



Department of Justice

STATEMENT OF

**ALLISON RANDALL
PRINCIPAL DEPUTY DIRECTOR
OFFICE ON VIOLENCE AGAINST WOMEN**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

AT A HEARING ENTITLED

**“EXAMINING PUBLIC SAFETY AND JUSTICE RESOURCES
IN NATIVE COMMUNITIES”**

PRESENTED

MAY 22, 2024

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Thank you, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee for inviting me here to speak with you today regarding implementation of the Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022) and the Department of Justice’s (the Department or DOJ) response, in coordination with the Department of the Interior, to the recommendations of the Not Invisible Act Commission. It was an honor for me to serve on that Commission alongside Tribal leaders, survivors, family members of victims, federal partners, law enforcement, and service providers, and I am grateful to Department leadership, including our Office of Tribal Justice, for their commitment to addressing the crisis of missing or murdered Indigenous persons and human trafficking.

As Principal Deputy Director for the Department’s Office on Violence Against Women (OVW), I am dedicated to carrying out the mandates of the Violence Against Women Act (VAWA) and its reauthorizations, which include carefully crafted provisions designed to end domestic violence, dating violence, sexual assault, stalking, and sex trafficking in Tribal and Indigenous communities. OVW administers financial and technical assistance to communities across the country working to prevent and respond to these crimes and improve support for victims/survivors, including Tribes, Tribal organizations, and Native Hawaiian and other culturally specific communities. Advancing Tribal sovereignty, increasing public safety in Indian country, Alaska Native Villages, and Native Hawaiian communities, and supporting community-driven solutions that respond to the unique history of Hawai‘i are all of great importance to the Department and OVW. OVW recognizes the diverse strengths and challenges of the differently situated Tribes, including those in Alaska, and Native Hawaiian communities.

This work cannot be done without partnerships with American Indian, Alaska Native, Native Hawaiian, and other Indigenous communities. OVW consults with Tribes formally once per year – through its Annual Government-to-Government Violence Against Women Tribal Consultation – and informally throughout the year to obtain feedback and specific recommendations as to how OVW’s Tribal Affairs Division (TAD) can best support current and potential Tribal grantees in obtaining and administering grant funding. OVW consults informally with Native Hawaiian communities through outreach, meetings, and site visits. In the last six

weeks, I have traveled to both Hawai'i and Alaska, as well as all three Pacific Territories; in addition I have made multiple prior trips to Indian country and Alaska and to meet with Urban Indian Organizations.

In addition to increased engagement, we have strengthened our staff support for American Indian, Alaska Native, Native Hawaiian, and other Indigenous communities. OVW's TAD is an integral part of OVW's work in responding to the sometimes rapidly evolving needs of different Tribal communities. TAD is led by Sherriann Moore, Rosebud Sicangu' Lakota, who serves as OVW's Deputy Director for Tribal Affairs and coordinates OVW's annual Tribal consultation. In recent years, TAD has experienced tremendous growth: OVW heard from Tribal leaders and advocates that they needed more support from OVW staff and, as a result, TAD has more than doubled its staffing to 14 staff members, many of whom are located in Tribal communities and have extensive experience working with Tribes. In addition, we have hired a Senior Policy Advisor on Culturally Specific Communities (a position created by VAWA 2022) and increased staffing for our culturally specific grant programs.

VAWA 2022

Congress has responded to the shocking rates of violence against American Indian and Alaska Native (AI/AN) women by strengthening VAWA and recognizing the impact of historical trauma in Tribal and Indigenous communities. In 2021, the rate of homicide involving AI/AN victims was nearly four times higher than the rate of homicides involving non-Hispanic white victims.¹ In Alaska the previous year, the homicide rate was nearly 10 times higher for AI/AN populations than it was for whites.² According to data from the Centers for Disease Control and Prevention, from 2003 to 2018, 45% of homicides of female AI/AN victims involved intimate partner violence, similar to women of other racial/ethnic groups.³ According to the National Intimate Partner and Sexual Violence Survey, more than two in five (non-Hispanic) AI/AN (43.7%) women were raped in their lifetime⁴ and more than half (57.7%) of (non-Hispanic) AI/AN women reported experiencing intimate partner violence (contact sexual violence, physical violence, and stalking).⁵ In an examination of data regarding violence against AI/AN men and women, the National Institute of Justice reported that AI/AN

¹ CDC works to prevent violence against American Indian and Alaska Native people. (2022). Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

<https://www.cdc.gov/injury/pdfs/tribal/Violence-Against-Native-Peoples-Fact-Sheet.pdf>. (Analyzing National Vital Statistics System data.)

² Web-based Injury Query and Reporting System (WISQARS). Centers for Disease Control and Prevention. Accessed on April 10, 2024. <https://www.cdc.gov/injury/wisqars/index.html>.

³ Petrosky, E., Mercer Kollar, L.M., Kearns, M.C., et al. (2021, November). Homicides of American Indians/Alaska Natives — National Violent Death Reporting System, United States, 2003–2018. *MMWR Surveillance Summaries*, 70(8), pp. 1–19. DOI: <http://dx.doi.org/10.15585/mmwr.ss7008a1>.

⁴ Basile, K.C., Smith, S.G., Kresnow, M., Khatiwada S., & Leemis, R.W. (2022). The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. <https://www.cdc.gov/violenceprevention/pdf/nisvs/nisvsReportonSexualViolence.pdf>.

