

## At-a-Glance: OVW Consultation Priorities

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[Insert Name of Tribal Nation]

WRITTEN TESTIMONY

SUBMITTED ON [Insert Month/Day], 2024

19th Annual Government-to-Government Violence Against Women Tribal Consultation

On behalf of [Insert Name of Tribal Nation], thank you for the opportunity to provide written testimony regarding the 2024 Annual Government-to-Government Violence Against Women Tribal Consultation pursuant to 34 U.S.C. § 20126. We look forward to working with the federal government to fully implement the Violence Against Women Act (VAWA) mandated annual tribal consultation.

The following issues, concerns, and recommendations were identified by Tribal Nations and advocates during past annual consultations (2006 – 2023), through National Congress of American Indians (NCAI) resolutions (2000 – 2023), through regional tribal organization resolutions, and at numerous national meetings. Tribal leaders and advocates continue to raise concerns about barriers preventing the protection of American Indian and Alaska Native (AI/AN) women at national meetings with the administration, federal departments and agencies, and with their respective Congressional delegations. A review of statements made by tribal leaders during consultations over the years clearly demonstrate that many of the issues raised are not new, but instead illustrate the complicated legal and policy barriers embedded in the layers of federal Indian law.

To achieve the purposes of Title IX of the Violence Against Women Act (VAWA), the [Insert Name of Tribal Nation] recommends that the executive and legislative branches of the federal government address the following issues and coordinate with Tribal Nations regarding implementation of the proposed recommendations.

## Violence Against Women Tribal Priorities

### I. Limited tribal jurisdiction over non-Indian offenders and Special Tribal Criminal Jurisdiction (STCJ)

Limited jurisdiction over non-Indian offenders on tribal lands continues to be a key reason for the perpetuation of disproportionate violence against AI/AN women. The 2022 reauthorization of VAWA expanded the list of covered crimes over which tribes can exercise jurisdiction over non-Native perpetrators. VAWA 2022 also created an Alaska Pilot Project. While a pivotal step forward, the most recent reauthorization did not address protections for elders or serious crimes that co-occur with domestic and sexual violence, such as financial crimes and homicide. Perpetrators will continue to slip through the cracks until Congress fully restores every Tribal Nation's complete jurisdiction over all crimes committed by non-Indians on Indian land.

#### Recommendations for the Department of Justice (DOJ) and the Department of Interior (DOI):

- We urge Congress to legislatively pass a full *Oliphant* fix, as outlined in NCAI Resolution SPO-16-037.
  - DOJ and DOI should coordinate and collaborate to implement the provisions of VAWA 2022 and support Tribal Nations in implementing their restored jurisdiction over non-Indian perpetrators.
  - DOJ and DOI should offer joint training opportunities for tribal and federal law enforcement on the implementation of VAWA 2022 in Indian country.
  - DOJ and DOI should clarify how the Alaska Pilot Program will be implemented. DOJ should immediately clarify and release their process on how the Alaska Pilot Program will be implemented and how Alaska Tribes will be selected to participate.
  - DOJ and DOI should provide training to tribal and federal staff related to the Alaska Pilot Program.
  - DOJ and DOI should implement the June 28, 2019, DOJ law enforcement emergency declaration for rural Alaska under the Emergency Federal Law Enforcement Assistance Program, which led to additional justice resources for the area.
  - The Bureau of Prisons (BOP) should overhaul its tribal prisoner program to make it easier for Tribal Nations to submit inmate placement requests and ensure that they have adequate numbers of BOP staff on hand to respond to Tribal Nations' inquiries.
  - DOJ and DOI should support legislation that would fully restore Tribal Nations' jurisdiction over non-Indians for any offense on tribal lands.
  - DOJ and DOI should support legislation that would remove the limit on the number of Tribal Nations eligible to exercise restored jurisdiction under the VAWA 2022 Alaska Pilot Project.
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## **II. Inadequate funding for restored tribal jurisdiction**

