



U.S. DEPARTMENT OF JUSTICE
OFFICE ON VIOLENCE AGAINST WOMEN

2011 TRIBAL CONSULTATION

— ◆ REPORT ◆ —

Working Together to End the Violence



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DOJ/HHS TRIBAL CONSULTATION ON Violence Against Women Report

INTRODUCTION

The annual Violence Against Women Tribal Consultation is held pursuant to Public Law 109-162, Title IX, Section 903 of the Violence Against Women Reauthorization Act of 2005. This law requires the U.S. Attorney General to conduct an annual consultation with Indian tribal governments to address the federal administration of all tribal funds and programs established under the Violence Against Women Acts (VAWA) of 1994, 2000, and 2005. The statute further directs the Secretary of the Department of Health and Human Services (HHS) and the U.S. Attorney General to solicit recommendations from the Indian tribes at an annual consultation concerning the following items:

1. administering tribal funds and programs;
2. enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and
3. strengthening the federal response to such violent crimes.¹

Tribal Consultation Event

The annual Violence Against Women Tribal Consultation was held on December 15, 2011 in conjunction with the Interdepartmental Tribal Justice, Safety, & Wellness Session #14 at the Hyatt Regency Tamaya Hotel in Santa Ana Pueblo, NM.

Welcome and Introduction

Lorraine Edmo (Shoshone-Bannock), the Deputy Director for Tribal Affairs from the Office on Violence Against Women, opened the consultation by welcoming everyone to the event and introducing Traditional Councilman Gil Vigil from the Pueblo of Tesuque to perform the traditional opening.

Traditional Opening

Councilman Vigil opened the tribal consultation and welcomed everyone to the traditional home of the Santa Ana Pueblo and on behalf of the 20 Indian Pueblos that make up the All-Indian Pueblo Council. Governor Vigil asked for wisdom and spiritual guidance to assist with the consultation endeavor.

¹ Public Law 109-162, Title IX, Sec. 903

Shawl Ceremony

Juana Majel Dixon, Traditional Councilwoman from the Pauma Band of Mission Indians in California, introduced and explained that the Shawl Ceremony as performed is intended to represent the murdered, the missing, and the unborn children of those women who are no longer with us because of domestic violence.

Introduction of Tribal Representatives

All elected tribal representatives or their designated representatives introduced themselves. Those in attendance included the following dignitaries.

- Lloyd Wyatt, Vice Chairman, Washoe Tribe of Nevada and California (NV), accompanied by Deborah Carlson
- Ann Lambert, Vice Chairperson, Ft. Peck Assiniboine and Sioux Tribe (MT)
- Candice Wilson, Vice Chairperson, Lummi Nation (WA)
- Marty Waukau, Police Chief, Menominee Tribe of Wisconsin (WI)
- Beatrice Arakawa, Program Manager and Victim Advocate for Domestic Violence, designated tribal representative for the Lower Elwha Klallam Tribe (WA)
- Ruth Jewell, Domestic Violence Assault Advocate, designated tribal representative for the Penobscot Nation (ME)
- Lisa Thompson-Heath, Director of the Wiconi Wawokiya Domestic Violence and Child Advocacy Center, designated tribal representative for the Crow Creek Sioux Tribe (SD)
- Carmen O’Leary, Director of the Native Women’s Society of the Great Plains Coalition, designated representative for the Great Plains Tribal Chairman’s Association (SD)
- Jane Root, Director of Domestic Violence and Sexual Assault Program, designated tribal representative for the Houlton Band of Maliseet Indians (ME)
- John Cruz, Lt. Governor of Ohkay Owingeh, accompanied by Ben Lujan, Tribal Sheriff, Ohkay Owingeh, and Joe Garcia, Ohkay Owingeh, Traditional Council Representative (NM)
- Terri Henry, Tribal Council Member, Eastern Band of Cherokee Indians (NC) and co-chair of the NCAI VAWA Task Force
- Juana Majel-Dixon, Traditional Councilwoman, Pauma Band of Mission Indians (CA) and co-chair of the NCAI VAWA Task Force
- Germaine Omish-Guachema, Executive Director for Strong Hearted Native Women’s Coalition, designated tribal representative for the Rincon Band of Luiseno Indians (CA)

- Liz Salway-Littlecreek, Juvenile Re-entry Coordinator for the Wind River Tribal Youth Program, designated tribal representative for the Northern Arapaho Tribe (WY)
- Carol Justice, Tribal Prosecutor and Indian Country Methamphetamine Initiative (ICMI) Tribal Coordinator for prevention through intervention with Wind River Tribal Youth, designated tribal representative for the Northern Arapaho Tribe (WY)
- Donna Trosper, Director of Wind River Tribal Youth, designated tribal representative for the Northern Arapaho Tribe (WY)
- Velasquez W. Sneezy, Sr., Executive Director and Attorney, San Carlos Violence Prevention Program, designated tribal representative for the San Carlos Apache Tribe (AZ)
- LaVonne Peck, Tribal Chairwoman, La Jolla Band of Luiseno Indians (CA)
- Michael Finley, Chairman, Colville Confederated Tribes (WA)
- George Shendo, 1st Lt. Governor, Pueblo of Jemez (NM)
- Charlene Abrahamson, Director of Behavioral Health, designated tribal representative for the Chehalis Tribe of Indians (WA)
- Tom Tremaine, Chief Judge, designated tribal representative for the Kalispel Tribe of Indians (WA)
- Kimberly Burdick, Domestic Violence, Sexual Assault, and Stalking Program Coordinator, designated tribal representative for the Quinault Indian Nation (WA)
- Tania McCloud, designated tribal representative for the Big Valley Band of Pomo Indians (CA)
- Grace Her Many Horses, Chief of Police, designated tribal representative for the Rosebud Sioux Tribe (SD)
- Arlen Quetawki, Governor, Zuni Pueblo (NM)
- Wynona Sinyella, Council Member, Hualapai Tribe (AZ)
- Rod Kaskalla, Domestic Violence Coordinator, designated tribal representative for the Pueblo of Nambe (NM)
- Robin Tapio, Councilwoman, Oglala Sioux Tribe accompanied by Monica Terkildsen (SD)
- Cheriena Ben, Tribal Council Member, Mississippi Band of Choctaw (MS)