⁵ Leemis R.W., Friar N., Khatiwada S., Chen M.S., Kresnow M., Smith S.G., Caslin, S., & Basile, K.C. (2022). The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

https://www.cdc.gov/violenceprevention/pdf/nisvs/NISVSReportonIPV_2022.pdf.

peoples were significantly more likely to have experienced violence by a perpetrator of a different race at least once in their lifetimes.⁶

Native Hawaiian women are also impacted by disproportionate rates of violence. Nearly 18 % of Native Hawaiian adult women have experienced intimate partner violence in their lifetimes, which is almost twice the rate of non-Native Hawaiians in the state of Hawai‘i.⁷ In a recent study on sex trafficking in Hawai‘i, 64% of sex trafficking victims self-identified as being all or part Native Hawaiian.⁸

In VAWA 2022, Congress – with leadership from members of this Committee – sought to address the deeply disturbing lifetime incidence of violence experienced by AI/AN people by recognizing Tribal criminal jurisdiction over non-Indian offenders who commit an expanded set of covered crimes (known as Special Tribal Criminal Jurisdiction or STCJ) and updating and expanding other crucial Tribal provisions. The Department has been working diligently to implement these provisions, including by creating a framework for the Alaska Pilot Program – a multifaceted initiative addressing public safety needs in Alaska Native communities by supporting Alaska Native Villages interested in pursuing designation by the Attorney General to exercise STCJ. The Alaska Pilot Program, while still in its early stages, represents a collaboration across multiple DOJ components, including OVW, to develop a structure, process, and procedures for interested Alaska Tribes that are responsive to Tribal feedback and Tribes’ understandable desire to exercise autonomy over the public safety needs of their Villages. The Department hopes that, through its implementation, this Pilot Program will provide Alaska Native Villages with much needed access to funding opportunities, training, and other forms of criminal justice capacity building.

In addition, since VAWA 2022’s enactment, OVW has rolled out a newly authorized program to reimburse Tribes nationwide for expenses incurred in exercising STCJ. The President’s FY 2025 Budget, which requests a \$14 million increase for grants to support expanded Tribal criminal jurisdiction (including funding for Tribes in Alaska) and the Tribal Reimbursement Program, reflects the Administration’s steadfast commitment to supporting the sovereign authority of Tribes to address public safety in their communities.

While these activities have been our main focus, OVW also has been deeply engaged in finding new and creative ways to improve Tribes’ access to and administration of grant funds by making Tribal grant applications and progress reports simpler, reducing documentation requirements, holding regional workshops across the country (including in Alaska) and office hours with Tribal grantees and potential grantees, and extending the duration of grant awards. OVW takes seriously the directive in Executive Order 14112, Reforming Federal Funding and Support for

⁶ Rosay, AB (2016). Violence against American Indian and Alaska Native women and men: 2010 findings from the national intimate partner and sexual violence survey. <https://www.ojp.gov/pdffiles1/nij/249736.pdf>.

⁷ Hawai‘i Health Data Warehouse (2017). Hawai‘i Department of Health, Behavioral Risk Factor Surveillance Survey (BRFSS). Data cited in Office of Hawaiian Affairs (2018). Haumea – Transforming the Health of Native Hawaiian Women and Empowering Wahine Well-Being. <https://www.oaha.org/wp-content/uploads/OHA-Womens-Health-Report-Book-1.pdf>.

⁸ Roe-Sepowitz, D. & Jabola-Carlous, K. (2020). Sex Trafficking in Hawai‘i: Sex Trafficking Experiences Across Hawai‘i. <https://hoolanapua.org/wp-content/uploads/2020/06/Final-Report-Sex-Trafficking-in-Hawaii-Part-III-01092020.pdf>.

Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination, to reform our grant processes wherever possible to better live up to the federal government’s trust responsibilities and support for Tribal self-determination. We have a mandate from this Committee and Congress as a whole to maximize flexibility for Tribes, incorporate the voices of AI/AN and Native Hawaiian survivors, and preserve and protect the VAWA dollars allocated specifically for Tribes’ sovereign responses to domestic violence, dating violence, sexual assault, stalking, and sex trafficking in their communities.

Furthering our commitment to supporting Native communities, OVW is also engaged in targeted outreach to Native Hawaiian organizations to increase awareness of available OVW grants and facilitate their access to funding. This effort includes implementing the VAWA Technical Amendment Act of 2022, enacted in December 2022, which broadened eligibility under OVW’s Tribal Coalitions Program to include certain Native Hawaiian organizations. OVW is working to identify Native Hawaiian organizations, as well as advocates from Native Hawaiian communities, who can potentially form a coalition and apply for Tribal Coalitions Program funding. At the same time, OVW has set aside the first-ever training and technical assistance funding that will support capacity- and coalition-building among victim service organizations, advocates, and allied professionals serving Native Hawaiian and Pacific Islander survivors.

