues of violence against Native women, including complex jurisdictional issues on tribal lands.



*For more information, please  
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**Violence against Native women has reached epidemic proportions.** Native women are battered, raped, and stalked at far greater rates than any other population of women in the United States: 34 % of Native women will be raped in their lifetimes and 39 % will be the victim of domestic violence.<sup>1</sup> This statistical reality leaves young Native women wondering not “if” they will be raped, but “when.”

**VAWA 2005 recognizes that the legal relationship between tribes and the U.S. creates a federal trust responsibility to assist tribes in safeguarding Indian women.** Given the complex jurisdictional scheme on tribal lands, the federal government has the primary responsibility to investigate and prosecute major crimes that occur on the reservation; yet, according to a 2010 GAO Study, U.S. Attorneys decline to prosecute 67% of sexual abuse and related matters that occur in Indian country.<sup>2</sup> S.1925 makes improvements to current law to ensure that the federal government can fulfill its legal trust obligation to tribes.

**S.1925 restores concurrent tribal criminal jurisdiction over a very narrow set of crimes that statistics demonstrate are an egregious problem on Indian reservations.** Section 904 of the bill recognizes tribes’ inherent authority to investigate and prosecute crimes of domestic violence, dating violence, and violations of protection orders that occur in Indian country. It does not in any way alter or remove the current criminal jurisdiction of the United States or of any state.

**Tribal jurisdiction exercised under Section 904 would be an exercise of inherent tribal authority, not a delegated Federal power.** Congress possesses the plenary power to enact legislation that relaxes restrictions on tribal sovereign authority.<sup>3</sup> The practical effect of this is to render the Double Jeopardy Clause inapplicable to sequential prosecutions of the same crime by the tribe and the Federal Government.

**Section 904 does not permit tribal prosecutions unless the defendant has “sufficient ties to the Indian tribe.”** According to S.1925, the tribe must prove that any defendant being prosecuted under Section 904 either: resides in the Indian country of the prosecuting tribe, is employed in the Indian country of the prosecuting tribe, or is either the spouse or intimate partner of a member of the prosecuting tribe. Individuals who live, work, and/or maintain intimate relationships in Indian country should not be allowed to violate tribal laws with impunity just because of their non-tribal member status.

**S.1925 provides the requisite constitutional safeguards, including an adequate right to counsel for defendants.** A tribe exercising special domestic violence jurisdiction under Section 904 must guarantee Indian and non-Indian defendants alike the same constitutional rights to indigent counsel and effective assistance of counsel that would be available in Federal or state court. S.1925 adopts the same constitutional standards in Section 904 as Congress adopted in 2010 when it passed the Tribal Law & Order Act of 2010, specifically Section 234(c).

**S.1925 fulfills the intent of VAWA 2005 regarding tribal civil jurisdiction to issue protection orders.** VAWA 2005 intended to make clear that tribes have full civil authority to issue and enforce protection orders against Indians and non-Indians alike.<sup>4</sup> Unfortunately, a 2008 U.S. District Court decision out of Washington State muddied the waters when it held that an Indian tribe lacked authority to enter a protection order for a nonmember Indian against a non-Indian residing on non-Indian fee land within the reservation.<sup>5</sup> Section 905 of S.1925 carries out the congressional intent of VAWA 2005 by clarifying that every tribe has full civil jurisdiction to issue and enforce protection orders against all persons regarding matters arising on tribal lands.

**S.1925 brings federal assault statutes into parity with state laws governing violence against women.** As the primary prosecutor of major crimes violations on tribal lands, it is imperative that the federal government have the same range of tools as state and local prosecutors to achieve justice. S. 1925 would bring federal assault statutes in line with similar state statutes so that federal prosecutors have the tools to adequately punish perpetrators of heinous crimes against Native women.

**S.1925 increases support for tribal domestic and sexual assault coalitions.** The training and assistance that tribal coalitions provide is essential to enhancing the safety of Native women. Currently, tribal coalitions are eligible for discretionary funding but this funding is wholly inadequate and unstable when compared to their state and territorial counterparts, which receive formula funding on an annual basis. S.1925 would stabilize tribal coalition funding by shifting from a competitive tribal coalition grant program to an annual formula award and amending current funding language to establish a sufficient base amount to provide services.

**The amendments to Title IX have been the subject of Senate hearings.** The key tribal provisions of S.1925 are also contained in Senator Akaka's S.1763, the Stand Against Violence & Empower Native Women Act. The U.S. Senate Committee on Indian Affairs (SCIA), the primary committee of jurisdiction over Indian issues and tribal jurisdiction, held a legislative hearing on S.1763 on November 10, 2011 and has held numerous oversight hearings to examine issues of violence against Native women, including complex jurisdictional issues on tribal lands.<sup>6</sup>

**The U.S. Department of Justice and the Obama Administration fully support the tribal amendments in S.1925.** In July, 2011, after much consultation and collaboration with tribal leaders, the Department of Justice (DOJ) released a comprehensive legislative proposal which sought to address the epidemic of domestic violence against American Indian and Alaska Native women. The DOJ's proposal addressed three major gaps in the current system that leave Native women vulnerable to violent crimes of domestic violence and sexual assault: tribal criminal jurisdiction, tribal civil jurisdiction, and federal assault statutes. All of the major tenets of the DOJ's legislative proposal are included in S.1925 and have the Obama Administration's full support.

*"The Violence Against Women Act, since 1994, has always supported safety for Native women from the crimes of domestic violence and sexual assault. Tribal women need the help of their non-Indian sisters in educating Congress about the current system of injustice, in which tribal governments have no authority over non-Indian perpetrators. Today we as advocates in non-Indian organizations must stand with our Native sisters and ask Congress to support both S. 1763 and S. 1925."*

Rob Valente

Consultant to the National Council of Juvenile and Family Court Judges  
and the DC Coalition Against Domestic Violence



# QUESTIONS AND ANSWERS

## S. 1925 TRIBAL JURISDICTIONAL AMENDMENTS

### **What are the key gaps in current law that the proposed legislation would fill?**

The three major legal gaps that S. 1925 would address, involve tribal criminal jurisdiction, tribal civil jurisdiction, and Federal criminal offenses.

*First*, the patchwork of Federal, state, and tribal criminal jurisdiction in Indian country has made it difficult for law enforcement and prosecutors to adequately address domestic violence particularly misdemeanor domestic violence, such as simple assaults and criminal violations of protection orders.

The proposed Federal legislation would recognize certain tribes' power to exercise concurrent criminal jurisdiction over domestic-violence cases, regardless of whether the defendant is Indian or non-Indian. Fundamentally, such legislation would build on the Tribal Law and Order Act of 2010 (TLOA). The philosophy behind TLOA was that tribal nations with sufficient resources and authority will be best able to address violence in their own communities; it offered additional authority to tribal courts and prosecutors if certain procedural protections were established.