The federal government has a trust responsibility to fund tribal public safety in Indian Country. While we celebrate the historic wins in VAWA 2022, Tribal Nations are unable to meaningfully exercise restored jurisdiction and make Indian Country safer if the federal government does not live up to its trust responsibility to provide public safety funding and resources to implement the restored jurisdiction. Tribal Nations spend significant time and resources to prepare their justice systems and victim service programs to meet the needs of their communities; however, many Tribal Nations are limited by a lack of flexible, consistent, and sustainable funding for their justice systems, leaving many without the ability to implement the VAWA 2022 restored criminal jurisdiction. For example, costly healthcare expenses for non-Indian inmates sentenced by tribal courts often strain Tribal Nations' already limited budgets. It is our hope that the 2022 VAWA tribal reimbursement program will help with many of these costs. Still, the federal government must live up to its trust responsibility by providing consistent and sustainable upfront funding for tribal public safety and justice systems. Restoring tribal criminal jurisdiction will not help to make tribal communities safer without the necessary resources and funding to properly exercise that jurisdiction.

### **Recommendations for DOJ, DOI, and BOP:**

- DOJ, DOI, and all other federal agencies should live up to their trust and treaty responsibilities to Tribal Nations by including annual, consistent, and sustainable noncompetitive funding for Tribal Nations for all public safety and victim services needs in their annual budget requests.
- In the President's Budget, DOJ should request the full amount of funding authorized for tribal programs in VAWA 2022, especially the \$25 million for the Special Tribal Criminal Jurisdiction (STCJ) grant program and reimbursement.
- DOJ and DOI should fund the VAWA 2022 Alaska Pilot Project sufficiently and make building infrastructure allowable for all Alaska Native Villages interested in exercising STCJ going forward.
- DOJ should work with the DOI to provide comprehensive justice and public safety funding directly to Alaska Native Villages, rather than to the state of Alaska.
- BOP should cover transportation costs for Tribal Nations to transport inmates to designated facilities and coordinate with Tribal Nations to provide federal transportation to the facility.
- DOJ and DOI should increase funding for Tribal Nation implementation of STCJ for DOJ, DHHS, and the BIA.

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## **III. The Department of Justice and Department of the Interior must not pull vital resources out of Indian country after the *Oklahoma v. Castro-Huerta* Supreme Court decision.**

Since the 2022 U.S. Supreme Court decision in *Oklahoma v. Castro-Huerta*, Tribal Nations have been concerned about the federal government reducing much-needed justice-related resources

from Indian country. Tribal Nations have already reported seeing this trend on the ground in Oklahoma. Tribal Nations have shared that Federal Bureau of Investigation (FBI) agents and staff are being removed from the state since the 2022 decision and have also shared that some U.S. Attorneys in the state are declining to take on cases against non-Indians in favor of sole state or local government prosecution. These decisions are being made with no coordination and no government-to-government consultation with Tribal Nations in Oklahoma or throughout the country. This is especially concerning after Congress and the Administration sought to invest more justice resources in Indian country located in Oklahoma following the 2020 *McGirt* decision.

**Recommendations for DOJ and DOI:**

- We urge DOJ and DOI to reverse the course and instead pour more staff, resources, education, and training into Indian country to ensure that safety is increased, rather than decreased.
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**IV. Implementing the Director of the Executive Office for United States Attorneys’ memorandum from September 2, 2022**

On September 2, 2022, Monty Wilkinson, Director of the Executive Office for United States Attorneys, issued a memorandum to all U.S. Attorneys, Criminal Chiefs, Tribal Liaisons, and Victim Witness Coordinators. In the memo, Director Wilkinson states that the ruling in *Castro Huerta* “does not alter federal jurisdiction to prosecute crimes in Indian country pursuant to 18 U.S.C. §§ 1152 and 1153. Nor does the decision diminish the federal government’s trust responsibility to Tribes.” The Director went on to advise U.S. Attorneys to “not alter referral practices without formal consultation with Tribes in their districts, bearing in mind the important principles of Tribal sovereignty, [DOJ’s] government-to-government relationship, and the importance of partnership and open communication.” He stated that, “the Department [of Justice] considers it a priority to address the disproportionately high rates of violence experienced by American Indians and Alaska Natives by promoting public safety in Indian country. The *Castro Huerta* decision does not alter this mission, and communication, collaboration, and coordination among federal, Tribal, and state partners will help meet that goal.”