Implementation of Special Tribal Criminal Jurisdiction

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013), codified at 25 U.S.C. § 1304, sought to address a critical public safety gap by recognizing the inherent authority of participating federally recognized Tribes to exercise “Special Domestic Violence Criminal Jurisdiction” (SDVCJ) over non-Indian offenders who commit certain domestic and dating violence crimes against Indian victims in Indian country. VAWA 2013 also identified the rights that participating Tribes must provide to defendants in SDVCJ cases. The Department launched a statutorily mandated pilot project, under which five Tribes implemented the jurisdiction on an accelerated basis, and created an Inter-Tribal Technical Assistance Working Group (ITWG) for Tribes to share strategies, resources, viewpoints, concerns, and questions with other Tribes planning to exercise the jurisdiction. This group has continued to convene in-person twice a year since its inception, as well as holding monthly virtual meetings. OVW has supported its work through technical assistance funding since 2014.

After the end of the pilot period, an additional 26 Tribes reported implementing SDVCJ. A March 2018 report published by the National Congress of American Indians, *VAWA 2013’s Special Domestic Violence Criminal Jurisdiction (SDVCJ) Five-Year Report*, documented the successes and gaps in SDVCJ implementation.⁹ Successes included convictions of defendants with documented histories of violent behavior, along with acquittals and only one *habeas* petition – testaments to Tribes’ ability to safeguard the rights of defendants. Gaps included crimes that could not be prosecuted, such as child abuse, sexual assault, and stalking, and barriers to implementing the jurisdiction in Alaska.

In VAWA 2022, Congress extended its recognition of the inherent authority of Tribes to exercise jurisdiction over non-Indian offenders, which it re-named Special Tribal Criminal

⁹ The report is available at https://www.ncai.org/resources/ncai-publications/SDVCJ_5_Year_Report.pdf.

Jurisdiction (STCJ). STCJ expands the list of covered crimes that Tribes can prosecute to include sexual violence, stalking, sex trafficking, child violence, assault of Tribal justice personnel, and obstruction of justice, with these last two crimes not requiring that the victim be an Indian. VAWA 2022 also removed the VAWA 2013 requirement that non-Indian offenders have substantial ties to the Tribe exercising jurisdiction.

OVW moved quickly after enactment of VAWA 2022 to compete and issue a new technical assistance award to the Tribal Law and Policy Institute to continue to support the ITWG and to expand its focus to address the VAWA 2022 changes to STCJ. OVW also made adjustments to its grant program supporting implementation of VAWA 2013's Tribal jurisdiction provision to allow existing and new grantees to use grant funds to prepare for and exercise STCJ under VAWA 2022.

Implementation of the Alaska Tribal Public Safety Empowerment Act

The Alaska Tribal Public Safety Empowerment Act, which is a subtitle of VAWA 2022's Tribal title, also created a pathway for federally recognized Tribes in Alaska to begin exercising jurisdiction over non-Natives for covered crimes. First, the Act recognized and affirmed the inherent authority of any Indian Tribe occupying a Village in Alaska to exercise criminal and civil jurisdiction over all Indians present in the Village (which is defined to mean the Alaska Native Village Statistical Area covering all or any portion of a Native village, as depicted on Census Bureau's applicable Tribal Statistical Area Program Verification map¹⁰). 25 U.S.C. § 1305(a). Second, it recognized the authority of Tribal courts in Alaska to exercise full civil jurisdiction to issue and enforce protection orders involving any person in matters arising within the Tribe's Village or otherwise within the Tribe's authority. *Id.* § 1305(b). And third, it established a pilot program under which the Attorney General designates up to five Alaska Tribes per calendar year as participating Tribes to exercise STCJ over all persons present in their Villages. *Id.* § 1305(d). The Alaska Tribal Public Safety Empowerment Act directed the Attorney General, in consultation with the Secretary of the Interior and affected Tribes, to establish a process to designate participating Tribes, including (1) a preference for Tribes whose Villages have predominantly Indian populations and lack permanent State law enforcement presence, and (2) a requirement that the Attorney General determine that a Tribe has adequate safeguards to protect defendants' rights – similar to the mandate of the VAWA 2013 pilot project. Per statute, not more than five Tribes can be designated per calendar year and, at most, 30 Tribes can be designated in total – possibly more with Congressional notification.

The Department held consultations with Tribal leaders throughout summer and fall of 2022, at which Tribes recommended that the Pilot Program include processes for Alaska Tribes not ready to exercise STCJ, that DOJ support Alaska-specific technical assistance, and that federal agencies coordinate with Alaska Tribes and each other to ensure consistent, sustained funding for the infrastructure required to exercise the jurisdiction. Department leadership convened a working group of DOJ components with relevant expertise to develop a proposed framework reflecting these recommendations, on which we sought further Tribal input at OVW's annual consultation last August and which the Attorney General and other DOJ officials discussed with Alaska Native leaders and representatives at an August 2023 roundtable in Anchorage, Alaska. Accordingly, DOJ created a flexible and inclusive three-track system for Alaska Native Villages in

¹⁰ VAWA 2022 § 812(7), Pub. L. No. 117-103, div. W, 136 Stat. 840, 905-06 (codified at 25 U.S.C. § 1305 note).

different stages of readiness to exercise STCJ, which then-Associate Attorney General Vanita Gupta announced at the annual meeting of the Alaska Federation of Natives in October 2023. The three-track process is intended to identify gaps in criminal justice infrastructure that may prevent a Tribe from receiving designation and address those gaps with training and technical assistance, peer-to-peer support, and information about funding opportunities.