*Second*, at least one Federal court has found that tribes lack civil jurisdiction to issue and enforce protection orders against non-Indians who reside on tribal lands. That ruling undermines the ability of tribal courts to protect victims. The proposed legislation would confirm the intent of Congress in enacting the Violence Against Women Act of 2000 by clarifying that tribal courts have full civil jurisdiction to issue and enforce certain protection orders involving any persons, Indian or non-Indian.

*Third*, Federal prosecutors lack the necessary tools to combat domestic violence in Indian country. S. 1925 would amend Federal law to provide a one-year offense for assaulting a person by striking, beating, or wounding; a five-year offense for assaulting a spouse, intimate partner, or dating partner, resulting in substantial bodily injury; and a ten-year offense for assaulting a spouse, intimate partner, or dating partner by strangling, suffocating, or attempting to strangle or suffocate.

### **How significant a problem is domestic violence in tribal communities?**

Violence against Native women has reached epidemic rates. One regional survey conducted by University of Oklahoma researchers showed that nearly three out of five Native American women had been assaulted by their spouses or intimate partners. According to a nationwide survey funded by the National Institute of Justice (NIJ), one third of all American Indian women will be raped during their lifetimes. And an NIJ-funded analysis of death certificates found that, on some reservations, Native women are murdered at a rate more than ten times the national average. Tribal leaders, police officers, and prosecutors tell us of an all-too-familiar pattern of escalating violence that goes unaddressed, with beating after beating, each more severe than the last, ultimately leading to death or severe physical injury.

Something must be done to address this cycle of violence. For a host of reasons the current legal structure for prosecuting domestic violence in Indian country is not well suited to combating this pattern of escalating violence. Federal resources, which are often the only ones that can investigate and prosecute these crimes, are often far away and stretched thin. Federal law does not provide the tools needed to address the types of domestic or dating violence that elsewhere in the United States might lead to convictions and sentences ranging from approximately six months to five years precisely the sorts of prosecutions that respond to the early instances of escalating violence against spouses or intimate partners.

Tribal governments - police, prosecutors, and courts - should be essential parts of the response to these crimes. But under current law, they lack the authority to address many of these crimes. Until recently, no matter how violent the offense, tribal courts could only sentence Indian offenders to one year in prison. Under the Tribal Law and Order Act (TLOA), landmark legislation that Congress enacted last year, tribal courts can now sentence Indian offenders for up to three years per offense, provided defendants are given proper procedural protections, including legal counsel. But tribal courts have no authority at all to prosecute a non-Indian, even if he lives on the reservation and is married to a tribal member. Tribal police officers who respond to a domestic-violence call, only to discover that the accused is non-Indian and therefore outside the tribe's criminal jurisdiction, often mistakenly believe they cannot even make an arrest. Not surprisingly, abusers who are not

arrested are more likely to repeat, and escalate, their attacks. Research shows that law enforcement's failure to arrest and prosecute abusers both emboldens attackers and deters victims from reporting future incidents. In short, the jurisdictional framework has left many serious acts of domestic violence and dating violence unprosecuted and unpunished.

## TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC VIOLENCE

### **What would this statute accomplish?**

The proposed legislation would recognize certain tribes' concurrent criminal jurisdiction to investigate, prosecute, convict, and sentence persons who assault Indian spouses, intimate partners, or dating partners, or who violate protection orders, in Indian country.

### **Could any tribe be a "participating tribe"?**

Any federally recognized Indian tribe could elect to become a "participating tribe," so long as (1) it exercises powers of self-government over an area of Indian country and (2) it adequately protects the rights of defendants. Those two requirements follow long-standing principles of Federal Indian law.

### **Why does the proposed legislation state that exercising this criminal jurisdiction is an "inherent power" of the tribe?**

Under this proposed legislation, when a tribe prosecutes an accused perpetrator of domestic violence, it would be exercising an inherent tribal power, not a delegated Federal power. One practical consequence would be to render the Double Jeopardy Clause inapplicable to sequential prosecutions of the same act of domestic violence by the tribe and the Federal Government (just as the Clause is inapplicable to sequential prosecutions by a State and the Federal Government). For example, if a tribe unsuccessfully prosecuted a domestic-violence case under the authority recognized in this legislation, the Federal Government would not then be barred from proceeding with its own prosecution of the same defendant for a discrete Federal offense. That is the normal rule when prosecutions are brought by two separate sovereigns.

### **What does the proposed legislation mean in stating that tribes will exercise this jurisdiction "concurrently, not exclusively"?**

Neither the United States nor any State would lose any criminal jurisdiction under this proposed legislation. The Federal and State governments could still prosecute the same crimes that they currently can prosecute. But in addition, tribes could prosecute some crimes that they cannot currently prosecute. In many parts of Indian country, this statutorily recognized tribal criminal jurisdiction would be concurrent with Federal jurisdiction under the General Crimes Act (also known as the Indian Country Crimes Act). In some parts of Indian country, however, it would be concurrent with State jurisdiction under Public Law 280 or an analogous statute.

### **What types of crimes would this proposed legislation cover?**

The proposed legislation is narrowly tailored to cover three types of crimes: domestic violence, dating violence, and violations of protection orders.

### **Why would protection orders need to be "enforceable" and "consistent with section 2265(b) of title 18, United States Code," to form the basis of a tribal criminal offense?**

This language ensures that the person against whom the protection order was issued was given reasonable notice and an opportunity to be heard, which are essential for protecting the right to due process. If the accused had no chance of learning that a protection order was being issued against him, a violation of the order, by itself, would not be a criminal offense.

### **For a crime involving domestic violence, dating violence, or the violation of an enforceable protection order, would the specific elements of the criminal offense be determined by Federal law or by tribal law?**

Tribal law would determine the specific elements of the offense.

## **Under the proposed law, would a tribe exercising this jurisdiction be required to provide counsel for indigent defendants in all cases where imprisonment is imposed?**

The proposed legislation would require participating tribes to provide all indigent non-Indian domestic-violence and dating-violence defendants with licensed defense counsel in any criminal proceeding where imprisonment is imposed, regardless of the length of the sentence. It is also quite possible that the Indian Civil Rights Act or tribal law would be interpreted to require that those same tribes then must provide appointed counsel to similarly situated Indian defendants.

Although certain indigent defendants would not have to pay for an attorney, the proposed legislation would authorize Federal grants to help tribes cover these costs.

## **What defendants' rights would be safeguarded?**

In 2010, Congress passed the Tribal Law and Order Act, which (among other things) amended the Indian Civil Rights Act to allow tribal courts to impose longer sentences. In return, the 2010 amendments require tribal courts imposing longer sentences to undertake additional measures to safeguard defendants' rights. The Department's proposed legislation would apply these additional safeguards to domestic-violence cases with shorter sentences, as well:

- The right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution.
- The right of an indigent defendant to the assistance of a licensed defense attorney at the tribe's expense.
- The right to be tried by a judge with sufficient legal training who is licensed to practice law.
- The right to access the tribe's criminal laws, rules of evidence, and rules of criminal procedure.
- The right to an audio or other recording of the trial proceeding and a record of other criminal proceedings.

