

Addressing the Needs of Crime Victims on Tribal Lands

Key Points:

- American Indian and Alaska Natives experience the highest crime victimization rates in the country, but are largely left out of the programs funded by the Crime Victims Fund, the primary funding source for crime victim services and compensation.
- Congress should adopt appropriations language that would direct 10% of the annual disbursements from the Crime Victims Fund to tribal governments.

American Indians and Alaska Natives experience the highest crime victimization rates in the country. Complex jurisdictional issues, along with the cultural diversity of tribes and the basic reality of geography, pose significant challenges for crime victims in Indian Country. Tribal governments, like other governments, are responsible for meeting the needs of victims in their communities. Unfortunately, tribal governments often have few or no resources available to provide services to victims. Unlike state and territorial governments, Indian tribal governments do not receive an annual allocation from the Crime Victims Fund to help crime victims in their communities. As a result, crime victims on tribal lands still struggle to have even their most basic needs addressed. The BIA describes the situation this way:

Native American victim assistance programs currently resemble the mainstream victim assistance programs of the 1970's: little money, few staff, no resources and a huge number of victims. Due to a lack of victim service programs in Indian Country, there often is little or no response to family members of homicide victims, sexual assault victims, child abuse victims, and others.¹

Background

Crime victimization rates in tribal communities are staggering and have been estimated as much as 250% higher than the national rate:

- Murder rates of American Indian women on some reservations are ten times the national average.²
- Nearly 61% of Native women are assaulted during their lifetime. One local study found that 1 in 12 Native women experience violence perpetrated by their husband every year.³
- Approximately 34% of Native women are raped in their lifetime, and nearly half will experience sexual violence other than rape within their lifetime.⁴ When Native women are raped, they are

¹ <http://www.bia.gov/WhoWeAre/BIA/OJS/VictimServices/index.htm>

² *Legislative Hearing on S. 1763, SAVE Native Women Act Before the S. Comm. on Indian Affairs*, 112th Cong. 10 (2011) (statement of Thomas J. Perrelli, Associate Att'y Gen. of the United States), available at <http://www.indian.senate.gov/sites/default/files/upload/files/TranscriptRecord-2.pdf>.

³ R. Bachman, et al, "Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is Known," (2008), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf>.

⁴ *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 summary report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (2011).

more likely to experience other physical violence during the attack, their attacker is more likely to have a weapon, and they are more likely to have injuries requiring medical attention.⁵

Predictably, the high level of violence has devastating social, health, and financial consequences, particularly for Native children:

- Due to exposure to violence, Native children experience post-traumatic stress disorder at a rate of 22%—the same levels as Iraq and Afghanistan war veterans and triple the rate of the rest of the population.⁶

The historic lack of funding for tribal victim services, compensation, and justice programs means that the infrastructure for meeting the needs of victims in tribal communities is woefully underdeveloped. The 567 federally-recognized Indian tribes are often located in geographically remote areas far from non-Indian population centers. There are fewer than 40 tribal domestic violence shelters in operation, and in many areas, tribal victims have to move hours away from home to find shelter. A 2014 study found that more than two-thirds of Native American lands are more than 60 minutes away from the nearest sexual assault forensic examiner.⁷ Mental health services in many areas are simply nonexistent. Tribal governments struggle to find stable sources of funding and often close programs when grant funds run out.

Congress created the Crime Victims Fund (CVF) in 1984 based on the idea that money that the government collects from criminals should be used to help those victimized by crime. Fines paid by convicted federal criminal offenders finance the Fund, not taxpayer dollars. Despite significant increases in collections, Congress has imposed a cap on how much is available from the CVF for crime victim services and compensation for the past 15 years. In recent years, distributions from the CVF have been about \$700 million. Collections, however, reached as high as \$2.8 billion in 2013, leaving a balance in the fund of over \$13 billion. There has been significant pressure on Congress to make more of this money available for crime victims, and Congress significantly increased the distributions for FY 2015 to \$2.3 billion and increased them again to \$2.6 billion for FY 2016.

Unlike state and territorial governments, who receive an annual formula distribution from the CVF, Indian tribes are only able to access CVF funds via pass-through grants from the states or by competing for very limited resources administered by the Department of Justice. According to DOJ, from 2010–2014, state governments passed through 0.5% of available funds to programs serving tribal victims—less than \$2.5 million annually nationwide. This leaves a significant unmet need in most tribal communities. In 2013—the year with the highest number of state subgrants to date—more than 60% of states with Indian tribes did not make any subgrants to tribal programs.

Recommendation

To meet the needs of crime victims on tribal lands, Indian tribal governments need a stable source of funding to build the crime victim services and compensation infrastructure that is taken for granted in

⁵ R. Bachman, et al, "Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is Known," (2008), p. 36, *available at* <https://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf>.

⁶ Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, *supra* note 3, at 38.

⁷ *Id.*

much of the rest of the country. **We urge appropriators to direct 10% of disbursements from the Crime Victims Fund to tribal governments.**

Support for creation of a tribal funding stream from the CVF

The National Congress of American Indians, the largest national organization of American Indian and Alaska Native tribal governments, adopted Resolution ANC-14-048 urging Congress to establish a 10% allocation from CVF disbursements for tribes.

Recognizing the disproportionate need for victim services in tribal communities, the Office for Victims of Crime's Vision 21 report also called for increasing resources to tribal communities in order to "ensure that victims in Indian Country are no longer a footnote to this country's response to crime victims."⁸

The Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence similarly called for a 10% tribal allocation from the CVF in its 2014 report.⁹

A 10% tribal allocation from the CVF has also been supported by the National Task Force to End Sexual and Domestic Violence, a coalition of more than a thousand organizations that advocate on behalf of victims of domestic violence, dating violence, sexual assault and stalking.¹⁰

"One Day," the national advocacy agenda developed by the National Center for Victims of Crime and endorsed by more than 40 victim services organizations, calls for "a separate funding stream for tribal victim services that recognizes tribal sovereignty."¹¹

⁸ Office of Justice Programs, U.S. Department of Justice, *Vision 21: Transforming Victim Services Final Report*, (Washington, DC: OVC, 2014).

⁹ Available at, <https://www.justice.gov/defendingchildhood/task-force-american-indian-and-alaska-native-children-exposed-violence>.

¹⁰ Campaign to End Sexual and Domestic Violence Appropriations Chart, available at http://nnedv.org/downloads/Policy/FY17_PresidentsBudget.pdf.

¹¹ National Center for Victims of Crime, *One Day: Taking Stock, Moving Forward* (2014) available at <http://www.victimsofcrime.org/our-programs/public-policy/one-day-national-advocacy-agenda>