**Recommendations for DOJ, DOI, BIA, and FBI:**

- We fully support the directives in this memorandum and the Director’s express recognition of the link between tribal sovereignty, tribal consultation, and safety in Indian country. DOJ must ensure that U.S. Attorneys follow the direction of Director Wilkinson, and that a similar statement and direction is issued by FBI Director Christopher Wray to stop the FBI retreat from Indian country.
- DOJ must ensure that the September 2, 2022, directives are implemented on the ground in Indian country.
- DOI should issue a similar memorandum to relevant DOI and BIA staff located in Indian country and provide training to those individuals.
- DOJ should provide training and education for U.S. Attorneys, FBI personnel, Criminal Chiefs, Victim Witness Coordinators, and any additional relevant DOJ staff on the

directives from Director Wilkinson.

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## **V. Application of Castro-Huerta in the Courts threatens to erode tribal jurisdiction and sovereignty**

The Supreme Court's decision in *Castro-Huerta* circumvents Congress's exclusive authority over Indian affairs and threatens to upset the balance of powers established in the U.S. Constitution. This threat is already manifesting. In a recent Oklahoma Supreme Court decision, *In re S.J.W.*, the Court applied the Supreme Court's decision in *Castro-Huerta* to conclude that Tribal Nations no longer have exclusive jurisdiction over adoption cases concerning their own citizens within the borders of their reservations under the Indian Child Welfare Act ("ICWA"). The Oklahoma Supreme Court reached this decision despite the fact that the Supreme Court's decision in *Castro-Huerta* concerned criminal law, not child welfare cases, and despite the fact Congress was clear in ICWA that tribal nations exercise this jurisdiction to the exclusion of states. The fact that courts are applying *Castro-Huerta* to override the plain language of statutes passed by Congress could pose grave consequences for the future of VAWA and require immediate Congressional correction.

### **Recommendations for DOJ and Congress:**

- DOJ must communicate to Congress that it supports the proposed legislation encapsulated in NCAI Resolution SAC-22-043. Without Congressional action, the Court will be emboldened to continue to rewrite and override federal statutes that Congress has passed to affirm tribal sovereignty and protect Native women and children. Nothing less than the lives of our women and children are at stake.
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## **VI. Outstanding injustice of Missing and Murdered Indigenous Women and Relatives (MMIWR)**

The federal response to the MMIWR crisis is a breach of the federal trust responsibility and a human rights violation as reflected in the statistical disparities documented by the National Institute of Justice (NIJ).<sup>1</sup> An adequately resourced local Tribal response to prevent abductions and murders is critically important in Indian Country. In 2018, the DOJ noted in their report to Congress that "[i]t is the Department's position that prioritization of initiatives in Indian country, including the effort to build capacity in Tribal courts, will lead to enhanced public safety for Native Americans."<sup>2</sup> The federal government's failure to adequately fund tribal services and tribal law enforcement and the lack of response from federal law enforcement is a continuation of genocide committed against Indigenous peoples of this country.

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<sup>1</sup> National Institute of Justice, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings From the National Intimate Partner and Sexual Violence Survey*, May 2016, <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf> (last visited September 19, 2022).

<sup>2</sup> *Id.* at pg. 3.

## **Recommendations for DOJ, DOI, the Department of Homeland Security (DHS) and the Department of Health and Human Services (DHHS):**