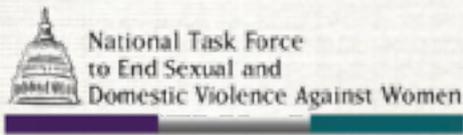
## **What rights of criminal defendants are protected by the Indian Civil Rights Act and therefore would be protected under this proposed legislation?**

Since Congress enacted it in 1968, the Indian Civil Rights Act has protected individual liberties and constrained the powers of tribal governments in much the same ways that the Federal Constitution, especially the Bill of Rights and the Fourteenth Amendment, limits the powers of the Federal and State governments. The Indian Civil Rights Act protects the following rights, among others:

- The right against unreasonable search and seizures.
- The right not to be twice put in jeopardy for the same offense.
- The right not to be compelled to testify against oneself in a criminal case.
- The right to a speedy and public trial.
- The right to be informed of the nature and cause of the accusation in a criminal case.
- The right to be confronted with adverse witnesses.
- The right to compulsory process for obtaining witnesses in one's favor.
- The right to have the assistance of defense counsel, at one's own expense.
- The rights against excessive bail, excessive fines, and cruel and unusual punishments.
- The right to the equal protection of the tribe's laws.
- The right not to be deprived of liberty or property without due process of law.
- The right to a trial by jury of not less than six persons when accused of an offense punishable by imprisonment.
- The right to petition a Federal court for habeas corpus, to challenge the legality of one's detention by the tribe.

## **Why does the bill authorize Federal grants to tribal governments?**

Expanding tribal criminal jurisdiction to cover more perpetrators of domestic violence would tax the already scarce resources of most tribes that might wish to participate. Therefore, the proposed legislation would authorize a new grant program to support tribes that are or wish to become participating tribes.



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



## ELLEN, SISTER FRIEND

*How different the world would have been without  
you?*

*How different the path of women and children  
seeking safety?*

*How different our movement?*

*Ellen, your difference helped the light shine  
brighter*

*You said, "rise to your higher being."  
That path led us to a place called Duluth,  
A swimming hole in the woods,  
To our sisters across the big water.*

*Did you slay the mighty patriarchy?  
Did the women-haters lay down their hatred?  
Did the defenders of violence accept the truth?  
Ellen, you helped to clear the path.*

*The teachings say that we are not human beings  
on a spiritual journey but spiritual beings on a  
human journey.*

*Sister Friend, you walked with us and we with  
you.*

*We know and honor your life's work.*

*We know and mourn our movement's loss.*

*For all the times we did not, we thank you.  
For all the gifts you shared, we thank you.  
For your humor and sharp wit, we thank you.  
Sister Friend, for the hope you gave for a safe  
future we thank you.*

*Ellen, Sister Friend, you are beloved and we  
thank the Creator for your being.*

*~Jax*

In Memoriam  
ELLEN PENCE  
April 15, 1948 - January 6, 2012



Ellen Pence (1948-2012) was a scholar, social activist, and leader in the battered women's movement. Among many accomplishments, she co-founded the Duluth Domestic Abuse Intervention Project, an inter-agency collaboration model used in all 50 states in the U.S. and more than 17 countries, and she is credited with creating the Duluth Model of intervention in domestic violence cases and the Coordinated Community Response (CCR).

*Dear Friends,*

*Ellen died of breast cancer on January 6, 2012. The NCAI Task Force on Violence Against Women joins with the movement to end violence against women across Turtle Island and around the planet to honor the life work and dedication of Ellen Pence.*

*The contributions of Ellen Pence to changing this world for the better are beyond words. She served as a beacon for social change and helped to clear the path for Native women to engage on a national level to remove barriers to and establish safety within their communities. As a visionary Ellen had an incredible gift of looking ahead and seeing the stepping-stones essential to ending violence against women. And through it all she made us laugh ... laugh until we cried! Ellen, we honor and thank you for your dedication and life-long labor of love to create a safer world for women and their children.*

*"Ellen was recognized in tribal communities across the country and abroad as a friend and ardent supporter of self-determination of tribes to develop strategies in responding to domestic violence; including raising the issue of racial disparity that factor in to the victimization of American Indian and Alaska Native women and their children."*

*—Tina Olson, Co-Director, Mending the Sacred Hoop*

*"Like everyone who knew Ellen, I am stunned and sad to hear her life has ended. She has for many years been my mentor and one I looked to for guidance. Her writings are brilliant and shed much insight to understanding individual and systems advocacy. I last saw/talked to Ellen in September and she was her usual witty self. Ellen would want us all to continue the movement and not to ever give up on finding solutions together!! Rest in Peace, my dear friend..."*

*—Dorma Sahneyah, Program Specialist NIWRC*

# INTERNATIONAL EFFORTS: INTERNATIONAL EXPERT GROUP MEETING ON VIOLENCE AGAINST INDIGENOUS WOMEN

An Expert Group Meeting was held at the United Nations headquarters in New York City on January 18-20, 2012, following a recommendation by the UN Permanent Forum on Indigenous Issues (Permanent Forum), an advisory body to the Economic and Social Council. The Permanent Forum examines Indigenous issues, including human rights, health, environment, culture, education, and economic and social development. The meeting focused on violence against Indigenous women and girls and how the Permanent Forum should address its mandate under Article 22 of UN Declaration on the Rights of Indigenous Peoples. Article 22 provides that particular attention shall be paid to the rights of

women and children in implementing the Declaration and calls on countries to “take measures, in conjunction with Indigenous peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.” Because Indigenous women and girls face many forms of discrimination, the Permanent Forum sought the views of several international Indigenous experts on five themes: (1) violence against Indigenous women and girls as a human rights issue; (2) conceptualizing violence; (3) manifestations of violence; (4) jurisdiction and policing; and (5) anti-violence strategies.

As an invited Indigenous expert, Terri Henry, elected Tribal Council Representative–Painttown for the Eastern Band of Cherokee Indians, co-chair of the NCAI Task Force on Violence Against Native Women, principal director of Clan Star, Inc., and board member of the Indian Law Resource Center, participated in the meeting. Ms. Henry described the epidemic of violence against Native women in the U.S.

and offered insights on violence against Native women as a human rights issue, including the role of United States law in condoning this violence. Henry explained that the legal restrictions and complex jurisdictional scheme in the U.S. contributes to the violations of human rights by treating Native women differently from all other women, restricting tribal criminal authority over their lands, and causing confusion about who has authority to respond to, investigate, and prosecute violence in Indian country. Noting the United States’ failure to meet its international human rights obligations, specifically Article 22(2) of the Declaration, Henry testified that “the Declaration speaks directly and unequivocally to the

United States’ obligation to ensure the safety of Native women.”