As requested by Tribal leaders during consultations, DOJ also created an Alaska-specific Inter-Tribal Technical Assistance Working Group (Alaska ITWG) to facilitate the delivery of technical assistance, provide peer-to-peer support, and encourage the sharing of information among interested Alaska Native Villages. OVW is supporting the Alaska ITWG through a technical assistance award to the Alaska Native Justice Center, which is partnering in this project with the Rural Alaska Community Action Program, the University of Alaska Fairbanks, the Alaska Native Women’s Resource Center, the Tanana Chiefs Conference, and the Association of Village Council Presidents. The first Alaska ITWG meeting, which I attended, took place on May 9-10, 2024, in Fairbanks, Alaska, and was open to all Alaska Native Tribes as a way to learn more about STCJ, the Pilot Program tracks, and available funding, training, and technical assistance. There were 110 registered attendees and 95 of them represented Alaska Tribes, Tribal coalitions, and other Tribal organizations.

The Alaska ITWG is the crucial first step of the three-track process. Track One invites Tribes to join the Alaska ITWG and does not require any demonstration of capacity or readiness to exercise STCJ. In Track Two, the Preliminary Pilot Program Tribes complete a questionnaire that closely follows the statutory requirements to exercise STCJ and are assigned a Federal Liaison who – along with the Alaska STCJ Technical Assistance Provider – works with the Tribe to assess their areas of need, investigate potential resources to meet those needs, and create a Readiness Plan. In Track Three, a Federal Review Team comprised of DOJ experts reviews a Tribe’s final questionnaire and recommends either (a) Attorney General designation as a Participating Pilot Program Tribe, (b) maintaining the Tribe’s status as a Preliminary Pilot Program Tribe (if applicable), or (c) inviting the Tribe to become a Preliminary Pilot Program Tribe.

In addition to supporting the Department’s efforts to launch the Alaska Pilot Program, OVW issued a special solicitation in FY 2023 to provide funding under its Tribal Jurisdiction Grant Program to Alaska Tribes interested in preparing to seek Attorney General designation to exercise STCJ. Two Tribes, the Village of Dot Lake and Chickaloon Native Village, received five-year awards of \$1.5 million each in September 2023 under this solicitation. OVW plans to issue another \$3 million to Alaska Tribes under this initiative in FY 2024.

Last summer, the Department also heard from Tribal leaders in Alaska who asked us to clarify the provision in VAWA 2022 confirming that Alaska Tribes have inherent authority to exercise both civil and criminal jurisdiction over “all Indians present in [their Villages].” In response, in October 2023, the Department’s Office of Tribal Justice issued a memorandum reaffirming VAWA 2022’s statement and describing the settled legal precedent that Alaska Native Tribes retain inherent criminal jurisdiction over Indians in their Villages.

STCJ Tribal Reimbursement Program

Prior to the 2022 reauthorization of VAWA, Tribal leaders and officials identified costs,

including unplanned costs, as one of the most serious obstacles that Tribes face in exercising criminal jurisdiction over non-Indian offenders. In response, VAWA 2022 created the Tribal Reimbursement Program, which will reimburse Tribes for expenses incurred in exercising STCJ. Under the Tribal Reimbursement Program, eligible expenses for reimbursement include expenses and costs associated with investigating, making arrests, or prosecuting covered crimes; detaining, providing supervision of, or providing services for offenders (including costs associated with providing health care); providing indigent defense services; and incarcerating, supervising, or providing treatment, rehabilitation, or reentry services for offenders.

VAWA 2022 required that the Attorney General issue regulations governing the Tribal Reimbursement Program, including setting a maximum annual reimbursement amount per Tribe and establishing a process and conditions for waivers of the maximum amount. OVW issued an interim final rule on April 11, 2023, after extensive consultation with Tribal leaders and listening sessions with Tribal experts, as well as meetings with other federal agencies that manage reimbursement programs. Following issuance of the rule, OVW collaborated with our Tribal technical assistance providers and the ITWG to educate Tribes about how the new program would operate and to urge implementing Tribes to participate.

In selecting a structure for the program, OVW considered Tribes' recommendations that the reimbursement process ensure (1) a predictable, stable source of funding, (2) a fair share of available funds for each Tribe, and (3) access to reimbursement funds early in a calendar year because some Tribes lack adequate resources to front the expenses of exercising STCJ. OVW also considered Tribal requests that the reimbursement rules be flexible and impose few administrative burdens. Based on this feedback, the interim final rule provides that each Tribe requesting reimbursement will receive, as an initial allocation, the same dollar amount for the maximum allowable reimbursement (except that the amount may not exceed the amount the Tribe expended the previous year in exercising STCJ). The maximum allowable reimbursement serves as a form of "base funding," where each Tribe will have access to this amount early in the calendar year and can draw it down as expenses are incurred. At the end of the calendar year, Tribes may submit a waiver request seeking the actual amounts expended on exercise of STCJ during the calendar year. Each Tribe will receive the same percentage of their total actual expenses in excess of the maximum allowable reimbursement. This process will ensure that, if appropriations cannot cover Tribal expenditures on STCJ, remaining available funding will be equitably distributed at the end of the year.

OVW issued the first Notice of Reimbursement Opportunity for the Tribal Reimbursement Program in December 2023, and made 14 reimbursement awards totaling \$559,825 in mid-May 2024. OVW has approximately \$3,140,175 remaining to respond to Tribes' waiver requests at the end of the year based on their actual expenses for calendar year 2024.

