

**STATEMENT OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS**

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Hello and good afternoon Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Wizipan Garriott, and I serve as Principal Deputy Assistant Secretary for Indian Affairs at the U.S. Department of the Interior (Department). Thank you for the opportunity to present the Department's testimony at this important oversight hearing regarding the implementation of the Tribal special domestic violence criminal jurisdiction (SDVCJ) provisions in the Violence Against Women Act of 2013 (VAWA 2013).

As members of this Committee are aware, American Indians and Alaska Natives are two and a half times more likely to experience violent crimes and at least two times more likely to experience rape or sexual assault crimes in comparison to all other ethnicities, according to the U.S. Department of Justice Bureau of Justice Statistics. The Biden-Harris Administration is prioritizing our work to address the crisis of Missing and Murdered Indigenous Peoples and reduce the high rates of violence in Indian country.

In line with this commitment, the Department is working to (1) reduce rates of domestic violence and violence against American Indian and Alaska Native people across Indian country; (2) collaborate with Tribes and all law enforcement agencies to ensure that Tribes are equipped with resources to respond to violence at the community level; (3) implement models of tribal restorative justice that utilize tribal knowledge and traditions through the Tiwahe Initiative; (4) provide violence prevention services to interrupt long standing cycles of violence; (5) directly assist Tribes with solving active and unsolved missing persons and homicide cases through the Bureau of Indian Affairs Office of Justice Services (BIA-OJS) Missing and Murdered Unit; and (6) to fulfil the requirements of Savanna's Act, the Not Invisible Act of 2019, and the President's Executive Order 14053 on Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People, with the goal of improving federal collaboration on law enforcement and justice protocols in Indian country and improving tribal data collection and access to federal criminal databases.

Assisting Tribes with implementation of the special domestic violence criminal jurisdiction provisions in VAWA 2013 is another critical part of the Department's commitment to addressing the epidemic of violence in Indian country. The special domestic violence criminal jurisdiction provisions affirmed the inherent sovereign authority of Tribal governments to exercise criminal jurisdiction over certain non-Indians who violate protection orders or commit domestic or dating violence against Indians in Indian country. This limited restoration of inherent Tribal criminal jurisdiction over non-Indians on Tribal lands has allowed Tribal governments to significantly increase safety throughout Indian country and effectively find justice for victims.

To date, 28 Tribal governments maintain SDVCJ over non-Indians, and many more Tribal governments are in varying stages of planning to implement SDVCJ. BIA-OJS provides support to those Tribes currently implementing SDVCJ as well as those with prospects for implementation by providing funding for training and Tribal court positions focused on implementing SDVCJ. Since 2019, BIA-OJS has funded VAWA specific trainings for: Navajo Nation, Colorado River Indian Tribes, Pueblo of Santa Ana, Pauma Band of Mission Indians, Bay Mills Indian Community, Choctaw Nation, Passamaquoddy Nation, and five Tribes in Alaska, with a total of 3,370 participants taking part in the trainings. Since 2019, BIA-OJS has also funded 115 essential Tribal court positions focused on VAWA implementation including judges, prosecutors, probation officers, public defenders, special domestic violence clerks, victim specialists and batterer intervention specialists. Tribal courts have shown their ability to provide due process, effectively implement SDVCJ to hold offenders accountable, and protect tribal communities.

Of the 28 Tribal governments implementing VAWA 2013, the Pascua Yaqui Tribe was one of the first to exercise SDVCJ over non-Indians. The Pascua Yaqui Tribe has conducted 101 investigations of domestic violence perpetrated by 64 non-Indian defendants, resulting in 37 convictions. Similarly, the Confederated Tribes of Umatilla Indian Reservation, also a VAWA Pilot Tribe, has prosecuted 16 non-Indian defendants for domestic violence or protection order violations since implementing SDVCJ. Additionally, following the Supreme Court's decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), the Choctaw Nation of Oklahoma increased its SDVCJ cases from 5 to 54 cases in one year. The number of domestic violence cases investigated and prosecuted are significant across Indian country, and they highlight that these crimes were generally not prosecuted before the implementation of SDVCJ.