The results of the Expert Group Meeting will be reported later this year to the Permanent Forum during its eleventh session, to the UN General Assembly at its sixty-seventh session, and to the Commission on the Status of Women at its fifty-sixth session.

For more about the Expert Group Meeting, visit <http://social.un.org/index/IndigenousPeoples/MeetingsandWorkshops/2012.aspx>.

**By Jana Walker, Staff Attorney, and  
Karla General, Law Clerk,  
Indian Law Resource Center.**



*“Legal reform often takes years, even decades, to occur and Native women do not have the luxury of time. While the United States debates the law, more Native women are being victimized. We as Indian nations, as tribal relatives, must find additional ways to protect women and deal with the monsters amongst us.*

*In 1838, the United States forcibly rounded up thousands of Cherokees and marched them in the dead of winter from our homelands here in the east to Oklahoma. Thousands died on the trail due to lack of food, clothing, shelter, and other horrific conditions endured during the march. Like other federal statutes and policies toward Indians, the Removal Act legalized the deaths of thousands of Cherokee children, women, and men. As Cherokee people, we experience federal law and Supreme Court rulings differently than all other Americans. As Indian nations and women, we also experience this epidemic of violence differently than all other Americans.”*

Terri Henry  
Tribal Council Member  
Eastern Band of Cherokee Indians

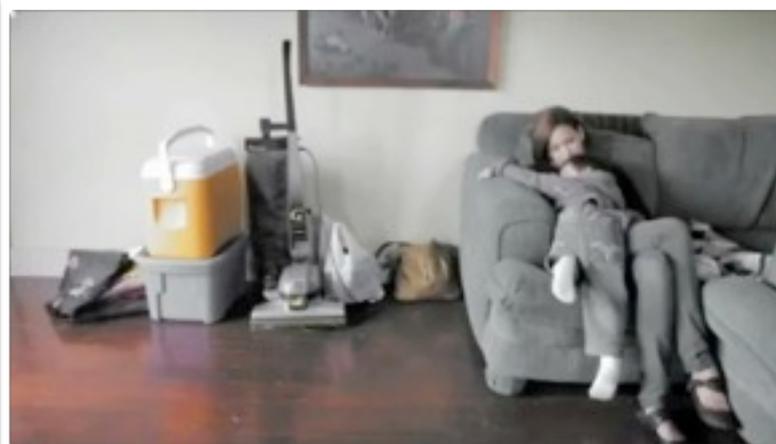
## VIDEO SEEKS TO DO SOMETHING ABOUT VIOLENCE AGAINST NATIVE WOMEN

By Jana L. Walker and Ginny Underwood,  
Indian Law Resource Center

Creating awareness about the epidemic rates of violence against Native women in the United States is an important step toward restoring safety and breaking the cycle of violence in Native communities. As part of its Safe Women, Strong Nations project, the Indian Law Resource Center and Native filmmaker Ryan Red Corn produced “To the Indigenous Woman,” a hard-hitting, three minute video to help raise the profile of this human rights crisis.

Join the thousands of people who have watched the video online at [www.indianlaw.org](http://www.indianlaw.org), then help us spread the word by sharing, re-posting or tweeting the link. You can also embed the video on your website. Finally, click on the [“Take Action”](#) button to learn what else you can do to help end violence against Native women.

*If you would like an electronic copy of the video, contact Ginny Underwood at [gunderwood@indianlaw.org](mailto:gunderwood@indianlaw.org).*



# TRIBAL DOMESTIC VIOLENCE AND SEXUAL ASSAULT COALITIONS

During the late 1970's and early 80's American Indian and Alaska Native women opened their homes to help their sisters fleeing violence and seeking safety. It was during a time in the United States when violence against wives and girlfriends was not viewed as a serious problem. Domestic violence was rarely seen as a violent crime even in the most severe cases when violence within the home resulted in homicide or severe injury.

Tribal women joined their non-Indian sisters in the effort to build a national movement to increase the safety of women. While most tribal women focused within their tribal communities Native women like Roberta Crows Breast in North Dakota, Karen Artichoker in South Dakota and Lynn Hootch in Alaska also worked on a statewide level to build their state coalitions. In 1978, the National Coalition Against Domestic Violence was created, in part, through the leadership of American Indian and Alaska Native women survivors, advocates, and their allies. Tillie Black Bear a founding mother of the White Buffalo Calf Women Society located on the Rosebud Sioux Tribe Reservation hosted the first meeting of National Coalition in 1979.

While state coalitions have received federal funding for several decades the tribal coalitions only became eligible for federal funding under the Violence Against Women Act of 2000. At that time it was recognized that tribal coalitions could, like their state coalition counterparts, provide training and education based on their tribal expertise to their tribal communities. This acknowledgement represented a tremendous step forward in that it open the door for tribal coalitions to

provide assistance based on the specific knowledge, practices and beliefs of the communities to be served.

"The Yup'ik people have lived in the Yukon Delta region for thousands of years. We speak Yup'ik, the river is our highway, and our villages still live off the ocean and the land. As a people we respect women and all things ... some of our relatives have lost our beliefs and the way home is through our teachings." Lynn Hootch, Executive Director, Yup'ik Women's Coalition.

Today, there are 20 established nonprofit tribal sexual assault and domestic violence coalitions in operation throughout the United States. The tribal coalitions are made up of members from tribal sexual assault and domestic violence programs, as well as individual women and men who are committed to ending the violence in their tribal communities and villages. Tribal communities and villages rely on these tribal coalitions to assist them with training on sexual assault, domestic violence, dating violence and stalking, as well as state, Federal, and tribal policies and issues that impact the safety of the women, and accountability of the perpetrator's.

Tribal coalitions provide training and technical assistance to Indian tribes, tribal organizations and tribal non-profits essential to the provision of justice related programs and victim services. While some state coalitions offer assistance to tribal communities most do not have the expertise necessary in Federal Indian law or tribal laws of the Indian tribes, tribal organizations or non-profits to be served. Unfortunately, the tribal coalition program



*"The Yup'ik people have lived in the Yukon Delta region for thousands of years. We speak Yup'ik, the river is our highway, and our villages still live off the ocean and the land. As a people we respect women and all things ... some of our relatives have lost our beliefs and the way home is through our teachings."*

*Lynn Hootch  
Executive Director  
Yup'ik Women's Coalition*

*“When I look back to the elation we felt the day we received notice that our tribal coalition was funded I feel so sad. Looking at the photos of our staff that are now terminated and our office that is closed, I wonder why start-up a program just to shut it down? Yet, I have realized that we will go on with or without money because our communities need our services. That our coalition is making a difference to the lives of tribal women.”*

Leanne Guy  
Founder & Executive Director  
Southwest Indigenous  
Women’s Coalition



has reached an impasse in its development. Current funding available under VAWA is insufficient to support the 20 established tribal coalitions or fund any new tribal coalitions where none exist. When the tribal coalition program was created under VAWA 2000 it allocated 1/56 of the STOP program funding to support it. At that time only one tribal coalition existed in Wisconsin. Now that the program has achieved the goal of establishing 20 tribal coalitions, it is essential to increase funding for the program.