Outreach to Native Hawaiian Organizations

OVW's targeted engagement with Native Hawaiian organizations is designed to deepen OVW's understanding of the existing resources and capacities of, and identify opportunities to support, organizations that are or could address the needs of survivors of domestic violence, dating violence, sexual assault, sex trafficking, and stalking in their communities. OVW officials have made several trips to Hawai'i, engaging directly with both Native Hawaiian organizations and other

entities that serve the Native Hawaiian community. I recently returned from one of these trips and saw firsthand both the significant barriers to safety that survivors face, and the remarkable ways advocates are leveraging cultural and community strengths to serve survivors and hold offenders accountable.

We have met with organizations serving or representing Native Hawaiian domestic violence and sexual assault survivors such as Pouhana O Nā Wāhine and EPIC ‘Ohana. On my recent trip, EPIC ‘Ohana told me not only about the profound work they are doing with children and youth, but also how they are addressing domestic and sexual violence. For example, they have developed Pu‘uhonua ‘o Ka Ululehua, which is a culturally specific program for Native Hawaiian survivors of domestic violence, sexual assault, and family violence. Pu‘uhonua ‘o Ka Ululehua creates healing cohorts for survivors and creates spaces for survivors to “participate in Native Hawaiian practices that promote individual and family wellbeing and healing.” They provide “culturally relevant, trauma-informed, and evidence-informed practices” that are transformative.

We have spoken with the Office of Hawaiian Affairs, the Queen Lili‘uokalani Trust, Papa Ola Lōkahi, and many others, because we recognize that addressing domestic violence, sexual assault, and stalking extends beyond victim services organizations and includes Native Hawaiian child welfare organizations and health systems. Every advocate with whom we met talked about the importance of programming that is deeply rooted in culture, community, spirituality, connection to the land, and family. This comprehensive engagement has helped us refine our approach to supporting advocates and organizations who can effectively shape responses to domestic violence, sexual assault, and stalking that are rooted in this culturally specific work, and we plan to build on and grow this outreach over the next year.

Our immediate priority is to ensure that organizations serving Native Hawaiians have the information and support they need to apply for a wide range of OVW grant programs, including the Culturally Specific Services grant program, Legal Assistance for Victims Program’s Expanding Legal Services Initiative, Transitional Housing Program, Restorative Practices Program, Abuse in Later Life Program, and many others. Once organizations are funded, we look forward to assisting them in managing these funds effectively. This effort also involves working with the State of Hawai‘i’s STOP Violence Against Women and Sexual Assault Services Formula grant administrator to support their outreach to Native Hawaiian and other culturally specific organizations to receive subgrants under OVW’s formula funding to the state.

In addition, the VAWA Technical Amendment Act of 2022 amended the definition of “tribal coalition,” 34 U.S.C. § 12291(a)(42), and the authorizing language for the Tribal Coalitions Program, 34 U.S.C. § 10441(d), to include certain organizations addressing domestic violence and sexual assault against Native Hawaiian women through services to Native Hawaiian communities.¹¹ These changes were effective on December 28, 2022. We incorporated these updates into OVW’s FY 2023 Tribal Coalitions Program solicitation and related program materials, and we have conducted targeted outreach to identify organizations eligible for this funding.

To date, OVW has not received any requests from Native Hawaiian organizations for Tribal

¹¹ See Pub. L. No. 117-315, 136 Stat. 4404.

Coalitions funding. However, several organizations have expressed interest in submitting future applications. We anticipate that our continued engagement will foster the formation of a new coalition supporting Native Hawaiian survivors and advocates. In the interim, OVW will continue to make its grantmaking application process accessible to more organizations by enhancing application assistance support, eliminating unnecessary application requirements, increasing the use of plain language in solicitations, and offering webinars to potential applicants to walk through the grant programs and their specific application requirements.

Our commitment extends beyond simply providing access to funding; it encompasses strengthening the capacity of Native Hawaiian organizations to serve survivors effectively. OVW staff have engaged with the University of Hawai‘i at Mānoa to learn about the University’s work hosting capacity-building events for local and Native Hawaiian organizations. These meetings were crucial for assessing the needs of Native Hawaiian community-based nonprofits in terms of organizational capacity-building, ensuring that services for survivors are sustained.

Currently, OVW supports a technical assistance project at the Asian Pacific Institute on Gender-Based Violence, which includes a staff member based in Hawai‘i dedicated to working with Asian American, Pacific Islander, and Native Hawaiian communities. However, based on information learned from recent engagements, OVW’s FY 2024 Training and Technical Assistance Solicitation called for proposals to provide specialized technical assistance and training to victim service organizations, advocates, and allied professionals serving Native Hawaiian and Pacific Islander survivors of domestic violence, sexual assault, dating violence, and stalking. The project is expected to establish and maintain a peer-to-peer network and to develop resources and training focused on victim services programming, capacity building and sustainability, and leadership development. OVW anticipates making an award for this project by September 30, 2024.

Not Invisible Act Commission (NIAC) Response

Effectively addressing the disproportionately high rates of American Indian and Alaska Native people who are reported missing, experience human trafficking, or suffer from violent crime, including murder, continues to be a priority at the Department. These matters of public safety imperil individual well-being and the well-being of whole communities; the impact of a loved one disappearing from a community or suffering from violence is devastating. When tragedy strikes, families and communities deserve urgent, sustained, and meaningful responses from authorities.

