

# ARIZONA INDIAN COUNTRY REVIEW



U.S. Attorney's Office / District of Arizona

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*From the desk of Paul K. Charlton  
United States Attorney for the District of Arizona*



In keeping with National Domestic Violence Awareness month, this issue is dedicated to addressing domestic violence. We have all heard the national statistics that Indian women are disproportionately represented as victims of violent crime. Within Arizona Indian Country itself, we have seen a steady flow of violent crimes involving domestic partners. The U.S. Congress has recently enacted laws to provide federal resources to prevent and address the impact of violence against women. This issue seeks to inform the reader on the role of the U.S. Attorney's Office in addressing "domestic violence" and to provide information on federal laws and resources that are available.

The U.S. Attorney's Office is often the last resort for "domestic violence" because, as you will read in this issue, most federal laws available to us prohibit acts that rise to the level of a felony based on the degree of injury. I am encouraged by those tribes who have implemented programs to stop domestic violence at the front end by implementing public awareness campaigns and family advocacy programs. We applaud the tribal, state and local judicial bench for recognizing protection orders from outside jurisdictions. We appreciate the efforts in law enforcement to promote education on the dynamics of domestic violence and its often dangerous impact to their routine duties.

I hope you find the information useful as you work to address "domestic violence" when it arises in your communities. If you wish to learn more about federal laws and resources, please contact my office.

A handwritten signature in blue ink, appearing to read "Paul K. Charlton".

Paul K. Charlton  
United States Attorney  
District of Arizona

## **“Domestic Violence” in Indian Country**

The term “domestic violence” refers to a category of crimes where spouses or partners are involved as the victim or assailant. “Domestic violence” is not a chargeable federal crime. In other words, in the federal criminal code you will not find a statute called “domestic violence.” If you look at the list of crimes in the Major Crimes Act (the list of chargeable crimes in Indian Country when committed by an Indian) “domestic violence” is not included. So what does that mean when an assaultive conduct occurs between spouses or partners in Indian Country?

Federal law enforcement and prosecutors must use the available federal statutes listed in the Major Crimes Act. For example, where evidence exists, the U.S. Attorney’s Office may file charges of Assault with a Dangerous Weapon, Assault Resulting in Serious Bodily Injury, Homicide, Kidnapping and Sexual Assault. Approximately one third or more of the violent crimes charged by the U.S. Attorney’s Office involve “domestic” partners. Often, these cases are referred to the USAO as a last resort after the offender has been sent to counseling, been served with a stay away or protection order, or adjudicated on a misdemeanor by the tribal court. Unfortunately, this means that the perpetrator’s acts have escalated into one involving a life-threatening injury or death.

Below are examples of cases that fall into the “domestic violence” category that are routinely charged by this office using the Major Crimes Act:

### ***U.S. v. Jefferson Dixon***

Sentenced to 384 months for 2<sup>nd</sup> Degree Murder involving the beating and strangling death of his domestic partner.

### ***U.S. v. Dale Howard***

Sentenced to 324 months for 2<sup>nd</sup> Degree Murder for the murdering his domestic partner of 18 years.

### ***U.S. v. Giles Childs***

Sentenced to 51 months for Voluntary Manslaughter for beating the victim after arguing about allegations of infidelity.

### ***U.S. v. Loretta Wauneka***

Sentenced to 24 months for Aggravated Assault for stabbing her domestic partner during an argument.

### ***U.S. v. Jonathan Ben Yazzie***

Sentenced to 60 months for the Assault and Sex Assault of a former domestic partner.

### ***U.S. v. Abel Reed***

Sentenced to 10 years for the Assault Resulting in Serious Bodily Injury of his domestic partner while arguing about infidelity. Reed escaped from tribal jail to commit the assault. This is his second offense involving the same victim.

### ***U.S. v. Darlene Ignacia***

Sentenced to 70 months for 2<sup>nd</sup> Degree Murder for the stabbing death of the victim while drinking and arguing in their home.