S. 1925 would stabilize the tribal coalition program and address the disparity between tribal and state coalitions. Unlike the state domestic and sexual assault coalitions that receive 1/56 for each separate coalition, all of the tribal coalitions share 1/56th of the allocated funds. Further, tribal coalitions are not currently eligible to receive funding that coalitions in states and territories receive under the Family Violence Prevention and Services Program. Outlined below are the critical reasons why inclusion of a funding increase—specifically, in the form of a 5% set-aside in the VAWA Grants to Encourage Arrest Program (GTEAP)—for tribal domestic violence and sexual assault coalitions is essential to support the future existence of the tribal coalitions. This increase in funding would allow the tribal coalition program to be administered like the state coalition program on a formula basis. These issues are fundamental to the future existence of the tribal coalition programs.

## S. 1925 WOULD STABILIZE THE TRIBAL COALITION PROGRAM.

S. 1925 proposes to stabilize the tribal coalition program by providing an adequate funding level administered on an annual formula similar to the program for states and territories. S. 1925 will address the following problems that hinder the programs development by:

- Stabilization of adequate funding for the current tribal coalitions;
- Providing adequate funding to support the development of future tribal coalitions in regions where none exist;
- Resolving the disparity between VAWA services for Native and Non-Native women; and
- Providing access to critically needed training services for tribal communities by local and regional tribal experts.



Washington State Native American Coalition Against Domestic Violence  
and Sexual Assault-WomenSpirit Coalition  
[www.womenspiritcoalition.org](http://www.womenspiritcoalition.org)

Dear NCAI Task Force,

On write on behalf of the WomenSpirit Coalition located in Washington State to alert you to the reality confronting our members. Each funding year our Coalition has reduced operational expenses by approximately 50%. In operational terms, we have not only had to reduce costs, but eventually close our office and negotiate lease returns on equipment, lay off staff, and reduce hours of others. We have reduced the type and amount of services we provide to tribal communities and tribal advocacy programs by half. We can no longer afford to pay all the utilities a normal funded office would require, so we now work out of our homes.

We are limited on our ability to secure operating funds because we do not do direct services, we serve 33 Indian tribes and a geographical area of the state of Washington. These funds are usually very competitive and few people recognize the disparities existing for us today. There is still confusion about tribal non-profits that are not tied to tribes for financial wellness.

We are required to travel to tribal communities to do effective and responsive technical assistance and consultation, but now rely on the tribal communities and tribal programs to contribute to the costs, should a site visit be requested. Without non-competitive base funding and the likely reduction again this year, it is questionable whether we can operate with less than what we currently have. It is a strain and means continued work with too little and a growing need from us for tribal services.

As is common in our passion for this work, we go on even when it is not financially feasible because the need is so great and there is no one else to do the work. However, we have families that need to be supported and we have seen many tribal coalitions close its doors due to lack of base funding. In that regard we were set up to fail. That would be a shame.

On behalf of the WomenSpirit Coalition I hope this letter helps the NCAI Task Force to understand the importance of the work of tribal coalitions and the challenges we face to meet the needs of our tribal communities.

In appreciation of the NCAI Task Force,

Dee Koester

Executive Director, WomenSpirit Coalition, Washington State Native American Coalition Against Domestic Violence and Sexual Assault

## S. 1925 WOULD RESOLVE CURRENT ADMINISTRATIVE AND PROGRAMMATIC CONCERNS.

### THE LACK OF ADEQUATE FUNDING FOR THE TRIBAL COALITION PROGRAM HAS RESULTED IN THE FOLLOWING HARDSHIPS:

- **Office closures** – On January 24, 2011 the **Southwest Indigenous Women's Coalition**, a statewide tribal coalition in Arizona, closed its offices in Phoenix and a reduced staff now work from home to save money. **WomenSpirit Coalition** of Washington also closed its office in the spring of 2010 also due to lack of funding.
- **Staff reduction** – Many coalitions have had no alternative but to function on a voluntary basis and reduce staff. Numerous coalitions directors are paid only part time and volunteer the remaining hours. For example, the **Strong Hearted Native Women's Coalition** Director went part time and volunteered the additional hours. The **Southwest Indigenous Women's Coalition** recently lost two staff—who before they left were reduced in time from 100% to 80%, then to 50%. Now, it has two employees remaining, neither of whom have gotten paid for their work since July. The **Native Women's Society of the Great Plains** also reduced staff hours by 85% during the last grant cycle to continue operating.
- **No travel funds to provide training** – To provide training to tribal communities, coalition staff often drive long distances to reach rural and remote programs requesting training. Due to the current low level of funding, many of the tribal coalitions were asked to remove travel funds from their grant applications.
- **Termination of telephone and printer contracts** – As the result of grant reductions numerous coalitions have terminated service contracts to maintain basic operations; phone calls and printing costs are paid out-of-pocket by dedicated staff that live on very limited incomes.
- **Formation of new tribal coalitions is hindered** – Many areas of the country where Indian tribes are located have no tribal coalition to provide tribal training and assistance. For example, tribal programs in Nebraska were prepared to submit an application when OVW announced that applications proposing to establish a new coalition would not be accepted. Similarly, no tribal coalition exists in the South and interested tribal programs in Mississippi cannot apply due to the current funding level. Likewise, tribal programs in Maine are interested in developing a coalition under the program, but cannot due to the current inadequate funding level.



*The Southwest Indigenous Women's Coalition recently lost two staff—who before they left were reduced in time from 100% to 80%, then to 50%. Now, it has only two employees remaining, neither of whom have gotten paid for their work since July.*

# NIWRC ALASKA REGION: DEFENDING TRIBAL SOVEREIGNTY AND ENHANCING THE SAFETY OF ALASKA NATIVE WOMEN

Native women's advocates and elders, and the Yup'ik Women's Coalition and Alaska Native Women's Coalition have shared through their work over the last 30 plus years that the epidemic of violence against Alaska Native women is very much tied to the history of colonization and trauma inflicted by the governments of Russia and the United States. During a site visit a few years ago, a Native elder man from a Village in the Interior shared how he remembers one summer when non-Native hunters came into the Village and killed all of the moose, leaving the villagers with no moose to hunt. Before this happened, his people lived according to their centuries old Village ways of supporting, providing for, and being generous with each other. After the non-Native hunters killed all the moose that summer, he saw, for the first time, a radical shift in their life ways and how common it became for villagers to become selfish when there was little, if any, moose to share. Villagers' options became limited, which led to increased choices of individual survival and greed, which was the exact opposite of their traditional Village ways of communal support and generosity. This disruption of Alaska Native life-ways laid the foundation for the increase of violence against Native women that is the reality in Alaska, as it is in Native communities throughout the United States.