- The Not Invisible Act Commission (NIAC) submitted its report, “*Not One More: the Not Invisible Act Commission*” to the DOI and DOJ on November 1, 2023. The Commission developed recommendations through the work of six subcommittees focused on improving intergovernmental coordination and establishing best practices for state, Tribal, and federal law enforcement to bolster resources for survivors and victims' families and combatting the crises of missing persons, murder, and trafficking of American Indian and Alaska Native peoples, as specified under the law.<sup>3</sup> DOI and DOJ, as well as other relevant federal agencies, including DHS and DHHS, should implement the NIAC recommendations in a timely manner and share frequent updates of each the progress and plans for implementation.
- Every day, DHS agencies and DHS staff work within Indian Country and interact with tribal citizens, yet DHS does not have protocols to respond to MMIWR cases. DHS should require each agency within the department to develop and implement MMIW protocols in consultation with Tribal Nations. This would further the mission established by President Biden in Executive Order 14053: *Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People*. For example, Customs and Border Patrol should better coordinate with Tribal Nations on MMIW cases that occur near U.S. Borders, the Transportation Security Agency should train staff on how to identify human trafficking victims, the Cyber Security Infrastructure Security Agency should train tribal staff and citizens on how to protect against traffickers, the DHS Blue Campaign should offer free culturally-specific information campaigns for Tribal Nations (this is notably important since VAWA 2022 restored tribal jurisdiction over sex trafficking), and the Federal Emergency Management Agency should coordinate with Tribal Nations to help find MMIW victims during or after disasters.
- DHS should establish permanent MMIW staff positions within the Department.
- DHS must fully staff its Office of Tribal Affairs in the Office of Intergovernmental Affairs with at least six staff members to coordinate tribal issues within DHS.
- The 2005 reauthorization of VAWA NIJ research program should be fully implemented, and specifically provide Tribal Nations information regarding missing and murdered AI/AN women, including unique barriers facing Tribal Nations and Native women in P.L. 280 states.
- DOJ and DOI should review, revise, and create law enforcement and justice protocols appropriate to the disappearance of AI/AN women and girls, including interjurisdictional issues as provided by the Savanna’s Act and the Not Invisible Act.<sup>4</sup>
- All federal departments should coordinate efforts to increase support for Tribal responses to missing or murdered AI/AN people as required by Savanna’s Act and by Executive Order 14053.<sup>5</sup>
- All federal departments should coordinate efforts in consultation with Tribal Nations to

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<sup>3</sup> P.L. 116-166

<sup>4</sup> P.L. 116-165 and P.L. 116-166.

<sup>5</sup> P.L. 116-165.

increase the response of state governments, where appropriate, to cases of the disappearance or murder of AI/AN people.

- DOJ should investigate state and local agencies, like Montana state and local justice officials, with a pattern or practice of inadequately responding to cases of missing and murdered Indigenous women and girls.<sup>6</sup>
  - DOJ and DOI should support the Bridging Agency Data Gaps and Ensuring Safety for Native Communities (BADGES) Act and the Parity for Tribal Law Enforcement Act.
  - DOJ should ensure that data on Indian Country, Tribal Nations, and tribal citizens is included in the various reports required by Executive Order 14074: *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*. In particular, the public reports that contain anonymized data from the Accountability Database, should include a breakdown of what cases occurred in Indian Country and in what BIA region the conduct occurred.
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## VII. Support the family members of abducted, missing, or murdered AI/AN women

While preventing the occurrence of MMIWR should be the primary goal, further steps must be taken to ensure that when crimes occur, both families and victims are supported in a culturally-appropriate way. In many reported incidents, the pain of losing a loved one was exacerbated by improper or culturally-insensitive treatment of the case or remains.

### Recommendations for DOJ, DOI, DHS, and DHHS:

- DOJ, DOI, DHS, and DHHS should implement recommendations from the National Congress of American Indians (NCAI) regarding the tribal set-aside from the Crime Victims Fund (CVF) to assure the resources reach victims, survivors, and their families.<sup>7</sup>
- Crimes that result in MMIWR often occur in the intersection of domestic violence, dating violence, sexual assault, stalking, and sex trafficking. It is essential that the Office on Violence Against Women (OVW), the Office of Family Violence and Prevention Services (OFVPS), DHS, and the Indian Health Service (IHS) increase tribally-based victim advocacy services to prevent MMIWR and to support the families and community members of abducted, missing, murdered, or trafficked AI/AN people. These increases should include, but not be limited to, the following services:
  - increased accountability of state and federal law enforcement agencies where these crimes occur; prevention and education initiatives and campaigns; counseling for the children of the victim;

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<sup>6</sup> Rose Quilt et al., *The Failed Response of State Justice Agencies to Investigate and Prosecute MMIWG Cases: A Pattern and Practice in Violation of the U.S. Civil Rights Act*, Restoration Magazine, 2022, 34-38.