Introduction of Federal Representatives

All federal representatives introduced themselves and included the following:

- Susan B. Carbon, Director, Office on Violence Against Women (OVW), U.S. Department of Justice
 - ◇ Judge Carbon introduced members of the OVW office:
 - Lorraine Edmo (Shoshone Bannock), Deputy Director for Tribal Affairs
 - Virginia Davis, Deputy Director for Policy Development
 - Jennifer Kaplan, Senior Attorney Advisor
 - Kathy Howkumi (Pueblo of Nambe), Program Specialist, Tribal Unit
 - Kimberly Woodward, Senior Program Specialist, Tribal Unit
 - Beverly Fletcher, Program Specialist, Tribal Unit
 - Bea Hanson, Principal Deputy Director
- Karol Mason, Deputy Associate Attorney General, Department of Justice
- Mary Lou Leary, Principal Deputy Assistant Attorney General, Office of Justice Programs (OJP), Department of Justice (DOJ)
- Mose A. Herne (Akwasasne Mohawk), Acting Deputy Director, Division of Behavioral Health, Indian Health Service (IHS), Department of Health and Human Services
 - ◇ Beverly Cotton (Mississippi Band of Choctaw Indians), Senior Public Health Advisor, Coordinator for the IHS Sexual Assault Nurse Examiner-Sexual Assault Response Team Initiative
- Marylouise Kelley, Director, Family Violence Prevention Division, Family and Youth Services Bureau, Administration for Children and Families (ACF), Department of Health and Human Services
 - ◇ Family Violence Prevention and Services Act (FVPSA) staff:
 - Sheena Williams, Program Specialist, Tribal Grants program
 - Ken Noyes, Program Specialist, Policy Matters
 - Betty Johnson, Program Specialist, Tribal Grants program

Welcoming Remarks

Judge Carbon introduced Karol Mason to provide welcome remarks and stated that Ms. Mason works very closely with DOJ grant-making components, including the Community Oriented Policing Services (COPS) Office, OJP, and OVW, and ensures appropriate resources

are reaching tribal communities. Ms. Mason serves as co-chair of the Defending Childhood Initiative, aimed at trying to stem the violence that children experience in their homes, communities, and schools.

Ms. Mason identified herself as the representative for Eric Holder, United States Attorney General, and Tom Perrelli, United States Associate Attorney General. She expressed their regrets in not being able to attend the tribal consultation. Ms. Mason stated that Associate Attorney General Perrelli has a long history of supporting tribal initiatives and is a leader in supporting VAWA. Ms. Mason provided an overview of a number of DOJ initiatives implemented since the 2010 Tribal Consultation. Ms. Mason reminded everyone that the Attorney General and the DOJ have a deep commitment to helping tribes sustain safe and secure communities. She discussed the 2011 accomplishments as follows:

- In July 2011, DOJ proposed legislation that would significantly improve the safety of Native women and allow federal and tribal law enforcement agencies to hold more perpetrators of domestic violence accountable for their crimes. The proposed legislation addresses three gaps: (1) recognizing certain tribes' power to exercise concurrent criminal jurisdiction over certain domestic violence cases, regardless of whether the defendant is Indian or non-Indian; (2) clarifying that tribal courts have full civil jurisdiction to issue and enforce protection orders involving any persons, Indian or non-Indian; and (3) providing more robust federal sentences for certain acts of domestic violence in Indian Country.
- Also in July 2011, the Native American Issues Subcommittee, made up of U.S. Attorneys from 30 of 47 districts that include Indian Country, met in Rapid City, SD, and on the Pine Ridge Reservation to hear from tribal leaders, law enforcement officials, and community members about public safety issues in Indian Country, including violence against Indian women. Attorney General Holder, Associate Attorney General Tom Perrelli, and Assistant Attorney General Ignacia Morena as well as other DOJ and Bureau of Indian Affairs (BIA) officials participated in the meeting.
- DOJ added 28 new Assistant U.S. Attorneys dedicated to prosecuting crime in Indian Country.
- Attorney General Holder launched the Violence against Women Federal and Tribal Prosecution Task Force composed of federal and tribal prosecutors. The Task Force facilitates dialogue and coordinates efforts between DOJ and the tribal governments regarding the prosecution of violent crimes against women in Indian Country. In addition, the Task Force is developing best practices recommendations for both federal and tribal prosecutors.
- During 2011, pursuant to Section 265 of the Tribal Law and Order Act (TLOA), the FBI's Office of Victim Assistance (OVA) collaborates with the IHS to expand and support Sexual Assault Nurse Examiner (SANE) and Sexual Assault Response Team (SART) programs in Indian Country.