The statistics in Alaska are severe:

- Alaska ranks **first in the nation** with the highest homicide rate for female victims killed by a male perpetrator.
- Almost 75% of Alaskans have experienced or know someone who has experienced domestic violence or sexual assault.
- There were over 6,000 reported cases of domestic violence in Alaska in 2005.
- 524 forcible rapes were reported in Alaska in 2005, representing almost 13% of all violent crimes. This does not include unreported rapes.
- The Alaska rape rate is 2.5 times the national average.
- Child sexual assault in Alaska is almost six times the national average.
- Alaska has the highest rate per capita of men murdering women.
- Almost 30% of Alaskans were not able to access victim services or encourage others to do so because services were unavailable in their area at the time.
- There is one off-road rural shelter, operated by Native women, located in the village of Emmonak, Alaska, funded largely with USDOJ/OVW grants, while there are over 200 Alaska Native villages in Alaska.

While decades of colonization in Alaska have had a devastating effect on Alaska Native villages, it is important to state that Alaska Native peoples and Alaska Native tribes have always stood firm in defending their life ways, doing what they can to maintain their traditions in the face of extreme and often detrimental outside forces. So, while an epidemic of violence exists against Alaska Native women and their children, there are many positive Native driven initiatives to enhance the safety of Native women and their children as is evident in the efforts of Native women's advocates, Village governments, Alaska Native youth and elders and the nonprofit tribal Alaska Native Women's Coalitions - Yu'pik Women's Coalition and Emmonak Women's Shelter.

Efforts to organize an NIWRC two-day Regional Training in Alaska in April 2012, is critical at this point in time to re-group and re-focus the efforts of dedicated advocates, Native villages, and their allies. The NIWRC is developing an agenda and assessing available resources in collaboration with Alaska Board member, Lynn Hootch, and other experienced, active Alaska Native women's advocates through ongoing conference calls. In this way, the NIWRC supports the leadership of Native women's advocates to effect the social change most appropriate for their unique histories and specific tribal cultures. An expected outcome of the Alaska Regional Training is the development of a short and long-term organizing campaign to sustain the critical work of enhancing the safety of Alaska Native women and defending Village sovereignty.

*For more information please contact NIWRC Program Specialist Paula Julian at [pjulian@niwrc.org](mailto:pjulian@niwrc.org).*

# NIWRC TRAINING/TECHNICAL ASSISTANCE TO ENHANCE THE SAFETY OF NATIVE WOMEN

NIWRC technical assistance and training are available in a variety of ways, including monthly webinars, Partnership Program trainings, regional trainings, and annual Native Women's Leadership Development Training. We are working with the Office on Violence Against Women to secure approval for OVW grantees to use grant funds to participate in our training, and hope to update everyone on our effort in the next few weeks.

Upcoming training plans includes Partnership Program training for the United Indian Health Services in Arcata, CA, primarily for clinic staff in June 2012. The Partnership Program consists of training and technical assistance, upon request, to tribal communities and Native domestic violence/sexual assault programs. These trainings are customized to meet the unique needs of the requesting community/program.

We also are planning four regional trainings to occur before October 2012, in California (Region 5) in March, in Alaska (Region 1) in April, in New York (Region 4) in June, and in Oklahoma (Region 7) in July. Plans also are underway for a regional training in Arizona (Region 6) in October or November 2012.

NIWRC is working closely on each regional training with the respective Board member, nonprofit tribal coalition and/or Native advocacy programs in each region in developing training agendas to ensure the information and education and awareness materials are culturally and legally appropriate to the tribes' needs. Trainings will: 1) provide training/education and policy analysis to increase the understanding of violence against Native women issues and address specific challenges in the region to enhance the safety of women and their dependents; 2) discuss how to strengthen advocacy and services available to help women who are victims of domestic/dating violence, sexual assault, and stalking, and children who have witnessed such violence; and 3) develop an organizing campaign specific to the strengths/resources and needs of each region based on their respective tribal cultures, laws and customs to further leverage change in the region on policies, advocacy and services.

The Native Women's Leadership Development Training is scheduled for June 17-20, 2012, in Lincoln, NE, and will include the following: 1) training to develop Native women's capacities to engage with and mobilize community members, coalitions, allies, tribal/Federal/state leaders and systems, including participation in the NCAI's Task Force on Violence Against Women; 2) training to effect sustainable change via use of various forms of media; and 3) reviewing lessons learned from

30-plus years of the battered women's movement and discussion on women leading the change, and lasting, breakthrough results over the next 30 years.

We also have several webinars scheduled through the end of September 2012. See the attached Future Training/TA and Webinar Schedule for dates/times and topics. For more information or questions, please contact:

**Paula Julian**

*pjulian@niwrc.org* - **Regions 1, 5 and 9**

**Gwendolyn Packard**

*gpackard@niwrc.org* - **Regions 4, 7 and 8**

**Dorma Sahneyah**

*dsahneyah@niwrc.org* - **Regions 2, 3 and 6**

## **Summary of Previous Training Offerings to Enhance Safety for Native Women**

The National Indigenous Women's Resource Center (NIWRC) opened its doors on October 1, 2011, and hit the ground running by providing training and technical assistance on different issues and for a variety of audiences.

### **Information Networking:**

In October, 2011, NIWRC coordinated training with the Fort McDowell Yavapai Nation for Arizona tribes on "Promising Practices/Model Programs: Addressing the Needs of Children of Mothers Who Have Been Battered."

In October 2011, at the request of the South Carolina Coalition on Domestic Violence and Sexual Assault, we provided training on "Safety Planning for Native American Women" and "Understanding the Intersection of Domestic Violence and Mental Health in Providing Advocacy to Native American Victims."

On February 1, 2012, in collaboration with the National Tribal Judicial Center/National Judicial College, we provided training/updates for state, federal, and tribal judiciary on Full Faith & Credit and Violence Against Women Reauthorization Act 2011, at the "Walking on Common Ground" Judicial Symposium in Reno, Nevada.

### **National Partners:**

On October 31, 2011, the NIWRC participated with other domestic violence Resource Centers, including the National Resource Center and Special Issue Resource Center to engage in knowledge exchange on Domestic Violence and Trauma/Mental Health with various federal agencies involved in different aspects of the response to domestic violence (SAMHSA, BIA, IHS, HRSA, OWH,

OVW, DOL, FVPSA, Office of the Vice President and DOJ). This exchange looked at policy issues and systems barriers that we can work on together to increase the integration of domestic violence and trauma informed programming and services within each of these agencies.

**FVPSA Tribal Grantee Training:**

The NIWRC was instrumental in helping organize FVPSA’s Tribal Grantee Training on November 8-10, 2011, to over 100 tribal FVPSA grantees in Hollywood, Florida.