### ***U.S. v. Miguel A. Ramirez***

Convicted by a federal jury for Assault with a Deadly Weapon and Intent to Commit murder for beating the victim after being asked to leave her home.

### ***U.S. v. Jefferson Nezzie***

Sentenced to 10 months for Assault on a Federal Officer who responded to a domestic violence call.

### ***U.S. v. Alexander Mann***

Sentenced to 204 months for Kidnapping and Assault for beating and choking the victim and holding her at bay. Mann has several prior domestic violence arrests.

### ***U.S. v. Julian Begay***

Sentenced to 23 months for Assault Resulting in Serious Bodily Injury for beating his domestic partner.

### ***U.S. v. Darrell Trotice***

Sentenced to 97 months for the Sexual Assault of a girlfriend after accusing her of infidelity.

### ***U.S. v. Francis Jim***

Sentenced to 34 months for Assault Resulting in Serious Bodily Injury for beating his domestic partner over the course of hours while accusing her of infidelity.

***U.S. v. Michael R. Tsingine***

Sentenced to 52 months for Assault with a Dangerous Weapon and Assault Resulting in Serious Bodily Injury for beating his domestic partner with a weapon, choking and kicking her.

***U.S. v. Shawn Whitehat***

Sentenced to 24 months for Assault on a Federal Officer who responded to a domestic violence call.

***U.S. v. Luis Valencia***

Sentenced to 37 months for Assault Resulting in Serious Bodily Injury for assaulting an ex-girlfriend on two occasions.

## **The Violence Against Women Act (“VAWA”) in Indian Country.**

First enacted in 1994 to nationally address domestic violence, VAWA was amended in 2000 and 2005 to expand federal services and programs for federal victim. The criminal offenses listed in VAWA are crimes of general application because they are largely based on interstate travel. That means that these offenses apply nationally and not just in Indian Country or on federal enclaves. VAWA includes the following federal statutes:

### **Victims’ Rights at Bail Hearing (18 U.S.C. § 2263)**

A victim of a VAWA crime has the right to be heard at a bail hearing regarding the danger posed by the offender.

### **Restitution for Victims (18 U.S.C. §§ 2264 & 2248)**

In cases of domestic violence or sexual abuse, the court must order restitution after conviction to reimburse the victim for the full amount of losses incurred as a result of the crime. Restitution orders may include costs for medical or psychological care, transportation, housing, child care or cost incurred in obtaining a civil protection order.

### **Interstate Domestic Violence (18 U.S.C. § 2261(a)(1) & (a)(2))**

It is a federal crime to cross state or foreign lines or enter or leave Indian Country to commit or attempt to commit a crime of violence against an “intimate partner”;

A person who causes a spouse or intimate partner to travel in interstate or foreign commerce or enter or leave Indian Country by force, coercion, duress or fraud and in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against the person.

### **Interstate Stalking (18 U.S.C. § 2261A)**

It is a federal crime to cross state or foreign lines or enter or leave Indian Country to stalk another person. There must be proof that the stalking placed the victim in reasonable fear of death or serious bodily injury and the stalker must have intended to kill, injure, harass or intimidate when crossing the line.

### **Cyber-Stalking (18 U.S.C. § 2261A(2))**

It is a federal crime to use the mail or any facility of interstate or foreign commerce to engage in a course of conduct that places a person in reasonable fear or death or serious bodily injury. A course of conduct is a pattern of conduct showing a continuity of purpose.

### **Interstate Violation of a Protection Order (18 U.S.C. §§ 2262(a)(1) & (a)(2))**

It is a federal crime to cross state or foreign lines or enter or leave Indian Country and violate a qualifying protection order that protects the victim against violence, threats, or harassment against, contact or communication with or physical proximity to another person. The actor must intend to violate the protection order when crossing;

It is a federal crime to force or coerce a person to cross state or foreign lines or enter or leave Indian Country if the force or coercion leads to a violation of a qualifying Protection Order that prohibits or provides protection against violence, threats or harassment against, contact or communication with, or physical proximity to the protected person.