- The DOJ awarded \$118 million in Coordinated Tribal Assistance Solicitation (CTAS) grants to more than 150 American Indian and Alaska Native nations to enhance law enforcement practices and sustain crime prevention and intervention efforts in eight purpose areas.

Ms. Mason went on to say that the new proposed revisions to VAWA were made because federal law enforcement resources are often far away and stretched thin. Also, federal law enforcement does not provide the tools needed to address the types of domestic or dating violence that elsewhere in the United States might lead to convictions and sentences, which can interrupt the pattern of escalating violence against spouses and intimate partners to save lives. Tribal governments lack authority to address many of these crimes, and tribal courts have no jurisdiction to prosecute nontribal members. Research shows that, without arrest, domestic violence goes unpunished and often escalates. Tribal leaders raised the concern in past tribal consultations that the tribes' ability to protect a woman from violent crime should not depend on her boyfriend or husband's race. Because of this concern, the DOJ proposed new federal legislative provisions that are contained in House and Senate bills.

Ms. Mason concluded by saying that representatives from DOJ are here to listen to the tribes' concerns so that the DOJ can better serve tribal communities, including representatives from OVW, FBI, Executive Office of the U.S. Attorneys (including the U.S. Attorney for the District of New Mexico), Community Relations Services, Office of Victims of Crime, OJP, and COPS.

Overview of the Day's Agenda

OVW Director Carbon thanked tribal leaders for their attendance and welcomed the participants and observers from the public and other federal agency representatives. She reviewed the materials and handouts included in the event packets and outlined the changes to the agenda. Director Carbon noted that the agenda had listed a number of questions to be addressed during the morning and afternoon sessions. However, after consulting with elected tribal officials, the agenda was modified to allow tribal leaders to offer testimony on any violence against women topic that they would like to address. Director Carbon clarified that tribal leaders may offer comments on the questions provided if they choose to do so, but should not feel constrained by the original agenda.

Director Carbon also informed attendees that written testimony would be accepted for sixty days following the consultation. She also previewed that there would be two presentations during lunch and tribal leader testimony would continue after lunch.

Ms. Edmo discussed a few housekeeping items:

- A form is available for tribal comments;
- A quiet room is available, Badger C, for reflection, if needed;
- Copies of CTAS and OVW 2010 and 2009 Consultation Reports are available on the resource table; and
- Consultation follow-up and other key documents will be available at www.OVW.usdoj.gov.

Oral Testimony: Tribal Representatives

The oral testimonies given during the morning session are as follows:

George Shendo, 1st Lt. Governor, Pueblo of Jemez (NM)

Governor Shendo commented on violence issues brought forth during the opening. He was forthright about the difficulty as a 1-year appointed governor to grasp all the laws that protect everyone, especially women. Governor Shendo expressed astonishment that women who do use the court systems to obtain a restraining order sometimes go back to the person who injured her.

Lloyd Wyatt, Vice Chairman, Washoe Tribe of Nevada and California (NV)

Vice Chair Wyatt expressed his pleasure and honor to be able to speak at the consultation and he felt privileged to sit among strong and committed women during last night's caucus. Vice Chair Wyatt shared a personal story about his mother being a member of the walking wounded and that she succumbed to her injuries that she received from her boyfriend after ten days. He considers himself one of the walking wounded as well. Vice Chair Wyatt also shared his history in law enforcement and remarked that before domestic violence laws, no mandatory arrest or prosecution was available. He recommended the reauthorization of VAWA and continued tribal consultation concerning domestic violence protection.

Ann Lambert, Council Member, Ft. Peck Assiniboine and Sioux Tribe (MT)

Councilwoman Lambert spoke of the economic development increase in North Dakota due to oil extraction in that state. She noted that because of the Ft. Peck reservation's proximity to the border, her tribe is also seeing a rise in income and business. However, along with the increase in economic development, they are also starting to see a rise in crimes against women and children. For example, "man-camps" are situated near the reservation and the increase in substantial amounts of money leads to increased prevalence of alcohol and drug use on the reservation. Ms. Lambert requested the following for her people:

- A highly trained law enforcement unit that specializes in sex crimes needs to be available in the coming years. This team would work with the tribe's SART team and the federal agencies on major crimes of sexual assault. The specialized unit would support DNA and forensic evidence prosecution as well as commit to be more sensitive to Native women who experience and are traumatized by sex crimes.
- That IHS provide for all victims of sex crimes through strong collaboration and commitment to a MOU with Ft. Peck that would detail the roles and responsibilities to address sexual assault victim care, specialized for Ft. Peck's needs.
- That one or more SANE nurses are available to her tribe to meet the future needs and assist in the development of confidentiality.
- Ongoing communication among all agencies, programs, and assurance that the communication process will improve over time.

- Resources to implement the proposed recognition of tribal criminal jurisdiction and ensure that highly trained and skilled officers are knowledgeable of the multi-jurisdictional issue on reservations.
- Joint meetings between state and tribal coalitions, which may help stem violence against women in Montana.
- Funding support, which is greatly needed and growing.

Ms. Lambert recommended that state coalitions be required to include letters of support from tribes as part of their grant applications. She stated that it is only common sense that states receive grants in consultation with tribal governments and include a resolution and letter of support from the tribes. She recommended that OVW funding be mandated to prioritize tribal programs.