DOJ efforts to address violent crime in Native communities, including missing or murdered Indigenous people (MMIP) and human trafficking, are years-long and Department-wide. DOJ is grateful for Congress’s partnership on these issues over the years, which has included legislation such as the Not Invisible Act and Savanna’s Act, both of which have been instrumental in focusing our resources and efforts.

Support for the NIAC

On May 5, 2022, as mandated by the Not Invisible Act of 2019 (Pub. L. No. 116-166), the Secretary of the Interior announced the 41 members of the Not Invisible Act Commission (Commission or NIAC). The Commission included individuals who have expertise in or are dedicated to addressing the MMIP crisis and human trafficking, including Tribal officials, law

enforcement personnel, mental health professionals, victim advocates, scholars, survivors, and family members of victims.

DOJ welcomed the opportunity to work with such a diverse Commission. As required by the Act, DOJ named six DOJ experts from the Federal Bureau of Investigation (FBI), the Civil Rights Division, OVW, the Office for Victims of Crime, the National Institute of Justice, and the U.S. Attorney community to serve as Commissioners. At the request of the Commission, the Department later provided additional representatives from the FBI and DOJ's National Native American Outreach Services Liaison. Supporting the work of the Commission and addressing its recommendations have been and will continue to be priorities for the Department.

The Commission delved into some of the most challenging Tribal public safety issues of our day, including criminal jurisdiction; resources; law enforcement coverage and coordination; victim rights and services; and the factors that increase individual vulnerability, including housing insecurity, substance use, and past victimization. To develop its recommendations, the Commission held seven in-person hearings in different regions of the country and a two-day virtual session to hear directly from survivors, family members, law enforcement, and subject matter experts. In total, the Commission collected over 260 testimonies, which were instrumental in developing the final recommendations. DOJ wishes to particularly thank the survivors and family members of victims who participated in the development of the Commission's report, both those who served on the Commission and those who testified before the Commission about their heartbreaking experiences. The recommendations reflect the lived experiences of these survivors and family members of victims, which are essential to our efforts to finding lasting solutions to address MMIP and human trafficking.

On November 1, 2023, DOJ and the Department of the Interior (DOI) received the Commission's final report, entitled "Not One More: Findings and Recommendations of the Not Invisible Act Commission." Of the 300 recommendations included in the final report, 148 are directed at DOJ and 48 are directed at DOI; the other 114 are directed at other agencies or branches of government. The recommendations reflect how seriously the Commission took the charge laid out in the Not Invisible Act itself. The depth and breadth of the recommendations would not have been possible without the broad expertise and experience of the Commissioners. DOJ is profoundly grateful for the work of the Commission, and its recommendations will be critical to our work going forward.

DOJ and DOI issued a joint response addressing those recommendations focused on our agencies on March 5, 2024.¹² DOJ strove to respond to the recommendations with the same spirit of respect and dedication evident in the Commission's final report and has dedicated resources across the Department to ensure that implementation of the joint response significantly advances DOJ's efforts to promote public safety in Native communities and address MMIP and human trafficking.

Responses to Commission Recommendations

DOJ and DOI recognized how important it was to work together to support the Commission and to collaborate on the responses. This collaborative approach will be instrumental as the two

¹² Available at <https://www.justice.gov/tribal/media/1341181/dl?inline>.

agencies focus on implementing commitments made in the response document. As the Commission finalized its recommendations, it called on agencies, particularly those participating in Commission meetings, not only to respond to the recommendations but also to provide greater transparency where possible. DOJ took that to heart, so the response document provides a good deal of background information and context in the hope that the document is useful for a wide range of readers.

In response to the thoughtful and focused recommendations of the Commission, DOJ made a variety of commitments that implicate a broad span of the Department's public safety work in support of Native communities, committing to continue or expand ongoing initiatives and to engage in new activities. Out of the 148 recommendations directed at DOJ, there are 24 that the Department is not able to move forward on in whole in or in part because the recommended actions go beyond the Department's current authorities. For example, some recommendations involve state or local authorities, such as medical examiners, or would require statutory changes, such as revising allowable uses of federal grant funds.

The following are some examples of DOJ commitments from the response document. Tribal Access Program (TAP): The Commission supported expanding this program, which provides Tribes with access to national crime information systems for federally authorized criminal justice and non-criminal justice purposes. Using TAP, Tribes have shared information about missing persons; registered convicted sex offenders; entered domestic violence orders of protection for nationwide enforcement; run criminal histories; identified and arrested fugitives; entered bookings and convictions; and completed fingerprint-based record checks for non-criminal justice purposes such as screening employees or volunteers who work with children.¹³

TAP has been expanded every year since its 2015 launch and now serves 132 Tribes with over 400 participating Tribal government agencies. DOJ expects to announce the next TAP expansion opportunity in summer 2024.

MMIP Regional Outreach Program and Improved Collaboration: This program, coordinated by the Department's Executive Office for United States Attorneys, aids in the prevention of and response to MMIP through the permanent placement of 10 attorneys and coordinators in five designated regions to provide specialized support to United States Attorneys' Offices (USAOs). This support includes assisting in the investigation of unresolved MMIP cases and related crimes, and promoting communication, coordination, and collaboration among Tribal, federal, and state governmental and non-governmental partners. The program complements the significant MMIP-related work of the existing local Tribal Liaisons and Indian country prosecutors and the work of DOJ's National Native American Outreach Services Liaison and National Indian Country Training Initiative Coordinator.