At this event, the NIWRC provided training on “Trauma Informed Work”, “VAWA Reauthorization and the Tribal Law and Order Act” and “Barriers to Safety in the Criminal Justice Project.”

**Domestic Violence Research/Evidence Framework Workgroup:**

On December 1-2, 2012, NIWRC participated in the Domestic Violence Research/Evidence Framework Workgroup, which was convened by the Family and Youth Services Bureau, Administration on Families at HHS to look at evidence-based goals and initiatives.

**Partnership Training:**

On December 14-15, 2011, at the request of the Fort McDowell Yavapai Nation and in coordination with the Southwest Indigenous Women’s Coalition, the NIWRC provided customized training/TA for the Nation on mental health and domestic violence and on creating effective trauma-informed services.

In January 2012, at the request of the Northern Cheyenne BIA Law Enforcement Service, NIWRC conducted a two-day training on the response of law enforcement to domestic violence for over thirty BIA law enforcement officers from the Northern Cheyenne, Crow and Wind River Agencies. This training was in partnership with the Montana U.S. Attorney’s Office, the Federal Bureau of Investigation, the Montana Law Enforcement Academy and the Montana Coalition Against Domestic Violence and Sexual Assault.

**Webinars:**

Since early December 2011, the NIWRC has hosted the following four webinars:

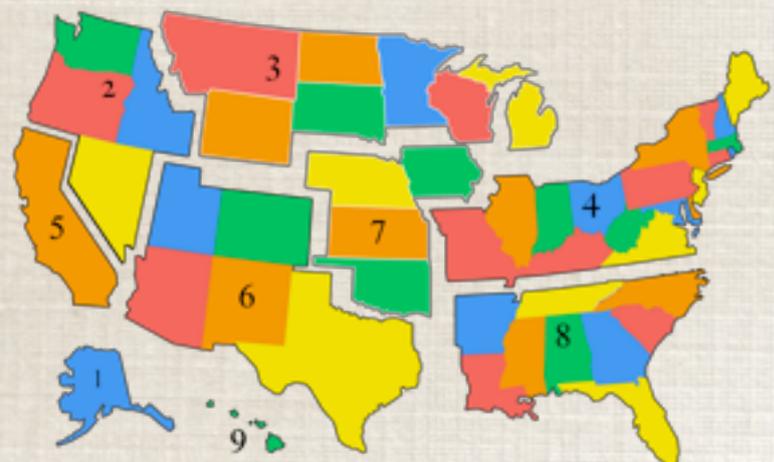
- Introducing the NIWRC as the new National Indian Resource Center Addressing Violence Against Native Women, including staff, board of directors, and NIWRC’s trainings, resources, and activities.
- What is Trauma Informed Work and Why Should We Care? Designed to inform and discuss how to incorporate this new focus in the work/ services of tribal domestic violence and sexual assault programs and shelters.

- Teen Dating Violence: Working In Indian Communities. This webinar showcased the work of three successful programs in Indian Country.
- VAWA Reauthorization Act 2011. This webinar was a legislative update, with particular focus on important provisions in Title IX (Safety for Indian Women) that will impact safety of Native women.

For each webinar, an average of 100 individuals have participated, making it clear that this is an important part of our outreach to advocates and others working in the field, especially because these webinars are offered at no cost to the participants. Based on the survey responses to each webinar, we have been successful in providing updates in legislation and current practices in domestic violence-related work for individuals involved in both direct and indirect services to Native victims of violence. Participants have commented that they look forward to future cost-effective webinars and receiving useful information/training without having to leave their worksites.

NIWRC webinars are recorded and can be viewed at your convenience on our website at:  
<http://www.niwrc.org/resources/webinars/>

**NIWRC BOARD OF DIRECTORS**



**REGION 1**  
**Lenora (“Lynn”) Hootch,**  
 Board Member  
 Yupik Eskimo

**REGION 4**  
**Ruth Jewell,**  
 Board Member  
 Penobscot

**REGION 2**  
**Dee Koester,**  
 Board Member  
 Lower Elwha Klallam

**REGION 5**  
**Wendy Schlater,**  
 Secretary/Treasurer  
 La Jolla Band of  
 Luiseno Indians

**REGION 3**  
**Carmen O’Leary,**  
 Board Member  
 Cheyenne River Sioux

**REGION 6**  
**Leanne Guy,**  
 Board Member  
 Diné

My name is Carmen O'Leary, and I am so thankful to see another great issue of the Restoration of Safety and Sovereignty Magazine for the new year, 2012. This is a very critical time in the history of the Violence Against Women Act, as its reauthorization is now before Congress. If you are a grass roots advocate, a tribal leader or a tribal citizen, the information contained in this magazine will help you understand the factors that will help increase safety for Native women. The National Indigenous Women's Resource Center (NIWRC), on whose Board I serve as the Vice-Chairwoman, is proud to partner with the NCAI Task Force and the National Task Force to End Sexual and Domestic Violence Against Women on support this important publication into the future.

I am one of the newer board members of the NIWRC, and we are working hard to help inform Indian country on the needs of safety for Indian women as well as provide vital information on the means to bring about effective and competent services to women in their communities. I replace one of the founding Board members for the NIWRC, Tillie Black Bear, who resigned to take some much-needed rest. It is not easy trying to fill her shoes, but I am honored that she recommended me for this position and that I am able to represent the Great Plains region's concerns on this Board. The NIWRC Board recently welcomed two new members -- Leanne Guy, Executive Director of the Southwest Indigenous Women's Coalition, and Shawn Partridge, Program Coordinator for the Muscogee (Creek) Nation Family Violence Prevention Program. Both of these women bring a wealth of information and experience from their respective areas, which will strengthen the ability of the NIWRC to respond in meaningful ways to the needs of Indian Country to enhance the safety of Native women and their children.

I have a background of working in a shelter for seventeen years and working in a Tribal Coalition in the Great Plains region the last six years. I have received a first hand education on the needs for safety for Native women across our nation. The Great Plains area lacks programs to provide safety, shelter, legal advocacy, community education, shelter and emergency services. The programs that do exist are often underfunded and often destabilized with the lack of continual funding.

Advocates working to keep women safe face many barriers in their work on a local level. Funding crises should not be one of the barriers they have to contend with to keep working toward the safety of Native Women. Reauthorization of the Violence Against Women Act that includes the many tribal provisions discussed herein, will help reduce these problems and provide for the safety of Native women and their children.

Join me in making our communities safe and healthy places to live, work and thrive.

Respectfully,  
Carmen O'Leary, NIWRC Board Vice-Chairwoman  
Native Women's Society of the Great Plains  
Reclaiming our Sacredness

REGION 7  
**Shawn Partidge,**  
Board Member  
Muscogee (Creek) Nation

REGION 8  
**Terri Henry,**  
Chairwoman  
Eastern Band of Cherokee  
Indians

REGION 9  
**Valli ("Kalei") Kanuha,**  
Board Member  
Native Hawaiian



Pictured left to right: Terri Henry, Dee Koester, Leanne Guy, Ruth Jewell, Lynn Hootch, Carmen O'Leary, and Kalei Kanuha. (Not pictured: Wendy Schlater and Shawn Partidge.)