Candice Wilson, Vice Chairperson, Lummi Nation (WA)

Vice Chairperson Wilson described the location of the Lummi reservation, which is 15 miles from the Canadian border and along the shoreline of the Salish Sea in Washington state. She said the Lummi people deal with drugs and alcohol at all levels every single day and stated that in the past year, the Lummi Nation lost many tribal members to drugs, alcohol, and violence. Ms. Wilson stated that not much has changed since last year's consultation and that she will be resubmitting last year's written testimony to DOJ. Ms. Wilson recommended the following items;

- Reauthorize VAWA and its amendments.
 - Support VAWA with resources for training, education, and retention.
 - Provide training for tribal council members, program directors, judicial system employees, and police officers so they will know how to investigate a domestic violence situation properly.
 - Provide funding sources so that tribes, coalitions, and states do not have to compete over the same funding.
 - Provide specific funding for local and national shelters that provide a safe haven for women and children who need assistance.
 - Ensure that IHS behavioral health departments provide services for the perpetrators as they are and will always be part of the family and communities; their health and wellness needs are important.
 - Ensure that IHS addresses women's health as their health and wellness needs are important.
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Marty Waukau, Police Chief, Menominee Tribe of Wisconsin (WI)

Police Chief Waukau applauded the DOJ for its initiatives and for coming to these tribal consultations. He thanked Tom Perrelli, U.S. Associate Attorney General, and Susan Carbon,

Director of the OVW, who visited the Menominee reservation and listened to the tribe's concerns. Police Chief Waukau stated that, from a law enforcement perspective, there are still problems regarding non-Indian perpetrators and jurisdictional issues. He also provided a list of items that he is proud to share: development of good relationships in Wisconsin across law enforcement agencies, access to a forensic pathologist to train his officers, an increase in quality reports by officers, better follow-up with victims, and overall better investigations. In addition to the DOJ initiatives, Chief Waukau reported that the grant money they have received has allowed them to hire a youth victim advocate. Chief Waukau requested DOJ's assurance that the initiatives will stay strong for people in Indian Country for those who need the resources.

Beatrice Arakawa, Program Manager and Victim Advocate for Domestic Violence, designated tribal representative for the Lower Elwha Klallam Tribe (WA)

Ms. Arakawa thanked the DOJ for the OVW grant funding that they have received. She reported that the monies have allowed the tribe to respond to domestic violence situations, provide transitional housing to victims, and revise the tribal sexual assault code. Ms. Arakawa identified a need to provide law enforcement tools to hold offenders accountable and court services for victims to ensure that rights continue to be guaranteed under the Indian Civil Rights Act. She recommended that obstacles to tribes receiving rural funding should be remedied in the VAWA reauthorization. Ms. Arakawa also recommended that legislation allow easier access to obtain full faith and credit for tribal protection orders.

Ruth Jewell, Domestic Violence Assault Advocate designated tribal representative for the Penobscot Nation (ME)

Ms. Jewell thanked the Santa Ana Pueblo for hosting the tribal consultation and also thanked the tribal leaders and federal representatives for attending as well as all indigenous brothers and sisters. She read a letter from a woman who experienced sexual assault and then recounted her revictimization by the legal system. Ms. Jewell stated that Native women are told they are not worth the time and resources to prosecute. She testified that Native society is traditionally matriarchal; women are the center of the world. Ms. Jewell called on the U.S. Attorney's Offices to prosecute crimes against Indian women and send the message that this is not acceptable. She stated that without law enforcement's attention on these issues, women will never heal.

Lisa Thompson-Heath, Director of the Wiconi Wawokiya Domestic Violence and Child Advocacy Center, designated tribal representative for the Crow Creek Sioux Tribe (SD)

Ms. Thompson-Heath related information about a domestic violence incident that occurred 5 years earlier in which a woman was stabbed 22 times. She voiced her concerns about the incident and provided examples of dispatcher error, and lack of response by Aberdeen police and the BIA. Ms. Thompson-Heath stated that Wiconi Wawokiya receives 15 to 20 domestic violence and sexual assault calls per week. She stated that the Crow Creek reservation only has four officers when they could use 10 officers, not additional BIA specialists. Ms. Thompson-Heath indicated that Wiconi Wawokiya was recently recognized as a designated FVPSA grantee. However, this year the grant went to the tribe even though the Wiconi Wawokiya staff followed instructions to get the grant in their name. She contacted the FVPSA

office and was told that the wrong Employer Identification Number (EIN) was submitted. A staff member at FVPSA told her it would be taken care of at the annual grantee meeting, but she has not heard anything yet. Ms. Thompson-Heath recommended the following:

- Clarify BIA protocols about confidentiality issues. In November 2011, a BIA special agent called to inform the center that they needed to take a buccal swab [for DNA analysis] of a shelter resident. While the center informed the agent about confidentiality of the residents, he still came to the center looking for her. The woman on duty at the center informed the agent that she could neither confirm nor deny the victim's presence at the center. The officer stated that the worker could be indicted for impeding justice.
- Continue set-asides for Native women in VAWA. This would allow the funds to be focused on areas of demonstrated need, which has been ignored for far too long.
- Continue the policy of allowing tribes to apply for OVW grants each year.
- Mandate that all future grants have IHS work with local providers. She reported that current grants for domestic violence and sexual assault recommend that IHS work with local providers, but it is not mandated. This mandate will decrease duplication of services and ensure that women are not re-victimized by untrained IHS staff.

