



HEAR OUR VOICES  
CALLING OUT FOR JUSTICE  
LETTERS FROM NATIVE WOMEN

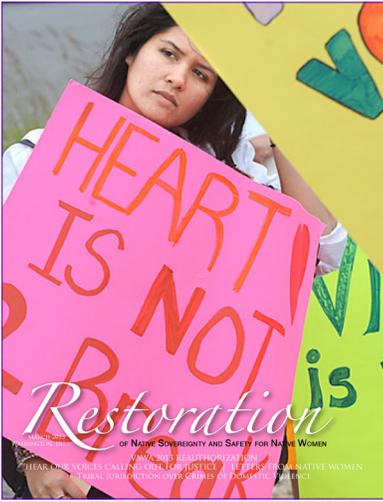
# Restoration

MARCH 2013  
WASHINGTON, DC

OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN

VAWA 2013 REAUTHORIZATION

HEAR OUR VOICES CALLING OUT FOR JUSTICE | LETTERS FROM NATIVE WOMEN  
TRIBAL JURISDICTION OVER CRIMES OF DOMESTIC VIOLENCE



**Cover: June 26, 2012, National Day of Action in Support of VAWA Reauthorization:** *Crystal Ann Cole listens to speakers at a rally to support the reauthorization of the Violence Against Women Act or VAWA on the pedestrian trail along Haxton Way on the Lummi Reservation. (Photo by Philip A. Dwyer – The Bellingham Herald.)*

*Restoration*  
OF NATIVE SOVEREIGNTY AND SAFETY FOR NATIVE WOMEN  
 Volume 10, Issue 1, March 2013

- 4 **Safety for Indian Women:**  
 The Violence Against Women Reauthorization Act
- 5 **Congress May Restore Tribal Jurisdiction Over Non-Indians Under the Following**
- 7 **Hear Our Voices Calling Out for Justice:**  
 Stop the Abuse of Indian Abusers by Non-Indian Men
- 8 **Voices of Native Women**  
 Billie Jo Rich  
 Lisa Brunner  
 Tommie Mettler  
 Cherrah Giles  
 Diane Millich
- 19 **VAWA Bills S. 47 Sec. 904 and the Issa-Cole Compromise H.R. 780 Would Provide the Full Panoply of Protections to Non-Indian Domestic Violence Defendants**
- 22 **Clarification of Tribal Civil Jurisdiction**
- 23 **Q&A: S. 47 Tribal Jurisdictional Amendments**
- 26 **International Update**
- 28 **Timeline: Milestones in the United States to Increase Safety for Native Women**
- 30 **NIWRC Herstory**
- 31 **Regional Updates**
- 32 **2013 Training & Webinar Schedules**
- 35 **Lessons of the NCAI Task Force on Violence Against Women**

RESTORATION OF SOVEREIGNTY & SAFETY MAGAZINE, 2003-2013

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

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

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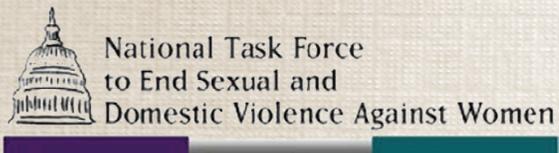
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Dear Friends,

The 113th Congress has convened, and one of the first bills introduced in each house was a Violence Against Women Act (VAWA) reauthorization bill. Although efforts to see a comprehensive VAWA bill pass Congress last session fell short, it is with renewed dedication that VAWA supporters look forward to passing a final VAWA with the key tribal provisions intact that can be sent to the President's desk for his signature.

The bipartisan Senate version of the bill, S. 47, contains key provisions that would restore tribal jurisdiction over non-Indians for certain acts of domestic violence and dating violence, as well as for violations of protection orders, in Indian country.

S. 47 has broad support from the Department of Justice, the Administration, and Indian tribes across the country. S. 47 passed the Senate with a vote of 78 for and 22 against.

As all eyes now turn to the House and the efforts of our champions, Congressmen Issa and Cole, we stop to share with you the stories of Native women who have survived the violence firsthand and also as mothers, sisters, and daughters. We hope their words will enlighten our national leaders and touch the hearts of this nation.

As we gather in Washington, DC, for the executive session of the National Congress, it is of critical importance that we as tribal leaders and advocates for the safety of Native women understand the tribal provisions proposed in the VAWA reauthorization bill S. 47. In this volume of Restoration magazine, we offer you a review of these key tribal amendments.

We join the thousands in communities across the United States in support of a final reauthorization bill that builds on VAWA's lifesaving programs and services and protects Native victims of violence.

Together, we can increase the safety of Native women and all victims.



Juana Majel  
1st Vice President  
National Congress of  
American Indians



Terri Henry  
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# SAFETY FOR INDIAN WOMEN

## THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT

Indian tribes are the only governments in America without jurisdiction to protect women in their communities from domestic and sexual violence. The Violence Against Women Reauthorization Act (VAWA), S. 47, addresses this jurisdictional gap with local solutions that will deliver long-overdue justice to Native women and safety to tribal communities. Any final VAWA bill should restore limited tribal criminal jurisdiction over non-Indians to respond to and prevent the pattern of domestic violence crimes that threatens the lives of Native women on a daily basis.

## EXISTING LAW DENIES INDIAN WOMEN EQUAL ACCESS TO JUSTICE

Violence against Native women has reached epidemic proportions. The root cause is a justice system that forces tribal governments to rely on distant federal—and, in some cases, state—officials to investigate and prosecute misdemeanor crimes of domestic violence committed by non-Indians against Native women. However, outside law enforcement has proven ineffective in addressing misdemeanor-level reservation-based domestic violence. The Justice Department has found that when non-Indian cases of domestic violence go uninvestigated and unpunished, offenders' violence escalates. As a result, on some reservations, the homicide rate of Native women is 10 times the national average.

The 2013 VAWA reauthorization would authorize tribal governments to investigate and prosecute all crimes of domestic and dating violence regardless of the race of the offender. The measure is narrowly tailored to address only offenders who either live or work on an Indian reservation and who have an existing relationship with a Native woman. The proposal also affords suspects of abuse a full array of constitutional protections.

This legislation only permits tribal jurisdiction over non-Indians with significant connections to the tribal community and only over a tightly defined set of crimes: domestic violence, dating violence, and violations of enforceable protection orders.

## IN EVERY VAWA REAUTHORIZATION SINCE 1994, CONGRESS HAS RECOGNIZED THE URGENT NEED TO ENHANCE THE SAFETY OF NATIVE WOMEN

VAWA 2005 recognized that the United States has a federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women. Yet, despite the federal government's primary enforcement responsibility on Indian reservations, between 2005 and 2007, U.S. Attorneys declined to prosecute nearly 52% of violent crimes that occur in Indian country; and 67% of cases declined were sexual abuse-related cases.

Domestic violence crimes must be responded to immediately—and sometimes daily—to stop recurring violence and prevent future harm. Federal and state authorities will never have the resources, time, or will to address this pattern of violent crimes on Indian lands.

### VIOLENCE AGAINST NATIVE WOMEN:

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

*\*Congressional findings in the Tribal Law & Order Act of 2010, 25 USC 2801 et seq. (2010).*

*\*\*U.S. Census Bureau, Census 2000.*

*\*\*\*Patricia Tjaden & Nancy Thoennes, U.S. Dept. of Justice, Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey 22 (2000).*

*\*\*\*\*NIJ Funded Analysis of Death Certificates.*

# CONGRESS MAY RESTORE TRIBAL JURISDICTION OVER NON-INDIANS UNDER THE FOLLOWING:

## THE INDIAN COMMERCE CLAUSE

“Congress shall have power . . . to regulate commerce . . . with the Indian Tribes . . .” For more than two centuries, Congress has invoked the U.S. Constitution’s Indian Commerce Clause as authority to legislate with regard to Indian affairs. Based on this authority, Congress has enacted, and the Supreme Court has consistently upheld, hundreds of laws impacting Indian affairs (e.g., laws imposing federal criminal laws to Indian lands, extending and relaxing tribal criminal authority, regulating non-Indian retailers on the reservation, and much more).

## THE PROPERTY CLAUSE

“Congress shall have power to . . . make all needful rules and regulations respecting the territory or other property belonging to the United States . . .”

The Supreme Court has repeatedly found tribal lands subject to Property Clause authority. However, tribal lands are not public domain lands subject to unlimited federal power, but have been set aside through treaty and agreements and are subject to a federal trust responsibility to regulate for the best interests of the tribes.

## SUPREME COURT PRECEDENT

In *Oliphant v. Suquamish Tribe*, the Supreme Court found tribal lands to be federal enclaves and ruled that Indian tribes did not have “power to try non-Indian citizens of the United States except in a manner acceptable to Congress.” In addition, the Court went further in writing that the collective advancement of tribal courts, due process protections under the Indian Civil Rights Act (ICRA), and the pervasiveness of crime caused by non-Indians on tribal lands were “considerations for Congress to weigh in deciding whether Indian tribes should finally be authorized to try non-Indians.”

Further, as *United States v. Lara* explained, the *Oliphant* decision “did not set forth constitutional limits that prohibit Congress from changing the relevant legal circumstances . . .,” and under both *Lara* and *Oliphant*, it is clear that it is constitutional for “Congress to change ‘judicially made’ federal Indian law through [the] kind of legislation” proposed here.

# UNDERSTANDING THE PROPOSED CRIMINAL JURISDICTION AMENDMENT

Section 904 is the same tribal jurisdiction language that passed the Senate last session with strong bipartisan support. It acknowledges the authority of Indian tribal governments to exercise concurrent jurisdiction over crimes of domestic violence by non-Native suspects. Every suspect will be afforded the full array of constitutional protections. This provision is critically important to stopping the epidemic of domestic violence against Native women.

## SECTION 904 IS NARROWLY TAILORED

Section 904 does not acknowledge blanket jurisdiction over all crimes committed by non-Indians on tribal lands. The jurisdiction would only apply to domestic or dating violence where the victim is a tribal citizen, the crime occurred on tribal lands, and the defendant is in an established relationship with the victim. The provision is specifically tailored to address a serious epidemic of violence that Native women face each day.

The current system of justice on Indian lands is broken. More than 1 in 3 Native women will be raped in their lifetimes, and more than 3 in 5 will suffer domestic abuse. Native women are forced to rely on federal officials to investigate and prosecute domestic violence committed by non-Natives. However, U.S. Attorneys declined to prosecute a majority of violent crimes. Between 2006 and 2009, federal officials declined 52% of violent reservation crimes, including 67% of sexual assaults.

In most cases, federal resources are stretched too thin, and federal investigators are located too far from many reservations to serve as an effective deterrent to crime on tribal lands. Lower-level crimes of domestic violence go completely unprosecuted and often unreported, because many Native women have lost faith in the justice system. When lower-level domestic violence goes unpunished, the violence increases. The result on some reservations is that the homicide rate of Native women is 10 times the national average. These shocking facts provide compelling reasons for Congress to enact S. 47 with Section 904 intact.

## DEFENDANTS' HAVE ALL DUE PROCESS RIGHTS UNDER THE PROPOSED LIMITED JURISDICTION

Section 904 ensures that non-Indian defendants in tribal court are afforded due process in a manner consistent with state and federal courts. This includes the right to effective assistance of counsel, the right to a trial by an impartial jury selected impartially, as well as all other constitutional rights guaranteed under the Indian Civil Rights Act. Also, the draft language includes a catchall provision, which entitles defendants to "all other rights whose protection is necessary under the Constitution of the United States in order for Congress" to acknowledge this jurisdiction. This last section ensures that non-Indian defendants will receive a fair trial in tribal courts. The U.S. Department of Justice developed and strongly supports Section 904, as do Bush Administration U.S. Attorneys, and many other experts in the field of criminal justice.