# NIWRC FUTURE TRAINING AND WEBINAR SCHEDULE



## PARTNERSHIP PROGRAM

NIWRC will provide on-site training and technical assistance to tribal communities and Native domestic violence/sexual assault programs upon request. These trainings will be customized to meet the unique needs of the community/program making the request.

*June 2012*

**United Indian Health Services, Arcata, CA**

## REGIONAL TRAININGS

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

*March 2012*

**California (Region 5)**

*April 2012*

**Alaska (Region 1)**

*June 2012*

**New York (Region 4)**

*July 2012*

**Oklahoma (Region 7)**

*October 2012*

**Arizona (Region 6)**

## NATIVE WOMEN'S LEADERSHIP TRAINING

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

*June 17 – 20, 2012*

**NIWRC Native Women's Leadership Working Group**, in conjunction with NCAI Mid-Year Conference, Lincoln, NE

## NCAI TASK FORCE MEETINGS

*March 5, 2012*

**NCAI Executive Winter Session, Washington, D.C.**  
(NCAI Conference is March 6-8, 2012)

*June 17, 2012*

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

*October 21, 2012 - NCAI Annual Convention,*  
**Sacramento, CA**

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

## INFORMATION NETWORKING

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

*March 29-31, 2012*

### **National Health Conference on Domestic Violence, Futures Without Violence, San Francisco, CA**

<http://www.nchdv.org> August 21-24, 2012

### **Women Empowering Women for Indian Nations' 8th Annual Conference, Mystic Casino Hotel, Prior Lake, MN**

<http://www.wewin04.org>

## WEBINARS

*March 14, 2012*

### **Evidence Based Practices and working with Children Exposed to Violence**

Children exposed to violence, whether as victims or as witnesses, often experience long term physical, psychological, and emotion harm. This webinar will take a look at Evidence Based Practices, as well as traditional and community-based efforts, to address this problem.

*April 11, 2012*

### **Sexual Assault Awareness Month: SA Advocacy and Trafficking**

April is Sexual Assault Awareness Month. Join us this month for a special presentation about sexual assault advocacy and the impacts of sexual assault on the growing epidemic of Native women trafficking in the United States.

*May 9, 2012*

### **Legal Barriers to Justice for Native Women**

Federal law prohibits tribal governments from prosecuting non-Native offenders, and only allows tribal governments to punish Native people for minor offenses. This lack of serious enforcement authority goes to the systemic root of the problem for tribal governments and Native non-profit organizations working to end violence against Native women in their communities.

*May 23, 2012*

### **Firearms Disqualification and Habitual Offender Provisions**

This webinar will focus on the Firearms Disqualification and Habitual Offender provisions of VAWA. We will provide a general overview of how these provisions work to ensure safety for Native women, as well as more detailed information on such special issues such as how the firearms disqualification applies to law enforcement, and recent constitutional challenges to the habitual offender provisions.

*June 6, 2012*

### **Criminal Jurisdiction in Indian Country**

In everyday life, a woman's security depends in large part on the local government's authority to effectively police, prosecute, punish crimes, and establish strong laws criminalizing violence against women. In Indian country, Federal legislation and case law have left tribal governments with far less legal authority to protect their citizens than any other local government. Join us to walk through the maze of criminal jurisdiction in Indian country: When does a tribal government have jurisdiction? When do other governments have jurisdiction?

*June 20, 2012*

### **Criminal Jurisdiction in PL-280 Jurisdictions, Alaska and Land Claims Settlement States**

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

*July 11, 2012*

### **How DV Impacts Children**

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

*August 8, 2012*

### **Working with Women who are Victims of DV and Substance Abuse**

*September 12, 2012*

### **DV/SA Shelters In Indian Country: What's Working and What's Not, An Interactive Opportunity For Sharing Among All Participants**

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

# LESSONS OF THE NCAI TASK FORCE ON VIOLENCE AGAINST WOMEN

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

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

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

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

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



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

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

# Native women experience violent victimization at a higher rate than any other population of women in the United States.

34.1%, more than 1 in 3, Indian women will be raped in their lifetime.

64%, more than 6 in 10, Indian women will be physically assaulted.

Indian women are stalked at **more than twice** the rate of other women.

## RESTORATION OF SOVEREIGNTY & SAFETY MAGAZINE, 2003-2012

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

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

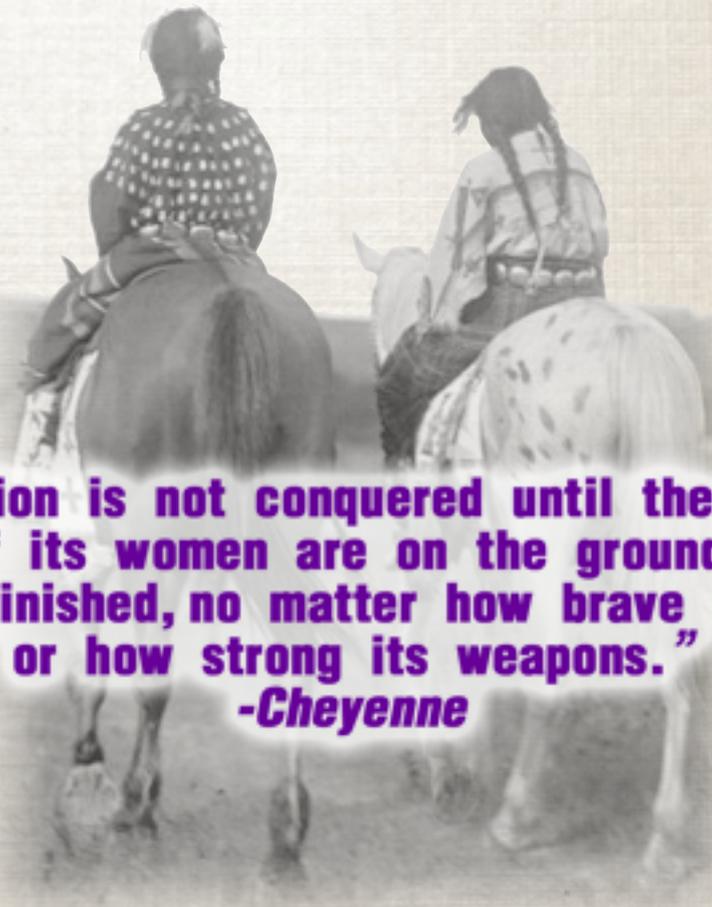
**Editorial Content:** Jacqueline "Jax" Agtuca, Director of Public Policy, Clan Star, Inc. and NIWRC consultant.

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**“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**



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*Violence Against Women is Not Our Tradition*