Finally, Ms. Thompson-Heath expressed concern that the IHS grant for child abuse and forensic interviewing is a duplicative effort. She reported that IHS did not conduct tribal consultation with the local service providers on this issue. She also recommended training for IHS directors on domestic violence and sexual assault.

Carmen O'Leary, Director of the Native Women's Society of the Great Plains Coalition, designated speaker and representative for the Great Plains Tribal Chairman's Association (SD)

Ms. O'Leary stated that as she travels around the Great Plains, she is amazed at the strength, intelligence, and resourcefulness of the advocates on the ground and that the funding and technical assistance provided by the federal partners make it easier to keep advocates doing amazing work to keep Native women safe. Ms. O'Leary was dismayed during the 904 Task Force meeting because no statistics were provided on non-Indian perpetrators. However, at least two women in the room knew of or experienced sexual assault by non-Indian perpetrators. She reminded everyone that the statistics do not tell the entire story. Ms. O'Leary stated that many steps are needed to ensure the safety of Native women and not all are small undertakings. Changes primarily include social change, grassroots organization, and tribal code changes. Ms. O'Leary recommended the following:

- Support for the SAVE Native Women Act and reauthorization of VAWA as requested by the Chairman's Association. The Great Plains Tribal Chairman's Association passed a resolution to acknowledge that this legislation will incorporate significant changes to help the tribal nations keep women safe.
- Increase resources to assist in social change.
- Develop model tribal codes that can be adapted by tribes to start the process to ensure women's safety.

- Train law enforcement and tribal court staff about domestic violence and sexual assault.
- Continue grants to tribal governments, without decreasing funds, to ensure provision of basic services to keep women safe.
- Stabilize grant programs that work well in the communities. Ms. Leary testified that often when a grant ends, the staff moves on taking institutional knowledge elsewhere leaving a gap in the community.
- Provide culturally sensitive services for sexual assault victims. Despite the initiatives at the national level calling for cultural sensitivity, this is not happening at the regional or local level. This problem may be just a lack of coordination.
- Ensure that IHS uses emergency services personnel and SANE representatives rather than behavioral health personnel to assist sexual assault and domestic violence victims. IHS should also attend local meetings to discuss coordination.
- Provide accessible certification for SANE nurses. The clinical hours required for certification can be difficult to obtain due to distance from a supervisor and required time away from communities. Although the IHS Service Unit Directors are mandated to work with local programs, it is not happening.
- Ensure that IHS develop and support a policy to work with local sexual assault advocates and Native services already in place, or build a program and hire Native women.
- Provide services for collecting evidence for prosecutions.
- Support the proposal from OVW about parity among tribal and state coalitions.
- Ensure that HHS provides crime victims service options and not mandate that crime victims obtain specific services.
- Ensure that HHS is aware of unintended consequences of labeling people.
- Ensure that HHS find ways to support tribal coalitions since HHS already funds state coalitions.

Robin Tapio, Councilwoman, Oglala Sioux Tribe (SD)

Ms. Tapio stated that she was honored to give testimony during the tribal consultation and that she is an active member of the judiciary, health and human services, and education committees for the Oglala Sioux Tribal Council.

Ms. Tapio's major concern is the local IHS service facility. She spoke about the issues around IHS and specifically that the Oglala Sioux Tribe clinic is on the high-risk list. Ms. Tapio believes that IHS, their local service unit, and the employees at that service unit should be held accountable for reducing their clinic to such a sad state. She stated that the IHS facility serves 80,000 people and that health care needs of the community are not being met. Ms. Tapio requested assistance from federal agencies to help the tribe with gaining access to the grant funds that were awarded and for which the tribe cannot access due to alleged grant

mismanagement issues. Ms. Tapio recommended that new leadership in the Office of Juvenile Justice and Delinquency Prevention (OJJDP) be culturally sensitive to Native people.

Ms. Tapio introduced Monica Terkildsen from Oglala to continue with the testimony.

Monica Terkildsen, Grant Writer, Oglala Sioux Tribe (SD)

Ms. Terkildsen spoke about the new shelter opening, which is different from Cangleska, and the hope that the shelter will meet the needs of the women and children in the surrounding area. She added the following recommendations to Ms. Tapio's:

- Provide specialized training for law enforcement with regard to sexual assault victims to ensure that the evidence is collected correctly for prosecution.
- Increase the number of SANE nurses to assist in sexual assault cases.
- Provide additional resources to expand training and health care to serve victims of sexual assault and violence.
- Provide cultural sensitivity training for federal people working with tribes.
- Suggest that representatives from HHS, IHS, DOJ, BIA, etc., come to Pine Ridge for consultation and assistance in identifying and addressing the challenges that are preventing the Oglala Sioux Tribe from accessing grant monies.
- Notify the tribe when declinations from the U.S. Attorney occur to ensure that the chain of evidence between the federal level and tribal level remain intact so the tribe can prosecute sexual assault cases.

Other discussion

Before recessing for lunch, Mr. Herne from IHS made an announcement about IHS headquarters requesting his immediate return to Washington DC because of the impending agency shutdown due to the failure of Congress to pass a budget for his agency. He reported that his associate Ms. Beverly Cotton would also have to return. Ms. Majel-Dixon, Mr. Joe Garcia, and Ms. Wilson all wanted their comments on record about Mr. Herne and Ms. Cotton's departure. The tribal leaders applauded Ms. Majel-Dixon when she objected to the request to have Mr. Herne and Ms. Cotton sent back to DC for whatever reason. The tribal leadership was not satisfied that IHS Headquarters were recalling Mr. Herne and Ms. Cotton. Furthermore, they expressed their belief that it was important for Mr. Herne and Ms. Cotton to stay as their presence is crucial to Indian Country and leaving the consultation is not in the best interest of the tribes or the federal government.