## UNDERSTANDING THE TRIBAL CIVIL AMENDMENT

This section also passed this Senate last session with strong bipartisan support. The civil jurisdiction found in Section 905 already exists under the full faith and credit clauses of VAWA 2000. This section simply clarifies the intent of this earlier reauthorization by making clear that tribes have full civil authority to issue and enforce domestic civil protection orders against Indians and non-Indians alike.

This provision is critical to strengthening tribal regulatory authority over domestic disputes, threats of violence, harassment, or verbal or physical abuse. Women living in Indian country and Alaska Native Villages rely on tribal courts each day to obtain civil orders of protection to prevent future abuse in crimes of domestic violence, sexual assault, dating, and stalking. Requiring a woman in need of immediate protection to travel hundreds of miles from her reservation to a state court is not only impractical but also dangerous. We strongly oppose any amendment intended to strike this provision.

**"MY DAUGHTER MONICA WAS MURDERED, AND I WANT TO HELP STOP THIS VIOLENCE. THE MAN WHO VIOLENTLY TOOK HER LIFE RECEIVED THREE YEARS AND WILL SOON BE RELEASED. BEFORE COMING TO OUR RESERVATION, HE WAS BANISHED FROM TWO OTHER NEARBY RESERVATIONS FOR VIOLENCE. SHE DATED HIM FOR JUST OVER A MONTH. IF WE HAD ONLY KNOWN OF HIS VIOLENCE, SHE MIGHT STILL BE ALIVE."** —FLORENCE CHOYOU



# HEAR OUR VOICES CALLING OUT FOR JUSTICE:

## STOP THE ABUSE OF INDIAN ABUSERS BY NON-INDIAN MEN

I AM A MEMBER OF THE EASTERN BAND OF CHEROKEE INDIANS AND LIVED ON OUR TRIBAL LAND WITHIN QUALLA BOUNDARY IN EASTERN NORTH CAROLINA. I MARRIED A NON-INDIAN MAN AND TOGETHER WE HAD FOUR CHILDREN. ONE SUNDAY AFTERNOON WHILE SITTING IN OUR LIVING ROOM, MY HUSBAND BECAME ENRAGED AND RAN A STUN GUN OVER MY BODY WHICH LEFT BRUISES, MARKS, AND BURNS ON MY STOMACH, BACK, ARMS, AND LEGS. I WAS TORTURED WITH THE STUN GUN APPROXIMATELY 100 TIMES. WHILE CHOKING ME HE SAID, "I WILL BURN THE HOUSE DOWN AND KILL YOU."

THE WEEK BEFORE, I WAS SLAPPED AND HIT IN THE FACE WITH HIS FIST. HE HIT ME ON THE BACK AND HIPS WITH A PIECE OF WORMY CHESTNUT WOOD. HE HIT ME IN THE HEAD WITH A BASEBALL BAT. MY CHILDREN SUFFERED PHYSICAL, MENTAL, AND EMOTIONAL ABUSE DURING THESE INCIDENTS AS WELL. THEIR FATHER USED HIS FISTS ON THEIR HEADS, ARMS, STOMACH, AND RIBS. HE GAVE ONE OF OUR CHILDREN BLACKENED EYES AND BROKE HER NOSE. HE SEXUALLY MOLESTED HIS OWN CHILDREN.

I WAS NOT ALLOWED TO SEEK MEDICAL ATTENTION FOR MY DAUGHTER BECAUSE SHE WAS NOT PERMITTED TO LEAVE THE HOME. MY HUSBAND TOLD ME, "IF YOU TAKE ME TO COURT I WILL KILL YOU, AND THERE IS NO WAY ANYONE CAN STOP ME FROM KILLING YOU. I WILL TRACK YOU DOWN NO MATTER HOW LONG IT TAKES. I WILL KILL YOU."

I SUFFERED FOR MANY YEARS AT THE HANDS OF MY NON-INDIAN ABUSER KNOWING THAT MY TRIBE DID NOT HAVE JURISDICTION TO PROSECUTE AND SENTENCE HIM.

14 February 2013

Dear Councilwoman Terri Henry,

WHEN I WAS IN MY EARLY TWENTIES, I FOUND MYSELF GOING THROUGH A NASTY DIVORCE FROM MY NON-ENROLLED HUSBAND. I AM ENROLLED.

During the course of our marriage, he hit me once “accidentally” when he became angry during a play pillow fight. But the violence became more of a theme in the months leading up to our court date for the divorce. During that time, I had left the home we shared in both our names (but on land, in my name only, of course) because I had been told by the police that they could not make him leave. I felt I had to leave since the only alternative was to reside there with him. I ended up spending most of that year with my mother in her tiny singlewide trailer. My children remained in their home with their father, and I brought them to my mother’s tiny trailer for visitations. My ex-husband, whom we will call “J” for the sake of this narrative, seemed unwilling to ever bring the children to me in any public place, preferring to have me come and get them from our house. I hated to do that more than anything because it always seemed to result in some type of altercation.

DURING ONE OF THESE, THE POLICE WERE CALLED. WHILE WE STOOD OUTSIDE TALKING TO THE OFFICERS, J MADE A REMARK ABOUT PUTTING ME INTO THE RIVER. WHILE THE POLICE DIDN’T COMMENT OR EVEN SEEM TO NOTICE THE REMARK, IT CHILLED ME. WHAT THEY DIDN’T KNOW, AND J KNEW ALL TOO WELL, WAS THAT NOT ONLY CAN I NOT SWIM, BUT I AM ACTUALLY TERRIFIED OF DEEP WATER. J’S COMMENT WAS A VEILED THREAT TO END MY LIFE. IN FEAR, I POINTED THIS OUT TO THE OFFICERS WHO STILL PRETENDED THEY DIDN’T HEAR ANYTHING.

**WHEN I POINTEDLY TOLD THEM THAT J HAD JUST THREATENED ME, AND MADE THEM ADMIT THEY HAD HEARD IT, THEY SEEMED VERY EMBARRASSED. THEY BOTH JUST LOOKED AT THE GROUND AND QUIETLY TOLD ME THEY COULDN’T DO ANYTHING ABOUT IT.**

There were many instances like this, but one in particular is still difficult to think about. One sunny afternoon in May, I was returning my daughters to their father per our agreement. I dropped them off and made sure he was home and they were in the house before leaving as usual, but their father walked out to stand beside my car. Cautious, I stayed in the car with the door locked, but car windows were down. He seemed agreeable enough at first, but then became angry because I did

14 February 2013

Dear Councilwoman Terri Henry,

When I was in my early twenties, I found myself going through a nasty divorce from my non-enrolled husband. (I am enrolled.) During the course of our marriage, he hit me once “accidentally” when he became angry during a play pillow fight. But the violence became more of a theme in the months leading up to our court date for the divorce. During that time, I had left the home we shared in both our names (but on land, in my name only, of course) because I had been told by the police that they could not make him leave. I felt I had to leave since the only alternative was to reside there with him. I ended up spending most of that year with my mother in her tiny singlewide trailer. My children remained in their home with their father, and I brought them to my mother’s tiny trailer for visitations. My ex-husband, whom we will call “J” for the sake of this narrative, seemed unwilling to ever bring the children to me in any public place, preferring to have me come and get them from our house. I hated to do that more than anything because it always seemed to result in some type of altercation. During one of these, putting me into the river. While the police didn’t comment or even seem to notice the remark, it chilled me. What they didn’t know, and J knew all too well, was that not only can I not swim, but I am actually terrified of deep water. J’s comment was a veiled threat to end my life. In fear, I pointed this out to the officers who still pretended they didn’t hear anything. When I pointedly very embarrassed. They both just looked at the ground and quietly told me they couldn’t do anything about it.

There were many instances like this, but one in particular is still difficult to think about. One sunny afternoon in May, I was returning my daughters to their father per our agreement. I dropped them off and made sure he was home and they were in the house before leaving as usual, but their father walked out to stand beside my car. Cautious, I stayed in the car with the door locked, but car windows were down. He seemed agreeable enough at first, but then became angry because I did not wish him a happy anniversary. I quietly stated that it didn’t seem appropriate under the circumstances. He suddenly lunged in the car window and snatched my bag, removing a small address book. He flipped through it and became angry, then suddenly lunged in again and snatched my car keys from the ignition and walked away. I jumped out of the car and began struggling with him to get the car keys back. I panicked, knowing I had no other keys and I really needed to get away from there. He held the keys high above his head as he walked away, drew back his hand as if to throw the keys out into the woods, and I jumped up and down beside him trying to reach them. J is well over six feet tall and I am about five foot five. When it became apparent I wasn’t going to get my keys back, I turned to walk away. He then threw the keys to the ground. When I leaned over to get them, he kicked me, and when I fell across the ground he kicked me again, causing me to roll down a

enrolled or non-enrolled

Thank you, Terri. Words cannot express my gratitude.

Billie Jo Rich

not wish him a happy anniversary. I quietly stated that it didn’t seem appropriate under the circumstances. He suddenly lunged in the car window and snatched my bag, removing a small address book. He flipped through it and became angry, then suddenly lunged in again and snatched my car keys from the ignition and walked away. I jumped out of the car and began struggling with him to get the car keys back. I panicked, knowing I had no other keys and I really needed to get away from there.

He held the keys high above his head as he walked away, drew back his hand as if to throw the keys out into the woods, and I jumped up and down beside him trying to reach them. J is well over six feet tall and I am about five foot five. When it became apparent I wasn’t going to get my keys back, I turned to walk away. He then threw the keys to the ground. When I leaned over to get them, he kicked me, and when I fell across the ground he kicked me again, causing me to roll down a small embankment to where my car was parked. My younger daughter, who was around three or four at that time, happened to be standing beside my car. As I rolled down the hill, I cut her feet out from under her and she fell. Since I was already on the ground, I pulled her into my arms to comfort her. Immediately, J loomed over us. He grabbed her arms and pulled her so hard that even though he was not touching me directly, I was dragged across the ground. So of course, I let go of her. I didn’t want to hurt her.

The minute I let go, J threw her into his car and sped away. Once I got my car keys, I left also and went straight to the police department. But that's where he had gone as well. He beat me there, and had told them that I had knocked my daughter down and that I was a danger to my children. He was granted a protective order for himself and both my daughters. He told them he was afraid I would hurt my children. And I sat in that police department in torn clothing, with grass and leaves on my clothes and in my hair. I had a bruise forming on my side that would develop into an almost-perfect footprint from where he had kicked me, and the police told me there was nothing they could do because J was not enrolled.

ONE TIME, HE GRABBED MY HAND AND TWISTED IT UP BEHIND MY BACK, FLINGING ME TO THE FLOOR ON MY KNEES WITH MY FACE SHOVED INTO THE COUCH. HE JAMMED HIS KNEE INTO MY BACK SO HARD I THOUGHT I WOULD PASS OUT. I HEARD A SNAPPING SOUND, WHICH I THOUGHT AT THE TIME WAS ONE OF MY ARTIFICIAL FINGERNAILS BREAKING. WHEN I FINALLY GOT AWAY FROM HIM I WAS SURPRISED TO SEE THAT NONE OF MY FINGERNAILS WERE BROKEN. THE NEXT DAY, AS I WAS HELPING MY MOTHER LOAD FLATS OF BEDDING PLANTS ONTO HER TRUCK, I BUMPED MY HAND. IT HURT SO BAD I SAW STARS. WHEN I WENT TO THE ER TO GET MY HAND CHECKED, AN XRAY SHOWED A

I write this letter as a daughter and a mother praying for change to come to help protect Native women.