In consultations prior to the creation of the Commission, and during discussions with the Commission, DOJ heard a call for a permanent MMIP outreach program, which DOJ then rolled out in June 2023. DOJ representatives were able to discuss implementation plans with the

¹³<https://www.justice.gov/opa/pr/justice-department-tribal-access-program-will-continue-improve-exchange-critical-data>.

Commission, and the Department expects that the program will continue to benefit from the Commission's recommendations, including with respect to improving coordination across federal agencies on MMIP and human trafficking efforts. To that end, DOJ newly committed throughout the response document to collaborating more closely with our federal partners to align and coordinate our efforts to address MMIP and human trafficking, including engaging with the Department of Homeland Security to better understand its existing programs that can address MMIP-related matters and working with DOI's Missing and Murdered Unit to establish review teams within the five program regions to conduct case solvability assessments and develop investigative strategic plans, among other activities.

Tribal Special Assistant United States Attorneys: The Commission recommended that DOJ expand the designation of Tribal Special Assistant United States Attorneys (Tribal SAUSAs), recognizing the importance of these cross-designated Tribal prosecutors in improving coordination and prosecution efforts related to violent crime offenses such as domestic violence and sexual assault, which are often precursors to MMIP-related events. The Department encourages USAOs to integrate Tribal SAUSAs into regular operations to increase the likelihood that every violent offense that is appropriate for prosecution is prosecuted in either federal or Tribal court. In addition, DOJ grantmaking components – including OVW – have funded Tribes to hire prosecutors, identified in collaboration with their local USAOs, to be designated as SAUSAs. Tribal SAUSAs are trained in federal law, procedure, and investigative techniques and complement the work of Tribal Liaisons and Indian country prosecutors to strengthen relationships between Tribes and USAOs. OVW has five open Tribal SAUSA grant awards and expects to make additional awards by the end of FY 2024. As resources allow, DOJ is committed to expanding this successful model.

Collaborative Law Enforcement: In accordance with the Commission's recommendations that the U.S. Marshals Service recognize Tribal warrants, DOJ has developed a legislative proposal that would extend USMS' existing authority to execute arrest warrants—which includes investigating and executing state and local arrest warrants for serious violent felons—to assist, at the request of a Tribe, in the apprehension of serious violent Tribal felons. The Department has shared it with Members of the Committee and looks forward to working with lawmakers to get this legislative proposal enacted into law.

Prosecutions: USAOs with Indian country responsibilities have operational plans that are updated annually in consultation with Tribal partners to ensure that clear protocols are established between federal, Tribal, and state law enforcement partners to effectively respond to violent crime in Tribal communities. In a July 13, 2022, memorandum, Deputy Attorney General Monaco declared it a Department priority to address the disproportionately high rates of violence experienced by American Indians and Alaska Natives, and relatedly, the high rates of Indigenous persons reported missing, and she charged the USAOs to address violence against women and children and MMIP in their operational plans. In response, USAOs have designated Tribal Liaisons and Assistant U.S. Attorneys assigned to Indian country work to enhance day-to-day intergovernmental relationships with Tribal communities to ensure that cases are identified and prosecuted in coordination with Tribal partners. The Commission's recommendations underscored the need for DOJ to continue efforts to prioritize prosecutions of crime in Indian country and coordinate effectively with Tribal agencies.

Training: The Department's National Indian Country Training Initiative (NICTI) is a robust training program committed to meeting the training needs of not only federal prosecutors and law enforcement working in Indian country, but also Tribal and state partners, in a format that is accessible to as many federal, Tribal, and state partners as possible. These trainings are offered free of charge to federal, Tribal, and state law enforcement partners including criminal justice entities, social service organizations, medical providers, and Tribal leaders. In the past year alone, NICTI organized more than 25 separate trainings related to violence against women and children and issues related to MMIP. NICTI will continue to expand its reach in response to the NIAC's recommendations and in consultation with federal and Tribal partners.

Savanna's Act Guidelines: Savanna's Act guidelines are intended to improve the federal government's response to MMIP matters. All USAOs in federal judicial districts with Tribal lands, including Public Law 280 states, have had Savanna's Act guidelines in place since the spring of 2022. As recommended by the Commission and with the assistance of DOJ's MMIP Regional Outreach Program, USAOs with Indian country responsibilities will continue to refine and update their guidelines with input from federal, Tribal, state, and local partners to ensure that the guidelines remain effective in enhancing inter-jurisdictional cooperation as victims' families await word on their loved ones.

Tribal Community Response Plans (TCRPs): As recommended by the Commission, USAOs, with assistance from the MMIP Regional Outreach Program, will continue to support and assist Tribal communities in the development of TCRPs, which are cross-jurisdictional protocols tailored to a specific Tribal community that govern law enforcement and community responses to emergent missing person cases in a Tribal community. In addition, in FY 2023, the Department's Office of Community Oriented Policing Services (COPS Office) funded a project with the National Criminal Justice Training Center to support community-led TCRPs.