Ms. Edmo commented that the DOJ was fortunate to be part of the omnibus appropriations bill that was passed a couple of weeks earlier, so DOJ was not at risk of a shutdown and could stay until the end of the consultation. Furthermore, Ms. Kelley from ACF also indicated that she could stay for the tribal consultation. Ms. Edmo stated that all recommendations would be sent to IHS, and Mr. Herne will advise the consultation attendees later if he can return to the consultation.

Ms. Jewell requested a little bit of time to speak. She acknowledged Vice Chairman Wyatt, who had shared his pain on the loss of his mother, how he has carried that pain, and how courageous that was. Ms. Jewell stated that her heart goes out to him.

Working Lunch

Leslie A. Hagen, DOJ's National Indian Country Training Coordinator, addressed three topics: 1) enhanced sentencing authority as provided under TLOA; 2) the DOJ training initiative; and 3) domestic assault by a habitual offender statute. She stressed that the domestic assault by a habitual offender statute is applicable to both non-Public Law 280 and Public Law 280 jurisdictions.

Ms. Hagen explained that the TLOA amends the Indian Civil Rights Act, which previously limited tribes' sentencing authority to a maximum term of 1-year incarceration and/or a \$5,000 fine. With the passage of TLOA, tribal courts can now sentence an offender up to 3 years for conviction of a single offense or up to 9 years imprisonment for multiple offenses, provided that certain due process procedural requirements are put in place. This felony sentencing authority can be used with certain types of crimes: repeat offenders or the defendant is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by a state or federal government.

Ms. Hagen continued to explain that TLOA addresses due process for the defendant when engaging in enhanced sentencing authority. TLOA requires that the tribe provide the defendant with effective assistance of counsel at least equal to that provided by the U.S. Constitution and at the expense of the tribal government, provide an indigent defendant assistance of a defense attorney licensed to practice law by any jurisdiction in the U.S. that applies appropriate licensing standards, and effectively ensure the competence and professional responsibilities of its licensed attorneys. Ms. Hagen noted that TLOA does not specifically state that a state bar association must license the attorneys; therefore, it is conceivable that a number of tribal bar associations may meet the TLOA requirements. She further stated there is no requirement that the U.S. Attorney's Office approve of the attorney that the tribe is using. Therefore, the U.S. Attorney's Office does not certify the tribal court or authorize that the tribal court may engage in felony sentencing. If a litigant down the road believes that his TLOA due process requirements were not satisfied, then that individual can challenge his tribal court conviction in a habeas proceeding in federal court.

In response to this information from Ms. Hagen, Ms. Majel-Dixon pointed out that some Assistant U.S. Attorneys are providing contradictory information concerning TLOA and requested that the DOJ provide the Assistant U.S. Attorneys with direction concerning TLOA to mitigate potential miscommunications between tribes and Assistant U.S. Attorneys. Ms. Hagen agreed to follow through with this request.

Ms. Hagen then addressed the second issue: DOJ training initiative. Ms. Hagen's office is located at the National Advocacy Center in Columbia, SC. Much of the training is conducted at the National Advocacy Center. However, she and her staff provide training around the country at the request of tribes. The National Advocacy Center also provides written products, video and distance learning, and curriculum development. Ms. Hagen described

the partnerships with federal agencies and tribal communities on specific initiatives. Ms. Majel-Dixon formally requested training for northern California. Ms. Hagen acknowledged the request.

Ms. Hagen concluded her presentation by discussing the domestic assault by a habitual offender statute, which was passed as part of the 2005 VAWA. She stated that since early 2006 when VAWA was signed until the last six months, the DOJ has received few referrals for federal prosecution for violation of the habitual offender statute. Ms. Hagen offered that first responders to a domestic violence call may not be aware that a suspect has previous convictions for offenses committed against a spouse or intimate partner and that the offender may be charged in federal court with the crime of domestic assault by a habitual offender, a felony. She acknowledged that the tribes and the DOJ have been working together to charge more habitual offenders with felonies to protect the women and children in the community. To illustrate how this criminal statute can be effectively used in federal court, Ms. Hagen showed a brief preview of a video training project in development with a projected 2012 release date.

Mac Rominger, Supervisory Special Agent, FBI, Flagstaff Office, presented on the domestic violence fatality review board on the Navajo Nation. Mr. Rominger quoted Chief Judge Martone of the U.S. District Court for Arizona to set the tone for his presentation: "The U.S. District Court for the District of Arizona is overwhelmed with criminal cases arising on the Navajo Nation." He asked the audience to keep Chief Judge Martone's words in mind during his presentation on fatality review boards. The definition of a domestic fatality review board involves the analysis of a death caused by, related to, or somehow traceable to domestic violence. The review creates a greater understanding of the tragedy and ideally leads to the implementation of preventative interventions.

Mr. Rominger reported that domestic fatality review boards are active in 35 states, with Florida having 16 separate ones. Currently, the number of federal Indian Country domestic fatality review boards is zero. He continued to state that the absence of fatality review boards is a missed opportunity for law enforcement leadership in the pursuit of justice in Indian Country, and in promoting and participating in innovative and proactive programs designed to further the goal of VAWA.