### AS A GIRL, I GREW UP ON OUR RESERVATION WATCHING MY NON-INDIAN STEPFATHER BEAT MY MOTHER AND TRAUMATIZE US KIDS.

I remember running alongside my mother at the age of four, into the fields to hide in the grass, and then huddling together in fear. We would stay there afraid, alone, and often cold and crying, listening to his screams of how he would kill us when he found us. Until today, as I write this letter, I can still see the pages of a police report in 8-point font. So many times the police were called, yet in over 30 years there was not a single conviction. It was only five years ago when I, as a trained advocate, went to my mother's house after a beating he gave her that we were able to get him arrested and convicted.

MY STEPFATHER DECIDED TO MAKE HIS HOME ON TRIBAL LAND UNDER A TRIBAL GOVERNMENT. HE KNEW HE LIVED ON AN INDIAN RESERVATION. **IN ANY OTHER JURISDICTION IN THE WORLD THE GOVERNMENT WHERE THE CRIME IS COMMITTED HAS THE AUTHORITY TO ARREST**

**BROKEN BONE IN MY FINGER. THAT WAS THE SNAPPING SOUND I HAD HEARD. THERE WAS NO SWELLING, BUT THE BONE WAS BROKEN. I KNEW BETTER THAN TO GO TO THE POLICE AT THIS POINT. I KNEW THERE WAS NOTHING THEY COULD DO TO HELP ME. I TRULY BELIEVED, AND I THINK HE DID TOO, THAT HE COULD KILL ME AND THEY WOULD DO NOTHING.**

Thankfully, he did not kill me, and I am safely away from him for good.

And so, almost 20 years later, I feel compelled to speak about my experiences because my tribal council representative gave some information at a community meeting about the VAWA. I was stunned that after all these years I still had an emotional reaction, and things I hadn't thought about in a long time bubbled up to the surface. It was difficult and surprisingly still painful to remember and, in a way, relive my experiences. But the emotion I feel now is relief, because hopefully these provisions will allow Native women to finally feel safe from their attackers, enrolled or non-enrolled. Native women no longer have to feel afraid or helpless.

Thank you, Terri. Words cannot express my gratitude.

Billie Jo Rich



**AND PROSECUTE AN OFFENDER.** INDIAN TRIBES DO NOT HAVE THIS AUTHORITY WHEN IT COMES TO NON-INDIANS WHO COMMIT CRIMES. THIS LACK OF JURISDICTION IS A GREEN LIGHT TO MEN LIKE MY STEPFATHER THAT SUCH VIOLENCE IS OKAY AND THAT THE TRIBAL POLICE

AND PROSECUTORS CANNOT TOUCH THEM IF THE WOMAN DARES TO COMPLAIN.

This legal loophole has crossed generations in my family. It allowed my stepfather to abuse my mother and also created hatred of Indian women that led to my rapes and the rape of my daughter. This last summer, my daughter was abducted by four white men on our reservation and then raped. My niece was staying with us at the time, and my daughter woke during the night and realized that her cousin was missing. My daughter went to look for her cousin not wanting her to get into trouble for being out late at night. She thought she knew where her cousin went, and while walking down the street an SUV pulled up alongside her. Four white guys tried to coax her to get into the car, and she refused and ran. The SUV chased her and two of the men jumped out and dragged her into the vehicle. One drove while two held her down and the other man raped her.

BEING FROM A SMALL COMMUNITY WE KNOW WHO LIVES AND WORKS IN OUR COMMUNITY. EVEN THOUGH THE MEN WORE BANDANAS, MY DAUGHTER WOULD HAVE RECOGNIZED THEM BY THEIR WHITE SKIN AND BLOND HAIR. I BELIEVE THE MEN WERE DOING WHAT IS CALLED "HUNTING" ON OUR RESERVATION. I AM AN ADVOCATE FOR NATIVE WOMEN AND MY DAUGHTERS KNOW THE DANGERS WE FACE. **DURING DEER SEASON, OUR RESERVATION IS OVERRUN WITH NON-INDIAN HUNTERS WHO RAPE AND ABUSE OUR WOMEN.** MY DAUGHTER WAS JUST IN THE WRONG PLACE AT THE WRONG TIME. THAT NIGHT SHE DID NOT TELL ANYONE BUT CAME HOME AND WASHED. IT WAS NOT UNTIL SEVERAL WEEKS LATER THAT I FOUND OUT ABOUT THE INCIDENT. LAST SUMMER, ANOTHER NATIVE GIRL, AGE 14, WAS ALSO RAPED, AND NOTHING WAS DONE FOR MONTHS IN HER CASE. WHILE WAITING FOR SOMETHING TO HAPPEN, SHE TOOK HER OWN LIFE BY HANGING HERSELF. WHILE TALKING TO A CLOSE FRIEND ABOUT HER FRIEND'S SUICIDE, MY DAUGHTER CONFIDED WHAT HAPPENED TO HER THAT NIGHT. **WE DID WHAT WE COULD WITHIN THE SYSTEM, BUT NOTHING HAS BEEN DONE.**

The amendment proposed by Sec. 904 is very restrictive and only applies to non-Indians who commit domestic

violence against an Indian they are married to or are dating. It also requires that the domestic violence be committed on a reservation where they live or work. If passed, the new law would allow our tribe to arrest and prosecute my stepfather if he abuses my mother again on tribal land. It would not give jurisdiction to our tribe over the four white men who abducted and raped my daughter because they do not live or work on our reservation and the case is not a domestic violence crime. They can still rape Native girls and women with impunity.

**MEN WHO RAPE AND BEAT WOMEN ARE BAD MEN, BUT IT IS THE BAD LAWS THAT ALLOW THEM TO CONTINUE THEIR VIOLENCE. FEDERAL LAW SEPARATES US FROM ALL OTHER WOMEN IN THE UNITED STATES. WE ARE LEGALLY PLACED INTO A WORLD WHERE OUR TRIBAL GOVERNMENT CANNOT PROTECT US FROM NON-NATIVES WHO LIVE IN OUR COMMUNITIES, WORK FOR OUR TRIBE, OR COME ONTO OUR TRIBAL LANDS TO HUNT—ATTACK, RAPE, AND BEAT WOMEN.**

It is important to note that I live in a Public Law 280 state where the state—not the federal government—has jurisdiction over non-Natives who commit criminal acts of violence against Natives in Indian country. Only until recently has Public Law 280 come under the spotlight with regard to federal trust responsibility and legal obligation to our Nations. Sec. 904, as restrictive as it is, will for the first time create a path for federally recognized tribes located in Public Law 280 to hold such perpetrators accountable for violent acts since the law was passed in 1958. For too long, this law has allowed criminals to abuse Native women and created an environment where Native women are hunted within our tribal lands.

**THE INDIAN WARS ARE OVER, AND IT IS TIME TO RID OUR NATION OF THE BAD LAWS AND POLICIES OF LONG AGO. MOTHERS SHOULD NOT HAVE TO PREPARE THEIR DAUGHTERS FOR WHAT TO DO WHEN THEY FALL VICTIM TO A NON-INDIAN OR IF THEY FALL IN LOVE WITH ONE AND ARE RAPED OR BEATEN.**

Miigwech (Thank you).

Lisa Brunner

My family and I are members of the Cheyenne River Sioux Tribe in South Dakota. We have resided for generations on these tribal lands since the creation of our reservation.

### **MY SISTER MOVED OFF OUR RESERVATION AND LIVED WITH HER NON-INDIAN BOYFRIEND IN NORTH DAKOTA.**

He abused her and was convicted in the city where they lived, and for three years, he did not abuse her. It seemed going to jail helped him to understand the consequences of his physical violence. Last summer, they came home to our reservation for a family gathering, and when he got her alone in the motel room, he beat her for hours. He beat her with his fist and kicked her with his boots. He hit her so hard at one point she flew backward hitting a counter causing a deep gash at the back of her head. She was knocked unconscious and at one point came to as he was strangling her. Finally, she was able to escape and found her way to our father's house. The half-mile route to our father's house took her by the county sheriff's office, the deputy's home residence, and the sheriff's home.

MY FATHER CALLED THE CLOSEST LAW ENFORCEMENT PERSON, THE COUNTY SHERIFF. WE WERE ALL AMAZED THAT WHILE MY SISTER WAS BEATEN TO THE POINT WHERE SHE WAS BRUISED, BLEEDING, AND NEEDING STITCHES, WE WERE TOLD THAT THERE WAS NOTHING THE SHERIFF COULD DO. THE SHERIFF DID COME TO OUR HOUSE TO FURTHER EXPLAIN THAT THERE WAS NOTHING HE COULD DO. WE ALSO LEARNED FROM THE TRIBAL POLICE THAT BECAUSE THE ASSAILANT WAS NON-INDIAN AND THE VICTIM A NATIVE WOMAN, ONLY THE FEDS HAD JURISDICTION. **THE MAN WAS ALLOWED TO DRIVE AWAY FROM OUR RESERVATION, BACK TO THE STATE OF NORTH DAKOTA. MY FATHER AND FAMILY DID NOT KNOW UNTIL THIS HAPPENED HOW UNPROTECTED MY SISTER IS WHEN SHE IS ON TRIBAL LAND.** MY SISTER'S BOYFRIEND KNEW AND WAITED UNTIL THEY CAME HOME TO BEAT HER AGAIN.

My sister called and said she needed me to come and take her to the hospital. When I saw her, I became sick to my stomach. She had her face in a towel, and when she raised her head I could see a large gash on her forehead; other gashes on her head also needed stitches. Her body was bruised all the way down her legs, and her back was hurting from the beating. She reported that the beating went on for several hours



while she was in and out of consciousness. When he laid down, she left. I drove my sister to Indian Health Service hospital, 40 miles away. We were met by the tribal criminal investigator who asked questions and took pictures. Unlike the county sheriff, he was considerate and reassured that he would follow up on the situation.

IT WAS FIVE WEEKS BEFORE MY SISTER'S BOYFRIEND WAS ARRESTED; MEANWHILE, HE WAS ABLE TO TERRORIZE MY SISTER AND OUR FAMILY DURING THAT TIME. ALSO HIS FAMILY HARASSED MY SISTER AFTER THE BEATING, CALLING HER NAMES AND THREATENING HER. ONE OF HIS FRIENDS BROUGHT HER A BLANK CHECK AND KEYS TO A CAR SHE COULD HAVE IF SHE'D MAKE THE CHARGES GO AWAY. **IN NO OTHER JURISDICTION WOULD AN ARREST HAVE TAKEN SO LONG EVEN WITH THE EVIDENCE AND COOPERATION THAT WAS GIVEN TO THE INVESTIGATORS IN THIS CASE.** EVERY DAY, MY FATHER CALLED THE VARIOUS AGENCIES INVOLVED, ASKING THAT JUSTICE BE DONE. BUT AS THEY SAY, JUSTICE DELAYED IS JUSTICE DENIED.

**MANY INDIAN WOMEN HAVE NO RESOURCES OR FAMILY SUPPORT. THEY SIMPLY RECENT OR DISAPPEAR RATHER THAN WAIT FOR A FEDERAL PROSECUTION THAT IS FAR AWAY AND MOST OFTEN NEVER HAPPENS.**

Tommie Mettler

Hensci (Hello)!