<sup>7</sup> National Congress of American Indians, *Resolutions ABQ-19-034*, 2019, <http://www.ncai.org/ABQ-19-034.pdf> (last visited November 30, 2020).

burial assistance; community healing such as walks for justice and to honor the missing or murdered; community meals and gatherings; legal support and assistance with navigating the justice system; legal aid programming for families and survivors regardless of case status; financial support to search for a missing loved one, including for billboards, flyers, transportation, and investigators; paid safe leave for families and survivors; childcare expenses for the children of MMIWR; ongoing trauma-informed and culturally-relevant services for physical, mental, and behavioral health for victims, families, and children; and other tribal-specific activities.

- Develop protocols, in consultation with Tribal Nations, which recognize the inherent right of American Indians and Alaska Natives to exercise their traditional practices to prevent and intervene in response to MMIWR. These protocols must address the current violations of tribal religious and cultural practices of the handling of human remains. The protocols must address the following:
  - The cremation of AI/AN peoples' remains without notice or consent of a family member. In numerous cases, like in the case of Kaysera Stops Pretty Places, families did not consent to the coroner's unilateral decision to cremate the body of a AI/AN victim;
  - The denial of requests by immediate family members to see the bodies of their loved ones. In documented cases, the requests of the family to see the remains of the AI/AN victim have been denied without explanation;
  - Mailing and shipping human remains without notice to the family, often without proper clothing and modesty covers. In documented cases, mothers and families have received the naked remains of their loved ones in cardboard boxes and plastic bags;
  - In adjudicated cases, return of the victim's personal effects and belongings to the family, if desired, for proper disposal and/or burial consistent with cultural practices.
- Provide direct funding to Tribal Nations to help the families of MMIWR transport their loved one home and lay them to rest in a culturally-appropriate manner.

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## VIII. Tribal funding and disbursement of Crime Victim Fund (“CVF”)

AI/ANs experience some of the highest crime victimization rates in the country.<sup>8</sup> The Commerce, Justice, Science and Related Agencies (CJS) appropriations bill included a 5 percent set-aside for Tribal Nations to address the needs of crime victims to help address this problem. However, DOJ's efforts to administer Tribal Victim Services Set-Aside Program funding in the first two years raised significant concerns about their capacity and commitment to ensure the

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<sup>8</sup> National Institute of Justice, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings From the National Intimate Partner and Sexual Violence Survey*, May 2016, <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf> (last visited November 30, 2020).

funds reached Tribal Nations.

**Recommendations for OVC:**

- Support a permanent tribal set-aside fix to the Victims of Crime Act (“VOCA”) tribal funding stream that reflects actual tribal needs and allows for flexible use of funding.
  - OVC should commit to regular government-to-government tribal consultations to improve the distribution, management, and administration of Tribal Victim Services Set-Aside Program and determine how regulations should be tailored to address unique tribal needs.
  - OVC should appoint a Standing Working Group of Tribal Experts to improve the Tribal Victim Services Set-Aside Program and provide input on programmatic decisions on an ongoing basis. Ongoing consultation and consistent input from Tribal Nations are imperative to ensure the continued success of the program.
  - Utilize a tribally-based view of what constitutes activities that will “improve services to victims of crime” as set forth in the CJS appropriations bill. Tribal Nations have unique and varied needs and CVF funding must be flexible to meet those needs. Congress enacted the tribal set-aside to rectify a longstanding inequity between Tribal Nations, state, and territorial governments. OVC must respect the sovereign right of Tribal Nations to self-determination.
  - OVC should allow historical trauma and intergenerational trauma to become named victim services.
  - Extend the CVF grant project period for up to four years. A project period of up to four years to spend any funds would allow Tribal Nations to use the time necessary at the start of the award period for project planning and needs assessments.
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**IX. Bureau of Indian Affairs (BIA) disparities in funding**

Sixty-five percent of all federally recognized Indian tribes are located in P.L. 280 states. Certain P.L. 280 states fail to investigate and prosecute crimes involving violence against AI/AN women, yet Tribal Nations located in P.L. 280 states receive substantially lower support from the BIA for tribal law enforcement and tribal courts than Tribal Nations that are not located in P.L. 280 states. Consequently, the Tribal Nations in P.L. 280 states have two problems: they have fewer resources to develop their tribal justice systems, including police departments and court systems, and states who have concurrent jurisdiction fail to fulfill their responsibilities under the law.