Mr. Rominger recommended that if domestic violence fatality reviews are conducted in Indian Country, it is imperative that federal law enforcement, tribal law enforcement, and tribal community leaders be involved at the onset. They need to be present on the board, during the review, throughout the study, and during the recommendation process in order to effectively improve services in Indian communities.

Other discussion

Following the lunch presentations, Ms. Edmo asked Mr. Herne from IHS to make a comment. Mr. Herne said he had contacted senior leadership at IHS and told them of the tribal leaders' concerns regarding the directive to have him return to Washington. The IHS leadership decided that, based on the concerns and comments expressed earlier by tribal leaders, he and Ms. Cotton should remain at the consultation throughout the rest of the day.

Oral Testimony Tribal Representatives Continued

Oral testimonies presented during the afternoon session are as follows:

Tania McCloud, Tribal Secretary, Big Valley Rancheria Band of Pomo Indians (CA)

Ms. McCloud voiced her concern about the responsiveness of law enforcement. She testified that, because California is a PL 280 state, most tribes in northern California have terrible relationships with county law enforcement. She shared that Lake County does not like to respond to the Rancheria. One solution is to create their own law enforcement, which is difficult as many of the grants available have parameters that only law enforcement agencies that currently exist are eligible for money. Ms. McCloud recommended that:

- The BIA attend these tribal consultations so that they can understand the true needs of the tribes, which is important no matter how much grant funding is available.
 - Assistance in protecting women and children be provided by requiring California and northern California law enforcement agencies to respond to calls on the Rancheria.
 - Funds should be made available for tribes in PL 280 states for planning and creating new law enforcement agencies for local tribes.
-

LaVonne Peck, Chairperson, La Jolla Band of Luiseno Indians (CA)

Ms. Peck spoke of how fortunate the La Jolla Band of Luiseno Indians has been in receiving grant money from the DOJ for the past 2 years. She was appreciative of the help from DOJ in moving La Jolla forward in domestic violence prevention and law enforcement enhancement. Ms. Peck stated that La Jolla has received four grants from the 2011 DOJ funding cycle that totaled about \$2 million. This includes funding from COPS for equipment and training, OVW Tribal Governments program, and Bureau of Justice Assistance Tribal Courts Program. Ms. Peck testified that this money will meet the tribe's goal in creating a safer community.

Ms. Peck voiced concern about sustaining the tribe's law enforcement programs because tribes do not have a tax base to bring in monies to continue to support them. The fact that the BIA was not present at the consultation was a large concern for her. Ms. Peck reported that the BIA does not support tribes in PL 280 states with training resources, services, or funding. Ms. Peck provided the following recommendations:

- The 2011 consultation report be distributed within the next six months.
- The DOJ reassume felony jurisdiction in California under TLOA.
- The DOJ provide tribal, state, and federal cross training on implementation in TLOA specific to PL 280 states, tribal governments, and concurrent jurisdiction.
- The DOJ train federal, state, and tribal concurrent jurisdictions on TLOA provisions.
- The DOJ provide a consultation on protocol for referring federal violent crimes to FBI and U.S. Attorney's office.

- The DOJ provide training for tribal, state, and federal justice personnel on enforcement of all statutes, including the domestic violent assault by habitual offenders, firearms violation, interjurisdictional violations, and order of protection.

Jane Root, Director of Domestic Violence and Sexual Assault Program designated tribal representative for the Houlton Band of Maliseet Indians (ME)

Ms. Root mentioned that the Maliseet Indians were a pilot site for IHS and ACF for developing screening protocols for domestic violence. The Maliseet were very successful in this endeavor and adopted the protocol in 2003 for universal screening. It has since been expanded to include a workplace domestic violence response policy so all the staff are safe. Ms. Root stated that the Maliseet Indians have a history of collaboration between their domestic violence and sexual assault service program and the health care facility, which she noted does not seem to be the case across Indian Country. Ms. Root recommended that:

- IHS provide their facilities with well-trained staff with adequate sexual assault forensic supplies to ensure that the victim/survivor will receive quality care and evidence collection for prosecution.
- IHS mandate that their funded medical and behavioral health facilities collaborate with their local community-based tribal advocacy programs to provide the victim and survivor the best possible outcome.
- IHS provide ongoing training for their medical and behavioral health staff on violence and sexual assault.
- DOJ provide training to law enforcement on VAWA, full faith and credit, and response to tribal court protection orders.

Ms. Root addressed the question about combining the OVW grants for domestic violence and sexual assault. She acknowledged that OVW will probably get a variety of answers, but for her program, the Maliseets like the idea of combining the grants, as they are a dual program that provides sexual assault and domestic violence services, only if the funding level stays the same for each and is not reduced.

Lastly, Ms. Root spoke about FVPSA. She mentioned that where OVW addresses the legal side of domestic violence and sexual assault, FVPSA addresses the health side. She reported that their victims in Maliseet are seeking more health services than legal services. Ms. Root provided the following recommendations.

- Increase funding for FVPSA to provide additional health care and safety (shelters).
- Clarify the 5% indirect cost fee associated with FVPSA grants and whether the grant can be considered as pass-through money.

Ms. Root had a question about the recommendations regarding the provision of trauma and evidence-informed services. She asked for an explanation about what this means for tribal

programming, what are the intended and unintended outcomes, what kind of restraints will be put on tribal programs, and how do tribes provide services.