My name is Cherrah Giles and I am from the Thlikatchka (Broken Arrow Tribal Town) and of the Fuswv (Bird Clan) from the Muscogee (Creek) Nation located in Oklahoma. As a tribal citizen and a former elected tribal council member, I share my experience to help you understand why the tribal amendments proposed in S. 47 and by Congressmen Cole and Issa are so important.

MY WORDS ARE AS A SURVIVOR OF OVER 15 YEARS OF DOMESTIC VIOLENCE AND ABUSE. THE VIOLENCE PERPETRATED AGAINST ME BEGAN WHEN I WAS JUST A TEENAGER IN HIGH SCHOOL. FROM THE EARLY AGE OF 15, THE BOY I DATED ABUSED ME. **AT A TIME WHEN I SHOULD HAVE EXPERIENCED THE JOYS OF HIGH SCHOOL AND BECOMING A WOMAN, I EXPERIENCED VIOLENCE FROM BEING HIT, KICKED, AND PUNCHED.** I ENDURED HUMILIATING ACTS FROM BEING SPIT UPON, HAVING MY HAIR PULLED, A KNIFE PULLED ON ME, CIGARETTES PUT OUT ON MY FACE, TO FULL BEER CANS THROWN AT MY HEAD. I WENT TO HIGH SCHOOL WITH BRUISES AND A BLACK EYE.

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

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

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

WHAT I EXPERIENCED WAS A PATTERN OF DAY-TO-DAY INCIDENTS OF PHYSICAL AND EMOTIONAL ABUSE KNOWN AS DOMESTIC VIOLENCE. MANY OF THESE INCIDENTS ARE CONSIDERED MISDEMEANORS, BUT I WANT TO STRESS THAT THE REPEATED ACTS OF VIOLENCE CONSTITUTED



A PATTERN OF ONGOING TERROR IN MY LIFE. **WHEN THIS ABUSE IS COMMITTED BY A NON-INDIAN AGAINST A NATIVE WOMAN ON TRIBAL LAND, THE TRIBAL GOVERNMENT HAS NO JURISDICTION TO HOLD THE ABUSER ACCOUNTABLE.** THIS IS A PROBLEM AND IS UNACCEPTABLE.

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

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

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

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

VIOLENCE AGAINST WOMEN IS NOT A TRADITIONAL VALUE FOR MY TRIBE. IT HAS NEVER BEEN ACCEPTABLE. YET, **DOMESTIC ABUSE AND VIOLENCE HAVE DILUTED OUR SENSE OF WELL-BEING AND IS COUNTER TO OUR TRADITIONAL VALUES AND BELIEFS OF COMMUNITY LOVE AND SUPPORT.** IT WAS NOT UNTIL AFTER I LEFT MY ABUSER THAT I FELT COMFORTABLE SPEAKING ABOUT IT IN PUBLIC, AND WITH FAMILY AND FRIENDS.

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

I also want to share with you the desperate need for rape crisis services. It is estimated one out of three Native women will be raped in her lifetime. My Nation's health system is in the process of establishing better protocols and strengthening the response needs to victims of sexual assault by establishing a Tribal Sexual Assault Nurse Examiner.

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

I survived the violence committed against me for over a decade. I have four beautiful children, two girls and two boys, and now remarried to a man who shares in my effort to prevent and abolish domestic violence. We work very hard raising my children to understand that domestic violence is not acceptable. I resigned as Second Speaker of my tribal council to work as the Director of Community and Human Services. My position oversees eight tribal programs, which includes our Family Violence Prevention Program. This change allows me to work directly with our tribal community in the effort to eradicate domestic violence. I feel blessed and so fortunate for the opportunities at hand.

CONGRESS HAS THE OPPORTUNITY TO ACCEPT THE TRIBAL AMENDMENTS THAT WILL ALLOW INDIAN TRIBES TO PROVIDE THE SERVICES THAT NATIVE WOMEN DESPERATELY NEED. THESE SERVICES CAN SAVE THE LIVES AND STOP THE HORRIFIC PHYSICAL AND SEXUAL VIOLENCE BEING PERPETRATED AGAINST NATIVE WOMEN ON A DAILY BASIS.

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

**NATIVE WOMEN NEED THEIR TRIBAL GOVERNMENT TO BE CAPABLE OF PROTECTING THEM FROM ALL ABUSERS, NOT JUST THOSE WHO ARE NATIVE.** NATIVE WOMEN NEED TRIBAL COURTS TO HAVE THE AUTHORITY TO ADDRESS, ISSUE, AND ENFORCE ORDERS OF PROTECTION. NATIVE WOMEN NEED THE SERVICES AS PROPOSED UNDER THE GRANTS TO INDIAN TRIBES PROGRAM TO ACCESS BASIC SERVICES TO END THE VIOLENCE AND SAVE THEIR LIVES AND THE LIVES OF THEIR CHILDREN AND FAMILIES.

Mvto (Thank you)!

Cherrah Giles

# STATEMENT OF DIANE MILLICH

HOUSE BRIEFING  
THE VIOLENCE AGAINST WOMEN REAUTHORIZATION  
ACT AND SAFETY FOR NATIVE WOMEN  
CANON HOUSE OFFICE BUILDING – ROOM 402  
THURSDAY, MAY 10, 2012, 10:30–12:00 P.M.

Good Morning,

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

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

WHEN I WAS 26 YEARS OLD, I LIVED ON MY RESERVATION AND STARTED DATING A NON-INDIAN, A WHITE MAN. I WAS IN LOVE AND LIFE WAS WONDERFUL. AFTER THE BLISS OF DATING FOR SIX MONTHS WE WERE MARRIED.

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

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

ALL THE TIMES I CALLED AND TRIBAL POLICE CAME AND LEFT ONLY MADE MY EX-HUSBAND BELIEVE HE WAS ABOVE THE LAW. **ALL THE TIMES THE COUNTY DEPUTY SHERIFFS CAME AND LEFT ONLY MADE HIM BELIEVE HE COULD BEAT ME AND THAT HE WAS UNTOUCHABLE.** MY REPORTING OF THE VIOLENCE ONLY MADE IT WORSE.

I called so many times, but over the months not a single arrest was made. On one occasion after a beating my



ex-husband called the county sheriff himself to show me that no one could stop him. He was right; two deputies came and confirmed they did not have jurisdiction. I was alone and terrified for my safety.

SECTION 904 WOULD HAVE ALLOWED TRIBAL LAW ENFORCEMENT TO HAVE ARRESTED MY ABUSER AND STOPPED THE VIOLENCE BEING COMMITTED AGAINST ME. **IT WILL ALLOW AN INDIAN TRIBE THAT MEETS ALL OF THE REQUIREMENTS OF THE STATUTE TO ARREST AND PROSECUTE A NON-INDIAN WHO LIVES OR WORKS ON AN INDIAN TRIBE'S LAND AND COMMITS MISDEMEANOR DOMESTIC VIOLENCE OR VIOLATES AN ORDER OF PROTECTION.**

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

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

I felt like I was walking on eggshells and knew inside that something terrible was going to happen. I was at home and he pulled up to my house. I ran and got in my car while he tried to break the windows. After I fled, he broke into the house breaking windows, furniture, and dishes. He cut the knuckles of his hands during the violence and smeared his blood over the walls, the floor, and my bedroom sheets. My home was destroyed.

The next day I was at work and saw him pull up in

a red truck. I was so afraid something terrible was going to happen. My ex-husband told me, “You promised until death due us part, so death it shall be.” He was armed with a 9mm gun.

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

THE SHOOTING TOOK PLACE AT A FEDERAL BUREAU OF LAND MANAGEMENT LAND SITE WHERE WE BOTH WORKED. **THE JURISDICTIONAL ISSUE IS SO COMPLICATED THAT AFTER THE SHOOTING INVESTIGATORS USED A MEASURING TAPE AT THE SCENE TO DETERMINE JURISDICTION,** THE POINT WHERE THE GUN WAS FIRED FROM AND WHERE THE BULLET LANDED. **IT TOOK HOURS JUST TO DECIDE WHO HAD JURISDICTION OVER THE SHOOTING.**

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

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

The District Attorney offered a plea of aggravated driving under revocation. He took it immediately. In the end, none of the domestic violence crimes or the shooting incident was charged. It was like his attempt to shoot me and the shooting of my coworker did not happen.

THE TRIBE WANTED TO HELP ME AND WOULD HAVE CHARGED THE DOMESTIC VIOLENCE CRIMES BUT COULD NOT BECAUSE OF THE LAW. IN THE END, HE WAS RIGHT IN THAT HE WAS ABOVE THE LAW.

I also could not receive victim compensation to help with the destruction to my home, car, and property because

the violence was committed on tribal land and the case prosecuted by the District Attorney.

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

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

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

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

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

**I WANT EVERYONE HERE TODAY TO KNOW THAT AMERICAN INDIAN WOMEN DO NOT HAVE THE SAME PROTECTIONS AS NON-INDIAN WOMEN.** FEDERAL LAW, AS YOU HAVE HEARD FROM MY STORY, HAS A LARGE, GAPING HOLE IN IT FOR ABUSERS WHO ARE NON-INDIAN. IT IS IMPORTANT THAT YOU UNDERSTAND THAT THIS IS ABOUT RACE IN AMERICA TODAY.

If I were white, my story would be different. If I lived off of tribal land, my story would be different.

I am a Native woman, and my family has lived on our reservation for over seven generations. These are facts that will not change.

Please speak for us.

Thank you.

Diane Millich

# EXISTING LAW DENIES INDIAN WOMEN EQUAL ACCESS TO JUSTICE

NATIVE WOMEN FACE MORE THAN TWICE THE RATES OF VIOLENCE THAN WOMEN OF OTHER RACES IN THE UNITED STATES. **THIRTY-FOUR PERCENT OF NATIVE WOMEN WILL BE RAPED IN THEIR LIFETIME AND 39% WILL SUFFER DOMESTIC OR INTIMATE PARTNER VIOLENCE.** THE U.S. DEPARTMENT OF JUSTICE HAS TESTIFIED THAT THIS SYSTEM OF JUSTICE IS INSUFFICIENT TO ADDRESS THE EPIDEMIC OF VIOLENCE AGAINST NATIVE WOMEN. THE VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (S. 47) ADDRESSES THESE ISSUES.

## VAWA WILL GIVE TRIBES LOCAL CONTROL TO ADDRESS CRIMES OF DATING AND DOMESTIC VIOLENCE AGAINST NATIVE WOMEN.

On many reservations, getting an officer to respond to a call for help can mean waiting for days or even months. Annie, the director of one Indian reservation's only women's shelter, can attest firsthand to the lack of police response. When Annie's daughter's nose was broken by her boyfriend, a non-Native, her daughter filed a report and attached statements and photos from the doctors. But when federal investigators were called the next morning, Annie was told by an officer that her daughter's injury was not considered a broken bone, but broken cartilage, and that the case would not be prosecuted. "This is a lawless land where people are making up their own laws because there's no justice being done," Annie said.

Josie will never forget the night her non-Indian husband beat her and choked her for more than an hour before police arrived and carted her off to jail in handcuffs. Charged with assault and battery because she fought back, Josie sat in a jail cell overnight with a broken pelvis and fractured vertebra while her uninjured husband—over whom tribal police had no jurisdiction—still in a rage back at the house, destroyed all her belongings.