Supporting Survivors of Crime and Improving Communication with Families: The Office of Justice Programs' (OJP) Office for Victims of Crime (OVC) administers the Tribal set aside from Victims of Crime Act funds as the Tribal Victim Services Set-aside Formula Grant Program (TVSSA Program). OVC has responded to Tribal feedback, including feedback received at its annual consultation, by ensuring funds can be used for culturally responsive services for family members of MMIP victims, and changing the TVSSA Program policy to permit Tribal governments to use grant funding to support – in limited circumstances – private search efforts for missing persons led by friends and family members of a missing person, generating awareness of individual missing person cases, and supporting Tribal efforts to establish TCRPs. OVC committed to holding a listening session on issues related to the NIAC recommendations, including on how community-based feedback and culturally relevant program evaluation can be used to inform grant-funded services. One of those listening sessions took place in Anchorage in February; three more are planned for other parts of the country before the end of the year. OVW committed to exploring ways to better address the connection between MMIP and domestic violence, dating violence, sexual assault, stalking, and sex trafficking, and has requested funds in the FY 2025 President's Budget to support Healing and Response Teams, a specific recommendation from the Commission. In addition to the funding opportunities available to Tribes to support services for victims of crime, DOJ will continue to review and enhance existing practices and protocols to improve timely and consistent communication with victims and families of victims regarding investigations and

prosecutions. DOJ will use the updated Attorney General Guidelines for Victim and Witness Assistance to reinforce how federal prosecutors and law enforcement agencies should engage with and provide culturally appropriate assistance to victims and their families. Finally, the National Native American Outreach Services Liaison represents DOJ in efforts to amplify the voices of victims and their families as they navigate all stages of the criminal justice system. The Commission rightly focused on support for survivors of crime throughout its report, and DOJ appreciates the renewed focus and recommendations aimed at strengthening the Department's work to ensure victims of crime receive the services they need.

Research and Studies: Commissioners identified the need for additional analysis to focus resources and identify patterns. DOJ committed to exploring the possibility of several new studies to examine the causes of homicide and violent deaths of AI/AN people, to identify barriers and challenges in using federally funded information sharing resources such as NamUs and the National Center for Missing and Exploited Children, and to assess the feasibility of collecting data on law enforcement acceptance of missing persons reports from healthcare providers and other entities.

Access to Funding: The Commission included recommendations to make DOJ funding more accessible and better aligned with Tribes' needs. DOJ committed to building on existing efforts to streamline grant funding pursuant to Executive Order 14112 and to further engaging with Tribes to identify and apply improvements to public safety funding models, including strategies to improve public safety implementation in Alaska and potential reforms of P.L. 280 to ensure it is consistent with the current and future era of self-determination. In response to Commission recommendations related to law enforcement needs, including access to grants and resources addressing officer training, mental health, and wellness, the response document both described existing programs funded by the COPS Office and OJP's Bureau of Justice Assistance and pointed to DOJ's Tribal Justice and Safety website with consolidated information on DOJ grant funding opportunities open to Tribes and Tribal organizations (www.justice.gov/tribal/grants).

Media Use: The Commission identified a need for more partnerships and discussions on making effective use of the media, including social media, when someone is reported missing. DOJ committed to exploring further development of relationships with Tribal organizations to ensure public information is readily available to disseminate via appropriate channels, including social media. DOJ also committed to holding roundtables to help develop guidelines and best practices to promote accurate and complete media coverage of MMIP and human trafficking cases and identify the types of media/social media coaching that would be most useful to support families and communities.

Missing or Trafficked Youth: The Commission recommended that DOJ take steps to address the factors that may lead children and youth to go missing, including the risk that children and youth in foster care, child welfare, and juvenile justice systems face for being trafficked. OJP's Office of Juvenile Justice and Delinquency Prevention committed to considering appropriate opportunities to convene a roundtable to discuss children and youth who voluntarily go missing to better understand what is currently happening in the field and discuss possible solutions.

Implementation

Since issuing its March 5th response, DOJ has begun implementing the commitments made in the response document. DOJ's MMIP Steering Committee, in place since November 2021, is instrumental in shepherding and overseeing the Department's work to respond to the MMIP crisis and will be central to implementation efforts. DOJ knows that our ability to make progress on these issues will depend heavily on our ability to coordinate closely with our Tribal partners, across the federal government, and across jurisdictions.

Conclusion

Close and productive collaborations – within DOJ, with other federal agencies, and with our Tribal and Native Hawaiian partners – have been the linchpin of the Department's work to implement VAWA 2022, support and respond to the NIAC, and broaden access to the Department's funding. DOJ is committed to continuing these collaborations going forward. It has long been DOJ's philosophy that the best solutions to public safety challenges come from the communities and survivors we serve, which has been borne out time and again in the Department's efforts to support American Indian, Alaska Native, and Native Hawaiian communities. In her 2021 memorandum creating a Steering Committee to Address the Crisis of Missing or Murdered Indigenous Persons, Deputy Attorney General Lisa Monaco stated that, "the Department recognizes that challenges faced by Tribes are best met by Tribal solutions."

In this spirit, DOJ's work will continue to be rooted in consultation and coordination with Tribal governments and Indigenous communities. DOJ will schedule government-to-government consultations and listening sessions with Tribes – including OVWs 19th Violence Against Women Tribal Consultation, to be held November 19-21, 2024, in Santa Fe, New Mexico – and work with other agencies, as appropriate, to ensure that implementation efforts are responsive to the needs of Tribal governments. Similarly, we will continue our partnership and engagement with Native Hawaiian organizations to expand crucial services to survivors of domestic violence, sexual assault, dating violence, and stalking.

I appreciate the time and attention of the Committee and welcome the opportunity to answer any questions you may have.