### **Full Faith & Credit (18 U.S.C. § 2265)**

Any qualifying protection order issued by the court of one state, Indian tribe or territory shall be accorded the full faith and credit by the court of another state, Indian tribe or territory and enforced

by the court and law enforcement personnel of the other state, Indian tribe or territory as if it were the order of the enforcing state or tribe.

A qualifying Protection Order is one that has been issued after notice and an opportunity to be heard, restrains the person from harassing, stalking or threatening or engaging in other conduct that places the protected person in reasonable fear of bodily injury and includes a finding that the person is a credible threat to the physical safety of the person or prohibits the use, attempted use, or threatened use of physical force against the protected person. *See 18 U.S.C. § 2265(b).*

#### **Firearm Offenses (18 U.S.C. § 922(g) et seq)**

There are several firearm prohibitions or offenses that apply to a person who is subject to a domestic violence protection order or who has been convicted of a misdemeanor crime of domestic violence so long as the defendant's due process rights have been afforded during the court's imposition of such order or conviction.

#### **BIA Arrest Authority (25 U.S.C. § 2803(3))**

Provides warrantless arrest authority to BIA law enforcement officers for misdemeanor crimes of domestic violence, stalking, protection order violations, etc., involving physical force or attempted force or the use or threatened use of a weapon.

### **U.S. Attorney's VAWA Contact - Kim Hare (Phoenix) and Raquel Arellano (Tucson)**

After the Violence Against Women Act (VAWA) was passed, the U.S. Attorney's Office designated a VAWA point of contact. *AUSA Kim Hare* was recently designated as the new VAWA contact for the Phoenix Office and *AUSA Raquel Arellano* is the new VAWA contact for the Tucson Office. The previous contacts included AUSAs Sharon Sexton, Diane Humetewa and Soo Song. The VAWA contact is knowledgeable on the federal laws, resources and practices in the domestic violence area. *AUSA Hare* and *AUSA Arellano*

are experienced federal criminal prosecutors who routinely prosecute federal crimes in Indian Country involving spouses or persons in inter-familial relationships. If your tribe is interested in receiving training or meeting on issues related to crimes involving domestic partners, please contact *AUSA Kim Hare* (Phoenix) at (602) 514-7500 / 1-800-800-2570 or *AUSA Raquel Arellano* (Tucson) at (520) 620-7300 / 1-800-565-0631.

## **Help for Federal Crime Victims**

*Ms. Shawn Cox, MSW & the U.S. Attorney's Victim Witness Coordinator.* *Ms. Cox* was recently hired to supervise the USAO Victim Witness Program and staff in Phoenix, Tucson and Flagstaff. *Ms. Cox* has spent most of her career counseling and working with children and families in crisis. Most recently, *Ms. Cox* began the Arizona Voice for Crime Victims program at the Sandra Day O'Connor Law College at Arizona State University. If you are a victim of a violent or white collar crime please call the USAO Victim Witness Program for assistance: In Phoenix call (602) 514-7567 or 1-800-800-2570; in Tucson call (520) 620-7300 or 1-800-565-0631 and in Flagstaff call (928) 556-0833.

If you are a victim of domestic violence, please call your local Police Department or the National Domestic Violence Hotline: 1-800-799-SAFE (7233) / 1-800-787-3224 (TTY).

If you are a victim of stalking, please call your local Police Department or the National Center for Victims of Crime, Stalking Resource Center: 1-800-394-2255 / 1-800-211-7996 (TTY)



## DOJ Grants Available to Stop Domestic Violence

***STOP Violence Against Indian Women*** — to develop and strengthen tribal law enforcement and prosecution efforts to stop violence against Indian women and enhance victims services.