Mary married a non-Indian who at the time was the nicest man she had ever met. "I trusted him, with my car, money, and to be around my children. As time rolled on he showed his true colors. He was an abusive alcoholic who stole my money and wrecked our cars and our nice home. He held guns to my head while the children were asleep, threatening me, telling me I was lucky to have him. I tried reporting his abuse to the authorities, but they said it was hearsay because I had no witnesses. He would yell at me, "Call the cops! They won't believe you! You're just another Indian to them!" Once he pulled out half of my hair in a jealous rage. I kept the hair so I could show the authorities. His father, who was also non-Native, said, "You have thin hair anyway, they won't believe this belongs to you."

*S. 47 provides Indian tribal governments with limited authority to investigate and prosecute misdemeanor crimes of dating and domestic violence committed by non-Indians who have sufficient ties to the reservation community. It is imperative to address these crimes before they escalate to serious assault and homicide.*

## VAWA WILL ENSURE TRIBAL PROTECTION ORDERS ARE ENFORCED.

"Our victims, after receiving a restraining order in tribal court, are being told that they still have to file in state court because local law enforcement does not recognize the tribal court orders. It becomes just one more hurdle for victims have to jump through . . . We have had problems with local law enforcement in the past of treating victims badly, mostly in cases where they have had to respond multiple times to the same address or situation. They are treated as if the victims are wasting the deputy's time. There have been some improvements but they are few and far between." –Executive Director, Tribal Coalition in a PL 280 state

*S. 47 clarifies that tribes have full civil jurisdiction to issue and enforce protection orders over all persons.*

## VAWA WILL ENHANCE FEDERAL PROTECTIONS FOR NATIVE WOMEN.

Often U.S. attorneys won't take a domestic violence case unless there's severe physical harm or use of a deadly weapon. "If you just knock a tooth out, it's not enough." Sarah, a child welfare and family violence counselor for a federally recognized tribe, said she recently had four law enforcement agencies arguing over jurisdiction after a Native woman called 911 to say she had been raped. "The D.A. was so confused," Sarah said. The woman eventually left the state. And the accused rapist? "Oh, he walked," Sarah said.

*S. 47 will enhance existing federal assault statutes from the current misdemeanor levels to felonies, which garner significantly more attention from federal investigators and prosecutors.*

THESE STORIES WERE COMPILED FROM SERVICE PROVIDERS SERVING FEDERALLY RECOGNIZED INDIAN TRIBES AND TRIBAL DOMESTIC VIOLENCE COALITIONS. NAMES HAVE BEEN CHANGED TO PROTECT VICTIM IDENTITIES.



AS THE BATTLE OVER THE VIOLENCE AGAINST WOMEN ACT (VAWA) WAGES ON, OUR NATION'S POLICYMAKERS ARE DEBATING KEY PROVISIONS THAT WOULD RESTORE TRIBAL JURISDICTION OVER NON-INDIANS FOR DOMESTIC VIOLENCE, DATING VIOLENCE, AND PROTECTION ORDER VIOLATIONS. IF THE PROVISION IS PASSED, GREATER PROTECTIONS CAN BE AFFORDED TO NATIVE WOMEN IN THOSE INSTANCES. BUT ACCOUNTABILITY SHOULDN'T STOP THERE, AS NATIVE WOMEN CONTINUE TO EXPERIENCE HIGH RATES OF RAPE, MURDER, AND OTHER HORRENDOUS CRIMES COMMITTED BY NON-INDIAN MEN ON TRIBAL LAND.

Section 904 is limited to crimes of domestic or dating violence and violations of orders of protection committed in Indian country where the defendant is a spouse or established intimate partner of a tribal member. Because the provision is narrowly tailored, what does this mean for a non-Indian perpetrator who does not live or work on the reservation and who does not have a relationship with the Native woman?

In 2003, Lavetta Elk (Oglala Sioux) was sexually assaulted by an Army recruiter on the Pine Ridge Reservation. After earning her trust over many years, he shattered all her dreams and innocence the night he drove her down a dark, secluded reservation road and sexually attacked her. Lavetta bravely pursued criminal charges, but the case was declined by the USDOJ and he never spent a day in jail. However, Lavetta pursued a claim in a civil suit and argued for compensation under the "bad men" clause of the Fort Laramie Treaty of 1868. The clause provides that if "bad men" among the whites commit "any wrong" upon the person or property of any Sioux, the United States will reimburse the injured person for the loss sustained. The U.S. Court of Federal Claims ruled in her favor and Lavetta was awarded for economic damages, pain, suffering, and emotional distress.

In 2005, two Caucasian men kidnapped, raped, and plotted to kill a Nez Perce woman on the Nez Perce Indian reservation. Both men took turns raping the woman who was bound by duct tape. They planned to kill her with a shovel and bury her, but she narrowly escaped. Although both men were indicted by the USDOJ, each took a plea bargain and punishment was minimal.

THE JUSTICE DEPARTMENT HAS FOUND THAT WHEN NON-INDIAN CASES OF DOMESTIC VIOLENCE GO UNINVESTIGATED AND UNPUNISHED, OFFENDERS' VIOLENCE ESCALATES. AS A RESULT, ON SOME RESERVATIONS, THE HOMICIDE RATE OF NATIVE WOMEN IS 10 TIMES THE NATIONAL AVERAGE.

Tribal members of the Yakama Nation lived in terror as over a dozen bodies were discovered throughout the reservation between 1980 and 1993. All were women (11 Native victims) and died as a result of gunfire, stabbings, beatings, and strangulation. One Native woman was found dead as a result of massive internal injuries, likely from a speeding car. Another's strangled and sexually mutilated body was found in a remote area of the reservation. Another victim, a mother of 11

who had been listed as missing since August 1988 was found and identified by dental records in 1991. She died as a result of “homicidal violence” per the coroner’s report. The victims’ family members and tribal officials remain outraged at the FBI response, or lack thereof, in investigating the homicides. To date, most if not all cases remain unsolved.

In addition, we must remember our missing Native sisters and commit to finding answers for the families by seeking measures to act quickly in instances where a Native woman is reported missing. In light of the research that documents high rates of domestic and sexual violence against Native women, it seems logical that a missing person report would trigger alarm bells for law enforcement personnel. Unfortunately, such a standard is lacking. Reports by the families and friends of Native women in fact show the opposite response.

THE QUESTION LEAVING TRIBAL COMMUNITIES SHAKING THEIR HEADS IS “WHY?” “WHY AFTER ALL THE RESEARCH? WHY AFTER THE BILLIONS OF DOLLARS APPROPRIATED BY CONGRESS? WHY WHILE THE NATIONAL MURDER RATE GOES DOWN? WHY CAN’T THE MOST POWERFUL COUNTRY ON THE EARTH NOT PROTECT THE FIRST WOMEN WITHIN ITS BORDERS?”

On July 28, 2006, Victoria Eagleman walked out the front door and told her mother that she would be right back. When she did not return, her mother, June Lefthand, reported her disappearance. June felt it deep inside. “I knew something was wrong. I called and called.” What response did her mother receive? “Vicki was off partying.” “Vicki will show up.” “Vicki ran off with a biker to Sturgis.” Even after Vicki’s children found her glasses on the road in front of the house. Even though Vicki did not like leaving her children. Even though Vicki always called her mother while she was away. Thirty days later, a search led by community members found Vicki’s body. The search was not led by law enforcement but by community members—good Indian people on horseback and foot trying to help.

Longstanding research reports that the most effective strategy to prevent violence against women is a “strong and immediate coordinated community response including law enforcement, prosecution, and courts. True? False? According to the Office in Violence Against Women, it is true. Yet, according to the Supreme Court it this strategy cannot be true for Indian tribes. Why? Indian tribes do not have jurisdictions over non-Indians committing rapes and domestic violence on Indian land. Thus tribal governments, law enforcement, and prosecutors are prevented from having a “strong and immediate response” to non-Indians raping and battering women within their jurisdiction.

ALL NATIVE WOMEN INCLUDING OUR DAUGHTERS AND GRANDDAUGHTERS DESERVE A LIFE FREE FROM VIOLENCE. AS THE BATTLE OVER VAWA CONCLUDES AND WE APPLAUD THE VICTORIES, WE MUST PREPARE OURSELVES FOR THE NEXT CHALLENGE AND HURDLE THAT THREATENS THE SAFETY OF NATIVE WOMEN. WE MUST BUILD ON PREVIOUS WORK AND CONTINUE TO ADDRESS OUR MURDERED, OUR MISSING, AND OUR SEXUALLY ASSAULTED.

## CURRENT GAPS IN RESPONDING TO CASES OF MISSING NATIVE WOMEN

- UNDERSTANDING THAT DOMESTIC OR SEXUAL VIOLENCE BY AN ABUSER IS A FLAG FOR INCREASED DANGER ;
- LACK OF A NATIONAL PROTOCOL FOR RESPONDING TO REPORTS OF MISSING NATIVE WOMEN;
- LACK OF A PROTOCOL FOR TRIBAL, STATE, AND FEDERAL COORDINATION IN SUCH CASES;
- LACK OF A NATIONAL REPORTING SYSTEM TO MONITOR DEVELOPMENTS IN SUCH CASES;
- INSTITUTIONALIZED DISREGARD FOR REPORTS OF MISSING NATIVE WOMEN.

# VAWA BILLS S. 47 SEC. 904 AND THE ISSA-COLE COMPROMISE H.R. 780 WOULD PROVIDE THE FULL PANOPLY OF PROTECTIONS TO NON-INDIAN DOMESTIC VIOLENCE DEFENDANTS

UNDER SECTION 904 OF S. 47, THE VAWA REAUTHORIZATION BILL WHICH PASSED THE SENATE 78 TO 22 ON FEBRUARY 12, 2013, AND UNDER H.R. 780 (THE ISSA-COLE COMPROMISE), DEFENDANTS UNDER TRIBAL CRIMINAL JURISDICTION WOULD RECEIVE THE FULL PANOPLY OF LEGAL PROTECTIONS AND SAFEGUARDS EQUIVALENT TO PROTECTIONS OFFERED IN STATE COURTS.

<b>Defendants’ Rights in Tribal Court Criminal Proceedings under ICRA (25 U.S.C. § 1301–1303, as amended)<sup>1</sup> include:</b>	<b>Defendants’ Rights in State Court Criminal Proceedings<sup>2</sup> include:</b>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . deny to any person within its jurisdiction the <b>equal protection</b> of its laws or deprive any person of liberty or property without <b>due process of law.</b>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right to <b>due process</b> of law and the right to <b>equal protection</b> under the law.</i></li> </ul>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . violate the right of the people to be secure in their persons, houses, papers, and effects against <b>unreasonable search and seizures</b>, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right to be free from <b>unreasonable search and seizure.</b></i></li> </ul>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . compel any person in any criminal case <b>to be a witness against himself.</b>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right against <b>self-incrimination</b> or being forced to testify against oneself.</i></li> </ul>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . subject any person for the same offense to be <b>twice put in jeopardy.</b>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right against <b>double jeopardy</b> or being tried more than once for the same offense.</i></li> </ul>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . deny to any person in a criminal proceeding the right . . . to be <b>confronted with the witnesses against him</b>, to have <b>compulsory process for obtaining witnesses in his favor.</b></li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right to <b>confront witnesses</b> against you and the right to <b>call supporting witnesses.</b></i></li> </ul>

\* Chart by George Waters Consulting Service

1 The Indian Civil Rights Act (ICRA) of 1968 has been amended a few times since enacted. It was amended in 1986 to increase tribal court sentencing limitations from \$500 and/or 6 months in jail per offense to 1 year and \$5,000 per offense. It was amended again in 1990 to restore tribal court criminal jurisdiction over all Indians (See the Congressional Duro-fix overturning the Supreme Court’s decision in Duro v. Reina, 495 U.S. 676 (1990). ICRA was further amended by the Tribal Law and Order Act of 2010 (TLOA) (PL-111-211), which added sentencing authority for tribes and strengthened defendants’ rights. S. 47 and H.R. 780 would make further amendments strengthening ICRA.