DOJ has financially supported and provided technical assistance to Tribal Nations for the development and enhancement of their tribal police departments and tribal court systems since the 1990s. Due to Tribal Nations’ collective outcry on this issue, only in the past few years has the DOI requested and received funding towards this end. The federal funding disparities for Tribal Nations located in P.L. 280 states and similarly situated jurisdictions must be addressed in a more robust and immediate manner by the federal government.

Recently, the BIA submitted a report to Congress estimating that to provide a reasonable base level of funding to all federally recognized tribes: \$1 billion is needed for tribal law enforcement, \$1 billion is needed for tribal courts, and \$222.8 million is needed for detention. Based on recent appropriation levels, the BIA is funding tribal law enforcement at approximately 20 percent of estimated need, tribal detention at about 40 percent of estimated need, and tribal courts at a dismal 3 percent of estimated need. In P.L. 280 states, Tribal Nations have virtually no BIA law enforcement presence or funding for courts and law enforcement other than what is appropriated from year to year, essentially providing no sustainability or safety. It is imperative not only to fully restore Tribal Nations' jurisdiction over non-Indian perpetrators, but to also provide funding for their justice systems so that they can make their communities safer for everyone that lives there.

**Recommendations for BIA:**

- BIA should continue to request appropriate additional federal funding to provide public safety and justice resources to Tribal Nations located in P.L. 280 states.
  - BIA should provide funding to Tribal Nations located in the P.L. 280 states for their tribal court systems and law enforcement agencies and administer that funding in a sustainable and equitable manner while ensuring accountability.
  - BIA should seek to end the disparity in funding between Tribal Nations based on their location within or outside of a P.L. 280 state.
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**X. Accountability of extractive industries and military construction projects for violence against**

**AI/AN women**

The escalation of sexual and domestic violence, including sex trafficking, due to the presence of extractive industries and military construction projects on or nearby tribal lands must be addressed by DOJ, DOI, DHHS, DHS, and the Department of Defense (“DOD”). These industries, including companies and subcontractors, must be held accountable for the resulting violence from itinerant workforces that are used within tribal communities by these industries. AI/AN women and their children should not be exposed to violence by those employed by these industries.

**Recommendations for the DOJ, DOI, DHHS, DHS, and DOD:**

- DOJ, DOI, DOD Army Corps of Engineers, DHHS, and DHS should create standards of protection for tribal communities for extractive industries' compliance before, during, and post construction to protect AI/AN women and children. The protections must also be included throughout the federal permitting processes.
- DOJ should assist Tribal Nations in safeguarding the lives of AI/AN women from extractive industries that employ a militarized police force. Further protections must be employed to ensure that no militarized tactics and usage of excessive force and/or violations of civil rights are committed against tribal citizens.
- DHHS should enhance support for services and training for shelter and related advocacy

and medical services by developing materials addressing the needs of domestic and sexual violence victims who are victimized by itinerant workers who cannot be held accountable by local tribal authorities.

- The DOJ, DOI, and DHS should establish screening guidelines to prevent convicted rapists, domestic violence offenders, stalkers, child predators, sex traffickers, and murderers from employment with extractive industries on or near tribal lands and from accessing often unprotected populations of AI/AN women and children.
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## **XI. Federal accountability and compliance with Section 212 of the Tribal Law and Order Act of 2010 (TLOA)**

TLOA section 212 requires the U.S. Attorneys to coordinate with tribal justice officials on the use of evidence when declining to prosecute a crime on the reservation. Sharing evidence of crimes committed on a reservation is critical to keeping AI/AN women safe. Tribal officials need to be notified in a timely manner when a U.S. Attorney declines to prosecute sexual assault and/or domestic violence cases and why the U.S. Attorney has declined. When the perpetrator is an Indian defendant, a tribal prosecutor may then proceed with the tribal prosecution of the crime. In cases with non-Indian defendants, it is still important that the U.S. Attorneys notify tribal officials. Tribal Nations can then notify the victim about the status of the case, which allows the victim to take the necessary steps for their protection.

