

**Hearing on “Allegations of Killings, Disappearances, and Multiple Forms of
Discrimination against American Indian and Alaska Native Women in the
United States of America”**

October 5, 2018 9:00 a.m. to 10:00 p.m.

Wolf Law Building, 401 UCB

Schaden Commons Room

2450 Kittredge Loop Road

Boulder, CO 80309

CONTEXT:

The Inter-American Commission on Human Rights (IACHR) has requested a **thematic hearing** to discuss “the epidemic of violence against indigenous women in the United States. The hearing was requested by the Indian Law Resource Center, in conjunction with a number of other groups. The IACHR previously held a thematic hearing on violence against indigenous women in 2011. **After the petitioners give their 20-minute presentation, you will give a 20-minute oral presentation.**

BACKGROUND:

The parties requesting this hearing hope to draw attention to rates of violence and murder against American Indian and Alaska Native women in the United States, particularly focusing on the situation of Alaska Native women. The parties suggest that this situation reflects a failure of the USG to protect such women, and specifically, that the failure to provide an effective remedy reflects discrimination based on sex and race. The Office of Violence Against Women at the Department of Justice has provided talking points to deliver at the hearing. DOJ declined to participate in person because they are actively engaged on this issue with indigenous groups in other fora.

TALKING POINTS (see next page)

Talking Points

- Distinguished Commissioners, civil society friends, advocates, and Secretariat colleagues –my name is Carlos Trujillo and I am the U.S. Ambassador to the Organization of American States.
- I would like to begin by acknowledging the important work of the Commission to advance human rights in the Western hemisphere.
- The United States remains committed to supporting your work, and it is an honor to appear before you today.
- I also want to thank you for the opportunity to come here today to discuss one of the most urgent problems facing American Indian and Alaska Native communities in the United States: domestic violence and sexual assault. These crimes affect every community in the United States, but, tragically, Native women face higher rates of domestic violence and sexual assault than almost any group.
- A 2016 National Institute of Justice study, noted in the Joint Request for a Thematic Hearing, found that more than half of all

Native women have experienced sexual violence and physical violence by an intimate partner. All too often, these instances of violence against women are part of an escalating cycle, which has resulted in alarming homicide rates among American Indian and Alaska Native women.

- The United States is committed to addressing this crisis through the efforts of our Department of Justice. Our federal prosecutors are working to bring violent offenders in Indian country to justice – and to reduce and prevent future crime. Indian country is defined by statute to mean (1) all land within the limits of any Indian reservation under the jurisdiction of the U.S. Government; (2) all dependent Indian communities within the borders of the United States; and (3) all Indian allotments.¹ Through federal grant programs for tribal communities, we are working with those communities so they become safer and can provide victims with a full range of services and support. Through federal research, we are deepening our understanding of violence and victimization in

¹ The full definition is found at 18 U.S.C. § 1151.

Indian country and searching for solutions. And through federally funded training and technical assistance, we are enhancing the ability of tribes to restore public safety and promote healing in their own communities.

- Effective, widespread, and timely prosecutions are critical to stopping the cycle of domestic violence. Early intervention that interrupts or deters a pattern of escalating violence is the key to avoiding future, and sometimes deadly, violence.
- The Department of Justice has prosecuted an increasing number of habitual offenders in Indian country under a federal statute enacted in 2005, which focuses on domestic assaults by offenders with at least two prior convictions for any domestic assault in a federal, state, or tribal court. Case management data show the number of defendants indicted under this provision grew from 12 in fiscal year 2010 to 33 in fiscal year 2016 and 41 in fiscal year 2017; 42 have been indicated thus far in fiscal year 2018 as of August 31.
- The Violence Against Women Act of 2013 (VAWA 2013) recognized the importance of imposing serious sentences in cases

of intimate partner violence that involve strangulation or that result in serious bodily injury by amending the federal assault statute, which is used to prosecute assaults in Indian country. Since then, prosecution of these crimes has remained an important priority for United States Attorneys' Offices. In calendar year 2014, federal prosecutors charged 72 defendants under VAWA 2013's enhanced federal assault statutes. By calendar years 2016 and 2017, that number had nearly doubled to 143 defendants and 139 defendants, respectively.

- In addition to enhancing federal prosecutions, a key provision of VAWA 2013 recognizes the inherent power of tribes to exercise special domestic violence criminal jurisdiction (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. The Department of Justice supports the work of tribes exploring and implementing SDVCJ through the formation of an Intertribal Technical-Assistance Working Group on SDVCJ, a training and technical

assistance award to the National Congress of American Indians (NCAI), and a grant program. To date, 21 tribes have reported to NCAI that they have implemented SDVCJ.

- In government-to-government consultations with tribes, the United States has heard from tribal leaders about the need for robust prosecutions of offenders and investigations involving missing women and human trafficking cases. The Department of Justice has heard these concerns by prioritizing reduction of violent crime and addressing public safety issues such as trafficking of Native girls and the disappearance and murder of Native women.
- One of the primary challenges in this area is ensuring there are enough prosecutors to hold perpetrators accountable. To that end, the Department of Justice's Office on Violence Against Women (OVW), since 2012, has funded Violence Against Women Tribal Special Assistant United States Attorneys (known as Tribal SAUSAs). These cross-deputized tribal prosecutors are able to bring violence-against-women cases in both tribal and federal

courts, which ensures that these cases do not fall through the cracks.