2 The Bill of Rights provides protection to individuals subject to criminal prosecution. The due process clause of the 14th amendment extended these protections to apply to the states.

Tribal Courts (cont'd.)	State Courts (cont'd.)
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . <i>require excessive bail, impose excessive fines.</i>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right to be free from excessive fines or excessive bail.</i></li> </ul>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . <i>pass any bill of attainder or ex post facto law.</i>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The prohibition against ex post facto laws or laws that retroactively criminalize certain acts or retroactively increase criminal sanctions.</i></li> </ul>
<ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . <i>deny to any person in a criminal proceeding the right to a speedy and public trial.</i>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right to a speedy, public trial.</i></li> </ul>
<ul style="list-style-type: none"> <li>• No Indian tribe in exercising powers of self-government shall . . . <i>deny to any person in a criminal proceeding the right . . . to be informed of the nature and cause of the accusation.</i>”</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The right to clear notice of criminal charges.</i></li> </ul>
<ul style="list-style-type: none"> <li>• <i>The right to effective legal counsel including free legal counsel for indigent defendants.</i></li> </ul> <p>The original language of ICRA provided defendants the right to counsel at their own expense in a criminal proceeding. TLOA added additional protections:</p> <ul style="list-style-type: none"> <li>- <i>the right to effective assistance of counsel at least equal to that guaranteed by the U.S. Constitution; and</i></li> <li>- <i>at the expense of the tribal government, provide an indigent defendant the assistance of a licensed defense attorney.</i></li> </ul> <p>TLOA provides these listed protections only in cases where a prison term of over one year is imposed on a defendant. Under S. 47 and H.R. 780, if a prison sentence of <u>any length</u> may be imposed upon a defendant, the tribe has to provide the defendant with the added protections above and the ones in the column immediately below.</p>	<ul style="list-style-type: none"> <li>• <i>The right to legal counsel, which includes the right to effective assistance of counsel and the right to counsel at government expense for indigent defendants facing imprisonment.</i></li> </ul>
<p>Under S. 47 and H.R. 780, in a criminal proceeding in which a tribe, in exercising powers of self-government, imposes a total term of imprisonment of <u>any length</u>, the tribe must provide these additional protections from TLOA:</p> <ul style="list-style-type: none"> <li>- <i>require that the judge presiding over the criminal proceeding has sufficient legal training to preside over criminal proceedings; and is licensed to practice law; and</i></li> <li>- <i>prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and</i></li> <li>- <i>maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.</i></li> </ul>	

<p style="text-align: center;"><b>Tribal Courts (cont'd.)</b></p>	<p style="text-align: center;"><b>State Courts (cont'd.)</b></p>
<p>The original language of ICRA provides:</p> <ul style="list-style-type: none"> <li>• “No Indian tribe in exercising powers of self-government shall . . . <i>deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.</i>”</li> </ul> <p>S. 47 and H.R. 780 add:</p> <ul style="list-style-type: none"> <li>• “[T]he right to a <b>trial by an impartial jury</b> that is drawn from sources that—</li> <li>• <b>reflect a fair cross share of the community; and</b></li> <li>• <b>do not systematically exclude any distinctive group in the community, including non-Indians.</b>”</li> </ul>	<p><i>The right to an impartial jury trial.</i></p>
<ul style="list-style-type: none"> <li>• To alleviate any doubt that ICRA (as amended by TLOA and S. 47/H.R. 780) contains insufficient guarantees to defendants, S. 47 and H.R. 780 have a safeguard provision. <b>Participating tribes are mandated to provide non-Indian defendants “all other rights whose protection is necessary under the Constitution of the United States”</b> in order for Congress to authorize tribal prosecutions of non-Indians.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Habeas corpus</b> review is available, but it is far from automatic. As the Congressional Research Service explains, “Relief for state prisoners is only available if the state courts have ignored or rejected their valid claims, and there are strict time limits within which they may petition the federal courts for relief.”<sup>1</sup></li> </ul>
<p><b>(A) Issa-Cole Compromise (H.R. 780)</b></p> <p>In addition to the protections described above, Issa-Cole adds a yet further protective option for defendants to remove themselves to federal court if they assert, and a federal district court agrees, that any of the aforementioned rights of the defendant have been violated by the tribal court. With this added layer of protection, every defendant is more than assured a fair trial proceeding, either in tribal or federal court.</p>	

# CLARIFICATION OF TRIBAL CIVIL JURISDICTION

S. 47 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.

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."

## 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.

S. 47 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.

# QUESTIONS AND ANSWERS:

## S. 47 TRIBAL JURISDICTIONAL AMENDMENTS

WHAT ARE THE KEY GAPS IN CURRENT LAW THAT THE PROPOSED LEGISLATION WOULD FILL?

The three major legal gaps that S. 47 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. 47 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 TLOA, 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.

# INTERNATIONAL UPDATE

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

The Indian Law Resource Center, National Congress of American Indians Task Force on Violence Against Women, Clan Star, Inc., National Indigenous Women's Resource Center, and other Native organizations and Indian nations continue to turn to the international community for help in ending violence against American Indian and Alaska Native women. In response, international human rights experts have repeatedly called on the United States to take action to combat the epidemic levels of violence against Native American women —levels now on a par with and even exceeding estimates of violence against women globally. Recently, BBC London's World Service radio gave air play to the 2013 State of Indian Nations Address by NCAI President Jefferson Keel, which highlighted the horrific rates of violence against Native women in the United States and the crucial need for Congress to step up and reauthorize a strengthened Violence Against Women Act to restore tribal authority to prosecute non-Natives accused of violence against Native women in Indian country.

## UN WORLD CONFERENCE ON INDIGENOUS PEOPLES

On September 22–23, 2014, the United Nations will host a World Conference on Indigenous Peoples. The Conference will include all countries of the UN, with the participation of indigenous peoples and non-governmental organizations. The Conference should produce a “concise, action-oriented outcome document,” which among other things, will “contribute to the realization of the rights of indigenous peoples” and “pursue the objectives of the United Nations Declaration on the Rights of Indigenous Peoples. . . .”

Violence against women is discrimination and violates women's human rights. An international policy and legal framework recognizes that countries have an obligation to protect women from violence, hold perpetrators accountable, and provide justice and remedies to victims. Indigenous women are especially likely to be targets for various forms of violence, often at a much higher rate than non-indigenous women.

The UN Declaration on the Rights of Indigenous Peoples offers opportunities to restore safety and access to justice to indigenous women and girls. Violence against indigenous women and girls is addressed in Article 22(1), which calls for “particular attention” to “be paid to the rights and special needs of indigenous . . . women” and children in implementing the Declaration. Article 22(2) calls on states to “take measures, in conjunction with indigenous peoples, to ensure that indigenous

women and children enjoy the full protection . . . against all forms of violence and discrimination.” Strengthening VAWA to enable Indian nations to protect Native women against violence in Indian country would be one such measure.

Planning is well underway for the Conference. Preparatory meetings, sponsored by the National Congress of American Indians, Assembly of First Nations, and North American Indigenous Peoples Caucus, are being held February 28 through March 1, 2013 in El Cajon, California. The North American Indigenous Peoples Caucus is expected to adopt proposed recommendations to the United Nations to be taken up at the World Conference, including but not limited to action items on combating violence against indigenous women, such as convening a high-level conference or meeting to examine challenges to the safety and well-being of indigenous women; establishing a UN mechanism or body for monitoring and implementing the UN Declaration on the Rights of Indigenous Peoples at the global level and explicitly mandating the mechanism or body pay particular attention, on at least an annual basis, “to the rights and special needs of indigenous . . . women, youth, and children” in implementing the Declaration; and creating a Special Rapporteur to focus exclusively on human rights issues of indigenous women and girls.

## INTERNATIONAL EXPERTS CALL ON THE UNITED STATES TO REAUTHORIZE VAWA

Two international human rights experts recently called on the United States to reauthorize the Violence Against Women Act, following the Senate's passing of a strengthened bipartisan bill. In a news release by the UN Office of the High Commissioner for Human Rights, Rashida Manjoo, the Special Rapporteur on Violence Against Women, Its Causes and Consequences, and James Anaya, the Special Rapporteur on the Rights of Indigenous Peoples, emphasized the need for tribal provisions that would enhance protections for Native American and Alaska Native women. The Special Rapporteurs conducted separate country visits to the United States in 2011 and 2012, including visits to Indian country. Following their visits, the Rapporteurs issued reports highlighting the epidemic rates of violence against indigenous women in the United States and detailing the jurisdictional loopholes in the federal criminal justice system that allow many offenders to evade prosecution for crimes committed on tribal lands. “We would like to reiterate

the importance of reauthorizing VAWA in order to build upon its accomplishments and continue striving for more adequate responses from the authorities in providing protection to victims and ensuring accountability for perpetrators,” the Rapporteurs stated.

## LATE REPORTING BY UNITED STATES ON ITS COMPLIANCE WITH THE ICERD

In 2008, the UN Committee on the Elimination of Racial Discrimination sharply criticized the United States for failing to meet its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to prevent and punish violence against American Indian and Alaska Native women. The United States signed and ratified ICERD in 1994. The Committee expressly recommended that the United States increase its efforts to prevent and prosecute perpetrators of violence against Native women and use the UN Declaration on the Rights of Indigenous Peoples as guidance for interpreting its duties to indigenous peoples. The United States had to submit a report on its compliance with ICERD in late 2011.

To help inform the United States’ report, in May 2011, the National Congress of American Indians Task Force on Violence Against Women, Sacred Circle National Resource Center to End Violence Against Native Women, and the Indian Law Resource Center submitted comments to the State Department on violence against Native women. The comments highlighted the epidemic levels of violence against Native women, systemic barriers in United States law that contribute to this human rights crisis, and the inadequate response of the United States. Recommendations were offered to improve the United States’ commitment to protect the

human rights of Native women under ICERD, particularly to restore the criminal jurisdiction of Indian nations over non-Indian rapists and batterers.

On February 7, 2013, the May 2011 comments were resubmitted to the State Department. The United States expects to submit its overdue report to the Committee this spring, which will likely review the United States for its compliance with ICERD in early 2014.

## TWELFTH SESSION OF THE UN PERMANENT FORUM ON INDIGENOUS ISSUES—ADVANCED UNEDITED VERSION OF VIOLENCE STUDY RELEASED

The 12th Session of the UN Permanent Forum on Indigenous Issues (PFII) will be held on May 20–31, 2013 in New York City. The PFII is a high-level advisory body within the UN system that meets annually on indigenous issues, including but not limited to health and human rights. Documents for the 12th Session include an advanced unedited version of a study to the PFII “on the extent of violence against indigenous women and girls in terms of Article 22(2) of the UN Declaration on the Rights of Indigenous Peoples.” The PFII commissioned the study in response to the lack of literature on violence against indigenous women. The study calls on countries to adopt measures to “ensure that indigenous women and girls enjoy protection and guarantees against all forms of violence and discrimination,” pursuant to Article 22(2) of the UN Declaration, and adopts in their entirety recommendations issued by an international expert group meeting held at UN Headquarters in New York on January 18–20, 2012.

1977 : THE WHITE BUFFALO CALF WOMAN SOCIETY, ON THE ROSEBUD SIOUX INDIAN RESERVATION, ESTABLISHES THE FIRST NATIVE WOMEN'S SHELTER ON AN AMERICAN INDIAN RESERVATION.