***Encourage Arrest Policies & Enforcement of Protection Orders*** — to encourage state, local and tribal governments to coordinate the involvement of the entire justice system in taking domestic violence seriously. Funds can be used to implement mandatory or pro-arrest policies, track domestic violence cases and create domestic violence units of police and prosecutors.

***Legal Assistance for Victims*** — to strengthen legal aid programs for domestic violence and sexual assault victims. Indian tribes, victim service programs, law school clinics and other legal service organizations are eligible.

***For Information on the above contact***  
**The Office on Violence Against Women (OVW)**  
**800 K Street, N.W., Suite 920**  
**Washington, D.C. 20530**  
**Phone: 202-307-6026 Fax: 202-307-3911**  
**TTY: 202-307-2277**  
**Website: [www.usdoj.gov/ovw](http://www.usdoj.gov/ovw)**

## U.S. Department of Justice Grant Awards:

Throughout the year, the DOJ awards federal funding to Indian tribes for the development, operation and maintenance of their justice systems in Indian Country. The following Arizona Indian tribes were recently awarded grants:

The ***Hualapai Indian Tribe*** received a grant from the Bureau of Justice Assistance for the planning, design and construction of correctional facilities on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

The ***Navajo Nation*** received an ***FY 2006 Edward Byrne Memorial Justice Assistance Grant*** from the Bureau of Justice Assistance (BJA) to support a range of activities in its criminal justice systems to prevent and control crime.

The ***Yavapai-Prescott Indian Tribe*** received a Tribal Courts Assistance program grant from the Bureau of Justice Assistance to develop, implement, enhance and continue its tribal justice systems.

The ***Hualapai Tribe*** received a grant from the Office of Juvenile Justice Delinquency Prevention (OJJDP) to establish a Tribal Youth Program focused on mental health services and intervention for court-involved youth. The program will serve 24-30 youth and families per year.

The ***San Carlos Apache Tribe*** received a grant from the OJJDP to establish a Tribal Youth Program to support the juvenile court probation office and to develop a teen court.

The ***Fort McDowell Yavapai Nation*** received a grant from the Office on Violence Against Women to assist it in developing and strengthening tribal justice systems' response to violent crimes committed against Indian women.

The ***San Carlos Apache Tribe*** received a grant from the Bureau of Justice Assistance to implement a drug court for non-violent adult and juvenile substance abuse offenders.

The ***Navajo Nation*** received a Safety for Indian Women from Sexual Assault Offenders Demonstration Initiative from the Office on Violence Against Women to build upon and enhance existing coordinated community response to sexual assault.

The ***Salt River Pima Maricopa Indian Community*** received a grant to complete the design and construction of a 180 bed security facility for juvenile and adult offenders.

The ***Pascua Yaqui Tribe*** received a grant from the Office for Victims of Crime (OVC) to provide services to victims of violent crimes such as child abuse, sexual assault and homicide.

The ***Unified solutions Coaching & Consulting Group Inc.*** received a grant from OVC to provide technical and training assistance to tribes and tribal organizations receiving Tribal Victim Assistance Grants.

The ***Colorado River Indian Tribes*** received a BJA grant to address compliance issues regarding the housing of juvenile offenders adjudicated through the tribal court system.

The ***Navajo Nation*** received a Tribal Court Assistance Program grant from the BJA to support and enhance the continuing operation of tribal justice systems

**Arizona Indian Country Review** is prepared by the U.S. Attorney's Office for the District of Arizona. This Newsletter is also available at our website:  
[www.usdoj.gov/usao/az](http://www.usdoj.gov/usao/az)

Questions about this publication may be directed to Diane Humetewa, Tribal Liaison for the United States Attorney's Office at (602) 514-7500.

All press inquiries may contact, Wyn Hornbuckle, the Public Affairs Officer for the United States Attorney's Office at (602) 514-7500.

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