- Building on the successes of its original pilot project, OVW has re-launched the Tribal SAUSA Project this year with improvements based on feedback from tribes and United States Attorneys. OVW is using a fellowship model to help attract qualified attorneys who will make a three-year commitment to prosecute crimes of sexual assault, domestic violence, dating violence, and stalking in both tribal and federal courts. Sex trafficking cases that involve one of these four crimes also may be prosecuted by the Tribal SAUSA under the grant. Special training for the Tribal SAUSAs will be provided through the Department of Justice's National Indian Country Training Initiative.
- OVW also has supported training and technical assistance on identifying trafficking cases and ensuring that victims receive needed services. With funding from OVW, in January 2018, the Minnesota Indian Women's Sexual Assault Coalition held the first-ever national conference on sex trafficking in Indian country.

OVW is also funding this tribal coalition to provide basic and advanced training for tribal service providers and justice system personnel on sex trafficking and its intersection with the problem of missing and murdered American Indian and Alaska Native women and youth.

- The Department's Office for Victims of Crime's Project Beacon funds organizations providing urban American Indian and Alaska Native victims of sex trafficking with culturally appropriate, comprehensive victim services.
- And the Department of Justice's National Indian Country Training Initiative regularly offers training for federal, tribal, and state criminal justice personnel on investigating and prosecuting human trafficking in Indian country.
- It is challenging to assess the scope of human trafficking involving American Indian and Alaska Native populations, in part because of the underground nature of the crime and the fear and stigma that deter victims from coming forward. The United States therefore cannot at this time know whether trafficking has increased among

Native populations. However, the Department of Justice's National Institute of Justice (NIJ) remains committed to funding research and evaluation in this area and is seeking perspectives on human trafficking in tribal communities from respondents as part of its National Baseline Study. This multi-year study is being conducted in geographically dispersed tribal communities across the United States (including Alaska) using a NIJ-developed sampling strategy for which the primary aim is to provide an accurate national victimization rate of violence committed against American Indian and Alaska Native women living in Indian country and Alaska Native villages. This study is critical to quantifying the magnitude of violence and victimization in tribal communities and understanding service needs.

- The National Baseline Study is part of a broader program of research on violence against Indian women in Indian country and Alaska Native villages. These studies are expected to deepen our understanding of issues faced by American Indian and Alaska Native women and help to formulate public policies and

prevention strategies to decrease violent crimes committed against Native women.

- The United States recognizes the importance of seeking advice from tribal experts about research in Indian country. NIJ's program of research is supported by a newly re-chartered federal advisory committee, which will include representatives from tribal governments, national tribal domestic violence and sexual violence non-profit organizations, and other national tribal organizations.
- NIJ also has a number of efforts underway related to the National Missing and Unidentified Persons System (NamUS), which can be an effective tool in addressing missing and murdered American Indian and Alaska Native individuals. Funded by NIJ, NamUs is a national centralized repository and resource center for information about missing persons and unidentified decedent records that is free and available to the public. Currently, there are low numbers of Native Americans in NamUs's unidentified persons and missing persons databases, which suggests that tribes and tribal members may not be aware of NamUs. NIJ is working to increase tribal

knowledge of and engagement with this system. These efforts have included a NamUs presentation to tribal leaders and advocates attending the Department of Justice's August 2018 annual Violence Against Women Tribal Consultation.

- OVW also has transferred funds to NIJ to study the NamUs data to better understand the extent to which domestic and sexual violence are factors in cases involving missing and unidentified deceased women, with a particular focus on Native victims.
- The United States is also committed to addressing trafficking of Native women that may occur across our borders with Canada and Mexico. In 2016, at the North American Leaders Summit, the United States, Canada, and Mexico announced a trilateral commitment to address the high levels of violence against indigenous women and girls that exists across North America, resulting in the formation of the Trilateral Working Group on Violence Against Indigenous Women and Girls. This Working Group has held three high-level meetings in the last three years, including one this week in Mexico City. The November 2017

Working Group Meeting, which was held in Ottawa, Canada and attended by then-Associate Attorney General Rachel L. Brand, included discussion of cross-border human trafficking.

- In another important initiative to improve public safety in Indian country, the Department of Justice is expanding its Tribal Access Program (TAP) for National Crime Information. In response to concerns raised by tribal leaders, TAP was started to provide federally recognized tribes the ability to access and exchange data with national crime information databases for both civil and criminal purposes. This capacity enhances tribal efforts to enter sex offender registrations into the National Sex Offender Registry, have orders of protection enforced off-reservation, protect children, keep firearms away from persons who are disqualified from receiving them, and enter arrests and convictions into national databases.
- As of the end of fiscal year 2018, 47 tribes are participating in TAP, which also provides training to support tribal government needs. The Department of Justice is currently identifying

additional tribes to participate in the fiscal year 2019 TAP deployment.