1978 : THE U.S. COMMISSION ON CIVIL RIGHTS COMMISSIONS BATTERED WOMEN: ISSUES OF PUBLIC POLICY, WHICH COMPILES 700 PAGES OF WRITTEN AND ORAL TESTIMONY AND EXAMINES THE NEED FOR A FEDERAL ROLE IN APPROACHING DOMESTIC VIOLENCE. TILLIE BLACK BEAR, SICANGU LAKOTA, TESTIFIES DURING THE HEARINGS ON DOMESTIC VIOLENCE COMMITTED AGAINST NATIVE WOMEN.

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE IS FOUNDED TO PROVIDE ADVOCACY AND RESOURCES FOR VICTIMS OF DOMESTIC VIOLENCE. TILLIE BLACK BEAR SERVES AS A FOUNDING MOTHER AND BOARD MEMBER

1979 : THE FIRST ALASKA NATIVE VILLAGE-BASED SHELTER, THE EMMONAK WOMEN'S SHELTER, IS FOUNDED IN YUKON DELTA REGION OF ALASKA.

1984 : THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT (FVPSA) IS AUTHORIZED. FOR THE FIRST TIME, FEDERAL FUNDING IS AVAILABLE TO HELP VICTIMS OF DOMESTIC VIOLENCE AND THEIR DEPENDENT CHILDREN.

1985 : U.S. SURGEON GENERAL C. EVERETT KOOP IDENTIFIES DOMESTIC VIOLENCE AS A PUBLIC HEALTH ISSUE THAT CANNOT BE DEALT WITH BY THE POLICE ALONE.

1987 : NATIONAL COALITION AGAINST DOMESTIC VIOLENCE DESIGNATES OCTOBER AS DOMESTIC VIOLENCE AWARENESS MONTH.

1990 : SENATOR BIDEN INTRODUCES THE FIRST VERSION OF THE VIOLENCE AGAINST WOMEN ACT TO THE SENATE.

1991 : AMERICAN INDIANS AGAINST ABUSE IS INCORPORATED AS THE FIRST TRIBAL COALITION REPRESENTING ALL 11 TRIBES OF WISCONSIN

1994 : THE VIOLENCE AGAINST WOMEN ACT IS INTRODUCED AGAIN IN CONGRESS AND IS PASSED WITH BIPARTISAN SUPPORT AS PART OF THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT. VAWA IS SIGNED INTO LAW ON SEPTEMBER 13, 1994, BY PRESIDENT CLINTON.

2000 : CONGRESS REAUTHORIZES THE VIOLENCE AGAINST WOMEN ACT IN A BIPARTISAN MANNER AND IS SIGNED INTO LAW BY PRESIDENT CLINTON. VAWA 2000 INCLUDES THE FIRST FEDERAL FUNDING STREAM FOR TRIBAL DOMESTIC VIOLENCE AND SEXUAL ASSAULT COALITIONS.

2003 : THE NATIONAL CONGRESS OF AMERICAN INDIANS ESTABLISHES A NATIONAL TASK FORCE ON VIOLENCE AGAINST NATIVE WOMEN.

2005 : THE VIOLENCE AGAINST WOMEN ACT IS ONCE AGAIN REAUTHORIZED IN A BIPARTISAN MANNER BY CONGRESS AND SIGNED INTO LAW BY PRESIDENT BUSH ON JANUARY 5, 2006. IMPROVEMENTS INCLUDE A TRIBAL TITLE; SAFETY FOR INDIAN WOMEN.



## MILESTONES IN THE UNITED STATES TO INCREASE SAFETY FOR NATIVE WOMEN

**2007** : A COALITION OF INDIGENOUS ORGANIZATIONS AND INDIVIDUALS SUBMITS A COLLABORATIVE REPORT TO THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) ON THE UNITED STATES' OBLIGATIONS TO INDIGENOUS PEOPLES, HIGHLIGHTING THAT NATIVE WOMEN ARE VICTIMS OF RAPE AND SEXUAL VIOLENCE AT MUCH HIGHER RATES THAN ANY OTHER GROUP OF WOMEN IN THE UNITED STATES, AND THAT THE CURRENT CRIMINAL JURISDICTIONAL SCHEME CREATED BY U.S. LAW IMPEDES THE ABILITY OF INDIAN NATIONS TO PROTECT THEIR CITIZENS. THE UNITED STATES RATIFIES THE INTERNATIONAL CONVENTION FOR THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD CONVENTION) IN 1994.

ON SEPTEMBER 13, 2007, THE UN GENERAL ASSEMBLY ADOPTS THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES, A POWERFUL AFFIRMATION OF INDIGENOUS RIGHTS.

**2009** : PRESIDENT OBAMA DECLARES APRIL AS SEXUAL ASSAULT AWARENESS MONTH.

LAVETTA ELK WINS CIVIL LAW SUIT AGAINST THE UNITED STATES UNDER THE "BAD MEN" CLAUSE OF THE 1868 FORT LARAMIE TREATY FOR DAMAGES FROM A SEXUAL ASSAULT BY A U.S. ARMY RECRUITER.

**2010** : THE NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER IS FOUNDED.

PRESIDENT OBAMA ANNOUNCES U.S. SUPPORT FOR THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES. ARTICLE 22 OF THE DECLARATION IS SIGNIFICANT FOR NATIVE WOMEN, CALLING ON COUNTRIES TO "TO ENSURE THAT INDIGENOUS

WOMEN AND CHILDREN ENJOY THE FULL PROTECTION AND GUARANTEES AGAINST ALL FORMS OF VIOLENCE AND DISCRIMINATION..

PRESIDENT OBAMA SIGNS INTO LAW THE TRIBAL LAW AND ORDER ACT INCREASING THE SENTENCING AUTHORITY OF TRIBAL COURTS FROM ONE TO THREE YEARS UNDER CERTAIN CONDITIONS.

SENATE INDIAN AFFAIRS COMMITTEE CHAIRMAN DANIEL K. AKAKA (D-HAWAII) INTRODUCES S. 1763, THE STAND AGAINST VIOLENCE AND EMPOWER NATIVE WOMEN (SAVE NATIVE WOMEN) ACT, THAT WOULD PROVIDE TRIBAL GOVERNMENTS WITH JURISDICTION OVER NON-INDIANS WHO COMMIT CRIMES ON INDIAN LANDS.

**2011** : AT THE REQUEST OF NATIVE WOMEN AND INDIAN ORGANIZATIONS, THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS HOLDS A FIRST-EVER THEMATIC HEARING IN WASHINGTON, D.C., ON "VIOLENCE AGAINST NATIVE WOMEN IN THE UNITED STATES." THE COMMISSION ISSUES AN ANNEX TO PRESS RELEASE URGING COUNTRIES TO DILIGENTLY ADDRESS ALL FORMS OF VIOLENCE AGAINST WOMEN.

**2012** : DIFFERENT VERSIONS OF VAWA 2011 PASS IN THE SENATE AND IN THE HOUSE OF REPRESENTATIVES. CONGRESS FAILS TO REAUTHORIZE VAWA AND THE ACT REMAINS EXPIRED DUE IN PART TO OPPOSITION OF SOME HOUSE REPUBLICANS TO RESTORING LIMITED CRIMINAL JURISDICTION TO INDIAN TRIBES OVER NON-INDIANS COMMITTING DOMESTIC VIOLENCE, DATING VIOLENCE, AND VIOLATING AN ORDER OF PROTECTION ON TRIBAL LANDS.



# NIWRC HERSTORY

FOR MORE THAN 40 YEARS, TRIBAL WOMEN ROOTED IN THEIR COMMUNITIES HAVE STRUGGLED TO CREATE PROGRAMS AND PROVIDE SERVICES TO THEIR SISTERS SEEKING SAFETY FROM DOMESTIC ABUSE. THE HELP PROVIDED BY THOUSANDS OF WOMEN ACTING IN THEIR ROLES AS GRANDMOTHER, MOTHER, AUNTIE, SISTER, OR DAUGHTER WAS NOT FUNDED BY FEDERAL, STATE, OR TRIBAL GOVERNMENTS. THESE GOOD WOMEN WITH STRONG HEARTS RESPONDED BY STANDING WITH THEIR SISTERS AGAINST THE CRIMES OF VIOLENCE AND THE EROSION OF THEIR CULTURES, AS VIOLENCE AGAINST WOMEN TOOK ROOT IN TRIBAL COMMUNITIES.

During the seventies, this movement grew, and tribal women began organizing shelters and safe houses for battered women and their children. Tribal advocates worked alongside non-Native advocates to organize state coalitions and, in 1978, the National Coalition to End Domestic Violence. In 1979, the first Native battered women's shelter was founded on an Indian reservation in the lower forty-eight: the White Buffalo Calf Woman Society Shelter. In 1979, the Emmonak Native Women's Shelter was founded in the Alaska Native Village of Emmonak.

As women organized in response to the violence, the movement grew and raised a strong voice for Congress to respond and address domestic violence on a national level. In 1978, the U.S. Commission on Civil Rights commissioned *Battered Women: Issues of Public Policy*, a document created by activists that compiled 700 pages of written and oral testimony. The document examines the need for a federal role in approaching domestic violence. Tillie Black Bear testified during the hearings on wife beating regarding domestic violence committed against Native women. Ultimately, in 1988, the Family Violence Prevention and Services Act (FVPSA) was authorized, providing for the first time a dedicated federal funding stream to help victims of domestic violence and their children by providing support for shelters and related assistance. And six years later, Congress passed the Violence Against Women Act (VAWA).

The passage of these federal Acts allowed lifesaving resources to reach Indian tribes and nonprofit service providers to enhance the response of tribal, state, and federal agencies to violence against Native women. VAWA in particular also clarified tribal authority to respond to domestic and sexual violence. Both FVPSA and VAWA now provide essential support for tribal justice systems, advocacy services, and technical assistance.

This movement, which began with individual tribal women taking a stand for Native women, has steadily changed the national policy on domestic and sexual violence. These crimes are no longer viewed as a private matter but a national epidemic. In this context, the National Indigenous Women's Resource Center (NIWRC) emerged as one of the centers funded under FVPSA to provide training and technical assistance to Indian tribes. NIWRC carries the legacy of a mighty movement, and in the dreams of women leading to its birth was the vision of a national organization that would play a leading role in the development of national policy initiatives and organizing efforts to remove the barriers to the safety of Native women.

# NIWRC REGIONAL UPDATES

## EMBRACING, ENGAGING, AND EMPOWERING OUR COMMUNITIES

NIWRC sponsored a two-and-a-half day Regional Training Event in Lafayette, Louisiana (NIWRC Region 8) on February 13–15, 2013. Sixty-two participants, representing over 30 tribal nations, attended this training. Also in attendance were two tribal leaders—the Lt. Governor from the Pueblo of Nambe and the Secretary-Treasurer from the Chitimacha Tribe; two state coalitions—the Louisiana Coalition Against Domestic Violence and the Florida Coalition Against Domestic Violence; and the Indian Health Service. The theme for this training was “Embracing, Engaging, and Empowering Our Communities,” and we featured interactive workshops presented on engaging men, engaging youth, and community organizing to end violence against women.