Despite the successes of SDVCJ, jurisdictional gaps continue to persist across Indian country. Domestic violence does not take place in isolation, and many SDVCJ cases involve children who were present in the house during the alleged incidents. For example, according to the Pascua Yaqui Tribe, a total of 32 children, all under the age of eleven, were exposed to violence, were victims, or reported the crime while it was in progress. Additionally, Muscogee Creek Nation reports that in FY 21 there were 47 incidents where children were present during the alleged abuse. These numbers reported by the Pascua Yaqui Tribe and the Muscogee Creek Nation are not unique in Indian country, and they demonstrate the critical need for Tribal criminal jurisdiction to be expanded to include crimes against children, or crimes relating to child welfare in domestic violence situations.

The time has come to honor tribal sovereignty and expand tribal jurisdiction to crimes outside of domestic violence to further empower tribal justice systems to find justice for victims. The Department supports the expansion of Tribal criminal jurisdiction as provided for in H.R. 1620, the Violence Against Women Act Reauthorization Act of 2021. H.R. 1620 provides for the expansion of Tribal criminal jurisdiction beyond crimes of domestic violence, to include crimes of dating violence, obstruction of justice, sexual violence, sex trafficking, stalking, and assault of a law enforcement or corrections officer. Importantly, H.R. 1620 expands tribal criminal jurisdiction to crimes against children. SDVCJ has been critical to increasing public safety and justice across Indian country. Expanding Tribal criminal jurisdiction beyond domestic violence crimes will be a significant step toward ending the crisis of Missing and Murdered Indigenous

Peoples. Tribal governments and courts have shown many times over that they are the ones best suited to effectively administer justice in Indian country, and the Department is committed to supporting Tribal efforts to ensure the safety of all American Indian and Alaska Native people.

To that end, the Department specifically supports the expansion of Tribal criminal jurisdiction to Tribes in Maine and Alaska. The Maine Indian Claims Settlement Act has been interpreted to restrict Tribes in Maine from exercising SDVCJ under VAWA 2013. H.R. 1620 clarifies that Tribes in Maine may exercise criminal jurisdiction.

Additionally, under VAWA 2013, to exercise SDVCJ a Tribe must have lands that meet the definition of “Indian country”, including reservations, dependent Indian communities, and Indian allotments. *See* 25 U.S.C § 1304 (a); 18 U.S.C. § 1151. In *Alaska v. Native Village of Venetie*, 522 U.S. 520 (1998), the Supreme Court held that most Tribal lands in Alaska are not considered “Indian country” for jurisdiction purposes, and as a result presently almost all Tribes in Alaska cannot exercise SDVCJ.

H.R. 1620 provides for the creation of a pilot project to allow up to five Tribes in Alaska to implement special Tribal criminal jurisdiction, and defines “Indian country” to include “(1) Alaska Native-owned Townsites, Allotments, and former reservation lands acquired in fee by Alaska Native Village Corporations pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 33), and other lands transferred in fee to Native villages; and (2) all lands within any Alaska Native village with a population that is at least 75 percent Alaska Native” for purposes of the pilot project.

Alaska Native people suffer high rates of violence and due to the remote nature of many villages and limited resources, providing for public safety, law enforcement and justice services is a significant challenge. The Department supports the creation of a pilot project to permit Alaska Native Tribes to exercise special Tribal criminal jurisdiction to keep these communities safe.

H.R. 1620 responds to the demonstrated need for increased public safety in Alaska Native Villages to address high rates of domestic violence and related crimes, and to longstanding calls from Alaska Native Tribes for greater authority and local control to address the same. Of particular note, Section 106 of the bill specifically provides civil jurisdiction authority for Alaska Native Tribal courts to issue and enforce protection orders. The Department understands and appreciates the unique jurisdictional and resources challenges faced by Alaska Native Tribes and we stand ready to assist Alaska Native Tribes with implementing expanded jurisdictional authority that is tailored to the needs of Alaska Native Tribes.

This Administration is firmly committed to working with Tribal governments to meaningfully improve public safety and justice for all Tribes. Thank you for the opportunity to provide the Department’s views on the implementation of VAWA’s Tribal criminal jurisdiction provisions. We look forward to continuing to work with the Committee to support the ability of Tribal governments to keep their people safe and find justice for victims.