- At consultations, tribal leaders have continued to express concerns about a lack of enforcement of tribal protection orders by state and local law enforcement. In response, the Department of Justice supports targeted technical assistance through both the National Center on Protection Orders and Full Faith and Credit and the Tribal Law and Policy Institute. These efforts include a roundtable, a best practice guide, and training modules on the issuance and enforcement of Alaska Native village protection orders. Moreover, Department of Justice attorneys work directly with tribal, state, and local officials to address instances when the Department receives reports about a lack of tribal protection order enforcement by state and local law enforcement.
- Tribal leaders have described to the Department of Justice the extraordinary barriers that Alaska Native villages face in providing services for victims and adequate law enforcement responses to domestic and sexual violence. OVW has taken a number of steps

to enhance the capacity of Alaska tribes to respond to violence in their communities. In December 2017, a team of OVW leadership and staff, technical assistance providers, and subject-matter experts conducted a two-day project implementation workshop in Anchorage, Alaska for all 22 Alaska grantees under OVW's Tribal Governments Program. With funding from OVW, an office opened in Anchorage to train lay persons and traditional healthcare providers in Alaska Native villages to deliver emergency first aid to sexual assault survivors, collect and preserve sexual assault forensic evidence, provide referrals to victim services, and educate their communities about sexual assault.

- OVW, as well as the United States Department of Health and Human Services, continues to fund the Alaska Native Women's Resource Center to work with Alaska Native villages to develop tailored responses to domestic violence, dating violence, sexual assault, stalking, and sex trafficking.
- OVW has also worked to respond to the impact of extractive industries on violence against women, including Native women.

In 2014, OVW launched a special initiative to address an increased incidence of violence against women in the Bakken region, located in western North Dakota and eastern Montana. This area had experienced rapid growth in oil and gas exploration and drilling in the years between 2008 and 2014, which brought with it spikes in population and crime.

- The Bakken Region Initiative grants, which totaled \$3 million, were distributed in connection with two special solicitations, one focused on Tribal SAUSAs and the other on an enhanced response to victims. The Bakken Region Initiative also included funding for research on the impact of the Bakken region oil industry on the incidence of violence against women, which was administered by NIJ.
- Finally, the Department of Justice funds programs that are developed by tribes themselves to address their particular public safety needs, and to provide services to victims of crime, including victims of domestic and sexual violence.

- Just two weeks ago, the Department of Justice announced that it has identified up to \$246 million to devote to public safety and victim services in American Indian and Alaska Native villages. This funding comes from two sources.
- First, the Coordinated Tribal Assistance Solicitation (CTAS) is a streamlined application that allows tribes to define their specific public-safety goals and purpose areas, because we know tribal nations are in a better position than the federal government to determine what will serve their communities best. Solutions to the domestic violence and other crime problems facing tribal communities will not come about overnight. Instead, a long-term commitment is needed.
- These fiscal year 2018 CTAS awards include more than \$113 million in grants to improve public safety, serve victims of crime, combat violence against women, and support youth programs in American Indian and Alaska Native communities. The Department of Justice awarded grants to 133 American Indian tribes, Alaska Native villages, and other tribal designees. Of the

\$113 million, just over \$53 million comes from the Office of Justice Programs, more than \$35 million from OVW, and more than \$24 million from the Office of Community Oriented Policing Services.

- Of particular note for this thematic hearing, nearly \$18 million of these awards were made to Alaska Native villages and other tribal entities in Alaska. This includes a three-year award for \$900,000 made by OVW to support the work of the Emmonak Women's Shelter.
- The second source of funding is the Crime Victims Fund. As of September 30, 2018, the Department of Justice has \$133 million in grant awards available to eligible tribes, tribal consortia, and tribal designees under the Tribal Set-Aside Program to support a wide-range of services for victims of crime. The awards are intended to help tribes develop, expand, and improve services to victims of crime by providing funding, programming, and technical assistance.

- All told, in fiscal year 2018, the Department of Justice doubled the amount of grant funding devoted to public-safety and victim services in Native American communities. This increase in resources, together with aggressive investigation and prosecution of crimes, shows how seriously the United States takes these issues. We are committed to working with tribes to reduce violent crime and improve public safety in tribal communities.

IF RAISED: The Department of Justice’s Attendance

- The United States is represented by the U.S. Mission to the Organization of American States. The U.S. Mission is the key interlocutor with the Commission in close consultation with the relevant federal agencies. The Department of Justice was consulted on the talking points, and we will pass all information on to the relevant offices at the Department.

IF RAISED: The U.S. Government’s Position on Legislation

Expanding Tribal Criminal Jurisdiction over non-Indian Offenders

- The United States applauds the tribes that have already successfully implemented special domestic violence criminal jurisdiction and are working hard to hold offenders accountable while ensuring those offenders are offered the same protections that criminal defendants have in state court proceedings. The United States would need to review the specific language of any legislative proposal to expand this jurisdiction before taking an official position on it.

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