## ALL NATIONS RISING IN INDIAN COUNTRY

As part of the Regional Training in Lafayette, NIWRC in cooperation with the Native Youth Sexual Health Network organized an event entitled “All Nations Rising in Indian Country,” in which we called on Indian country to rise and take a stand against violence to our sisters, aunts, daughters, mothers, grandmothers, and all those affected by violence. As part of “All Nations Rising in Indian Country,” we held a Rose Ceremony to name all those who rise with us to call an end to violence against Indian women. Hotel staff and the community of Lafayette joined us in this powerful ceremony led by Chitimacha Tribal Leader Jacqueline Junca.

“All Nations Rising” was held in solidarity with global events taking place on the 14th Anniversary of V-Day (a global activist movement to end violence against women and girls) for “One Billion Rising.” What does One Billion Rising look like? It looks like a REVOLUTION to honor our women and girls.

## ONE BILLION RISING IS:

A global strike

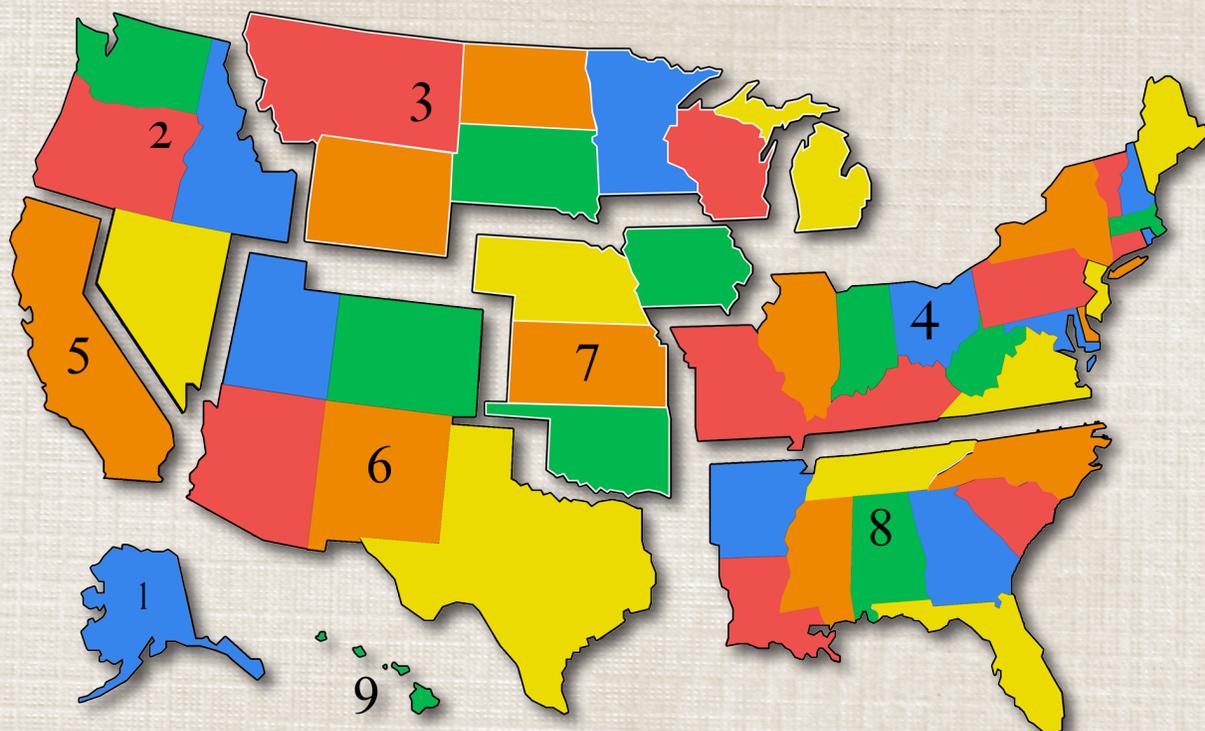
An invitation to dance

A call to men and women to refuse to participate in the status quo until rape and rape culture ends

An act of solidarity, demonstrating to women the commonality of their struggles and their power in numbers

A refusal to accept violence against women and girls as a given

A new time and a new way of being





## 2013 Training Schedule

FVPSA'S ALASKA PEER TO PEER TRAINING

APRIL 1-5

ANCHORAGE, AK

NIWRC REGION 2 TRAINING

APRIL 24-25

TULALIP, WA

WOMEN ARE SACRED 2013 CONFERENCE

JUNE-10-12

ALBUQUERQUE, NM

NIWRC REGION 6 TRAINING

AUGUST 20-22

TBA

NIWRC ADVOCACY INSTITUTE

SEPTEMBER 9-11

DENVER, CO

NIWRC REGION 3 TRAINING

BEGINNING PLANNING

TBA

NIWRC REGION 9 TRAINING

BEGINNING PLANNING

OAHU, HI

NATIVE WOMEN'S LEADERSHIP

TBA  
(IN CONJUNCTION WITH NCAI TASK FORCE MEETING)

RENO, NV

To see these training announcements, details and for the most up to date schedule please visit our website [niwrc.org](http://niwrc.org).



## *2013 Webinar Schedule*

THE IMPACT OF SYSTEMS AND INSTITUTIONS ON BATTERED WOMEN AND CHILDREN

MARCH 13

1 PM – 2:30 PM MST

INDIVIDUAL AND SYSTEMS ADVOCACY FOR SURVIVORS OF SEXUAL & DOMESTIC VIOLENCE

APRIL 10

1 PM – 2:30 PM MST

INDIGENOUS WOMEN AND OUR SACRED CONNECTIONS TO MOTHER EARTH

APRIL 24

1 PM – 2:30 PM MST

TRAUMA INFORMED PRACTICES & ENVIRONMENTS: REFLECTING AND ACTING

MAY 8

1 PM – 2:30 PM MST

MEN STANDING WITH WOMEN AGAINST VIOLENCE

JUNE 12

1 PM – 2:30 PM MST

SAFETY AND SOBRIETY: WORKING WITH WOMEN WITH DOMESTIC VIOLENCE AND SUBSTANCE ABUSE ISSUES

JULY 10

1 PM – 2:30 PM MST

BUILDING A DOMESTIC VIOLENCE CASE FOR EVIDENCE BASED PROSECUTION

AUGUST 14

1 PM – 2:30 PM MST

THE DANGEROUS INTERSECTION OF SUICIDE & HOMICIDE AS IT RELATES TO DOMESTIC VIOLENCE

SEPTEMBER 11

1 PM – 2:30 PM MST

To see these webinar announcements, details and for the most up to date schedule please visit our website [niwrc.org](http://niwrc.org).

# 11th Women Are Sacred Conference

June 10-12, 2013  
Hard Rock Hotel and Casino  
Albuquerque, NM

## Reclaiming Our Space, Vision & Voices to Strengthen the Grassroots Advocacy Movement to End Violence Against Native Women



The 11th Women are Sacred Conference is an affirmation of the strength of Native women who have persevered, many times in the face of utter despair and loss of life, to not merely survive, but also thrive. No longer will Native women be silenced or paralyzed. As Tillie Black Bear, grandmother of our movement gently reminds us, our work is about resistance and creating healthy pathways beyond shelter doors. Now, more than ever, Native women and tribal sovereignty require that we look deep within ourselves and work meaningfully and respectfully with each other and our non-Native allies to promote healing and an end to violence against Native women. Strong tribal nations are built on the backs of women, so reclaiming our space, vision and voices we must.

Join us to share ideas and create the solutions to ensure safe spaces for Native women and tribal communities. Women, men, youth/children, elders, straight/LGBTQ - together we can strengthen our social justice movement to end violence against Native Women.

This Conference recognizes that women are sacred and central to the health and well being of tribal communities. This knowledge, combined with the understanding that tribal sovereignty and the safety of Native women are directly linked to one another, is the philosophical foundation of this Conference.

Join NIWRC, nonprofit Tribal Coalitions, Mending the Sacred Hoop, Clan Star, Tribal Law and Policy Institute, Red Wing, Southwest Center for Law & Policy, and many others working together to make this Conference a huge success.

The 2013 Women are Sacred Conference will provide all participants a unique opportunity to gain and exchange information, share struggles and solutions, and nurture a growing network to end violence against Native women and create social change.

**NOTE: We have requested OVW approval for grantees to attend this Conference without requesting and obtaining an individual Grant Adjustment Notice (GAN) from your OVW Program Manager.**

**Early Bird Registration: \$100 by May 13, 2013  
After May 13, 2013, Registraiton \$150**

### HOTEL INFORMATION:

Hard Rock Hotel & Casino Albuquerque  
11000 Broadway SE  
Albuquerque, NM 87105



### HOTEL RESERVATIONS:

1-877-747-5382 or (505) 848-1999

RATE: \$ 81.00 standard - Group Code: National Indigenous Women's Resource Center



AGENDA, WORKSHOP DESCRIPTIONS, and REGISTRATION , please visit  
NIWRC's website ([niwrc.org](http://niwrc.org)).



# 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 48 United States as well as that of 227 federally recognized Indian tribes in Alaska.

**ADDRESSING PUBLIC LAW 83-280:** In 1953, during the termination era, Congress enacted what is known as PL 280. This Act transferred federal criminal justice authority to particular state governments. The Department of Interior, as a policy interpretation, denied access to Indian tribes located within those states to federal funds to develop their respective tribal justice systems. Often when a woman is raped within an Indian tribe located within a PL 280 state, no criminal justice agency may be available to assist her. As a result, the perpetrator is free to continue committing horrific violence against the same or different woman. Efforts of the Task Force have included addressing safety for women living within both a federal-tribal and state-tribal concurrent jurisdiction.

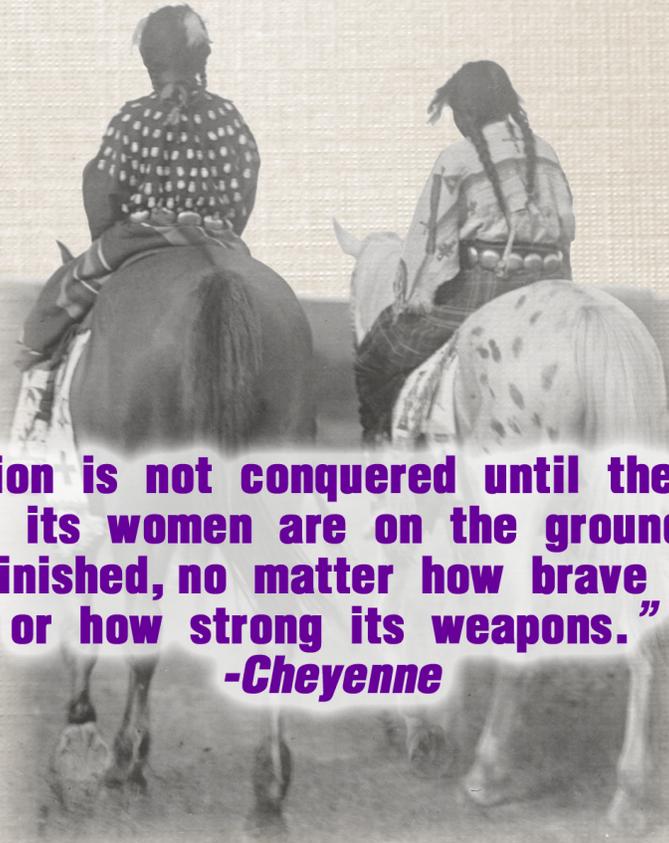
**BALANCING WESTERN AND INDIGENOUS JUSTICE APPROACHES:** The strategic goal of the NCAI Task Force is to increase safety and restore the sacred status of American Indian and Alaska Native women. A dual approach to achieving this goal exists. One approach is to reform the Western justice systems response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

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



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

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



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

*Violence Against Women Is Not Our Tradition*



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