### **Recommendations for the U.S. Attorney General:**

- The U.S. Attorney General should direct U.S. Attorneys to implement the Section 212 of TLOA and be accountable for the necessary coordination and reporting duties with tribal justice officials pursuant to 25 U.S.C. § 2809 (b). The failure to implement the law should be tied to employee performance metrics.
  - The U.S. Attorney General should work with the DOJ Tribal Nation Leadership Council to address public safety, criminal justice, and other critical issues facing Indian Country.
  - The U.S. Attorney General should respond to March 14, 2024 letter sent by U.S. Senators Ben Ray Luján, Catherine Cortez Masto, Tina Smith, Kirsten Gillibrand, Jacky Rosen, Amy Klobuchar, Mazie Hirono, and Martin Heinrich on the high rates of Tribal prosecutorial declinations<sup>9</sup>.
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<sup>9</sup> Luján, Ben Ray. (March 14, 2024). [Prosecutorial declinations in Indian Country]. Retrieved from [https://www.lujan.senate.gov/wp-content/uploads/2024/03/LujanDOJLetter.pdf?utm\\_medium=email&\\_hsenc=p2ANqtz-9UPYsR5hK2HnzOadfKRwanTu3v6eEW4aMt\\_m2BeiWK9T7cUxBS4JB8wXTt\\_Hv4Oy5Rrgy\\_9gUY\\_CfW48IHOGd2Vjdsqw&\\_hsmi=302077366&utm\\_content=302077366&utm\\_source=hs\\_email](https://www.lujan.senate.gov/wp-content/uploads/2024/03/LujanDOJLetter.pdf?utm_medium=email&_hsenc=p2ANqtz-9UPYsR5hK2HnzOadfKRwanTu3v6eEW4aMt_m2BeiWK9T7cUxBS4JB8wXTt_Hv4Oy5Rrgy_9gUY_CfW48IHOGd2Vjdsqw&_hsmi=302077366&utm_content=302077366&utm_source=hs_email).

## **XII. Enforcing TLOA, Section 261, prisoner release and re-entry**

Section 261 requires the U.S. Bureau of Prisons (BOP) to notify Tribal justice officials when a sex offender is released from federal custody into Indian country.

### **Recommendations for DOJ:**

- Ensure that tribal justice officials are notified of prisoner release and re-entry on tribal lands, regardless of the process by which this occurs (i.e., whether the BOP Director gives notice directly to tribal justice officials or to the U.S. Attorney and the U.S. Attorney is responsible for relaying that message to tribal justice officials). Proper implementation of this provision is critical to the safety of AI/AN women.
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## **XIII. DHHS, Family Violence Prevention and Services Act**

During the 2023 consultation, tribal leaders raised concerns about the lack of shelter and supportive services for Tribal Nations. The Family Violence Prevention and Services Act (FVPSA) is the only dedicated federal funding source for domestic violence shelters across the country. However, FVPSA authorization expired in 2015.

### **Recommendations for DHHS:**

- DHHS should support a FVPSA reauthorization that:
    - Adjusts the funding distribution to increase the amount that Tribes receive from 10% to 12.5%;
    - Dedicates formula funding for Tribal coalitions to provide culturally appropriate technical assistance to Tribes;
    - Provides permanent funding for the national Indian domestic violence hotline;
    - Provides permanent funding for the Alaska Tribal Resource Center on Domestic Violence to reduce disparities facing Native victims; and
    - Provides permanent funding for the Native Hawaiian Resource Center on Domestic Violence.
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## **XIV. The U.S. Attorney General must continue to submit the statutorily mandated annual tribal consultation reports and Indian Country investigations and prosecutions reports to Congress.**

Tribal Nations' concerns and recommendations regarding violence against AI/AN women are extensive, as documented in past VAWA Annual Tribal Consultation Reports. The legislative and executive branches must coordinate and collaborate to enact changes that will address the disproportionate rates of violence against AI/AN women. The VAWA Annual Tribal Consultation Reports and Indian Country Investigations and Prosecutions Reports to Congress are important mechanisms for ensuring that the legislative and executive branches coordinate and

collaborate to this end.

**Recommendations for DOJ:**

- The U.S. Attorney General and DOJ must consistently and timely submit the VAWA Annual Tribal Consultation Report to Congress on the DOJ website.