Joe Garcia, Ohkay Owingeh, Traditional Council Representative (NM)

Mr. Garcia first spoke about the word *consultation* and its definition: how it refers to discussion and not negotiation. He applauded the efforts of DOJ in its effort at consultation, which is much better than any other federal agency.

Mr. Garcia spoke of the true job of a government, which is to protect its people and resources, and create a safe environment for all of its citizens. Mr. Garcia testified that, in regard to law enforcement and public safety for tribal members on tribal lands, this requires a strategic multijurisdictional approach—within tribes, counties, states, and federal jurisdictions. Mr. Garcia recommended that:

- Tribal nations should act as the sovereign nations they are.
- Tribal nations should collect or keep good data on crime.
- DOJ improve the administrative and technical resources that are available in other parts of law enforcement.
- DOJ enhance coordination between tribal, local, state, and federal governments.
- Tribes need to obtain more funding for hiring law enforcement officers. This appeal needs to go directly to those who control funding of the federal budget, namely Congress and the President.
- Tribes enter into agreements with local and state governments, if possible.
- Tribes be included in the Homeland defense dialogue by extending authority to Indian tribes on Homeland Security matters and to provide direct funding, which should be an option offered to tribes.
- Cross-deputizing of tribal law enforcement officers at all levels be encouraged.
- Culturally appropriate training be provided to law enforcement officers, especially if they are not tribal officers.
- Field people are trained on newly established and initiated policies, statutes, and working environments involving partners. TLOA mandates are implemented through additional funding.
- Tribal jurisdiction over non-Indians be addressed. Tribal entities need to support VAWA, which is the stepping-stone to addressing jurisdiction.
- Tribes in both non-PL 280 states and PL 280 states, and Alaska Natives need to create a Tribal State Collaboration Act, as New Mexico did. This act gives teeth to Executive Order 13175, a directive that states and tribe collaborate on issues. Mr. Garcia offered support to tribes in other states that are willing to push for a similar collaboration act within their states.

Cheriena Ben, Tribal Council Member, Mississippi Band of Choctaw (MS)

Ms. Ben shared the story of the Mississippi Band of Choctaw and how the Choctaw fought the state of Mississippi for jurisdiction. It has taken hundreds of years to get to this point. She emphasized that they have great leaders that champion zero tolerance for domestic violence in their community and support the “Refuse Abuse,” a program pioneered by the Choctaw. Ms. Ben stressed the need for support, revamping tribal codes and constitution, domestic violence courts, and support for judges.

Michael Finley, Chairman, Confederated Tribes of the Colville Nation (WA)

Mr. Finley thanked DOJ, the task force, and other entities that put the consultation together. Mr. Finley testified that the consultation serves as the drive to push reauthorization of VAWA. Mr. Finley also took time to recognize Yvette Joseph and Sabrina Desautel-Fenton. Ms. Desautel-Fenton works for the domestic violence office on the Colville reservation. He then spoke of the opportunities ahead with implementation of the TLOA and that jurisdictional gaps need to be filled due to the Supreme Court’s decision in *Oliphant v. Suquamish*.

Arlen Quetawki, Governor, Zuni Pueblo (NM)

Governor Quetawki apologized for being late, as he had attended the Pueblo Governors meeting with President Obama. He gave credit to the advocates who are on the ground and deal with the day-to-day challenges concerning domestic violence and sexual assault. Governor Quetawki testified that he has dealt with these issues since the 1980s and has worked with various advocates and coalitions to gain a better understanding about domestic violence and sexual assault. He stated that when he started working, men were not a common sight to see, but he is glad that more men are participating in this process, learning about domestic violence and sexual assault and addressing the needs that these issues foster. Governor Quetawki identified a communication gap between his tribe and the DOJ. He noted that the federal government is not notifying the tribal court in time to prosecute a case. Governor Quetawki admitted that it takes time for tribes to make changes to their codes and especially their constitutions, but they are moving forward on making changes that will ultimately reduce the number of federal cases. Governor Quetawki closed his testimony by stating that a team effort between the federal government and tribes is needed to move forward with these issues. Governor Quetawki identified other areas of need and made the following recommendations:

- Develop regional DOJ teams comprised of a judge, prosecutor, and public defender to cover several tribes per week. This approach would allow a tribe to act and use tribal law much sooner if federal authorities decide not to prosecute.
- Move funds from discretionary status to set asides to be more in line with the federal trust responsibility.
- Make additional funds (set aside monies) available specifically for American Indian/Alaska Natives for equipment, training, and resources for adults and children.
- Revise the Federal Law Enforcement Academy’s Indian Police Academy curricula to include additional information concerning response to domestic violence and sexual assault calls.

- Provide training to domestic violence prevention advocates and provide additional SANE staffing at IHS.
- Cross deputize law enforcement officers at the tribal, state, county, city levels to assist with investigations.

Velasquez W. Sneezy, Sr., Executive Director and Attorney for Violence Program Advocacy and Legal Service, designated tribal representative for the San Carlos Apache Tribe (AZ)

Mr. Sneezy spoke of what he had heard in the consultation thus far and noted that the tribes share the same problems. All tribes want to improve the living conditions on the reservations, request additional funding when there is less to go around, and uphold tribal sovereignty. Mr. Sneezy described some examples of progress that he has seen and commended the U.S. Attorney's office for visiting the San Carlos Apache Reservation. He noted that the BIA accepted a domestic violence case for the first time, and the San Carlos Indian hospital is working with the domestic violence office to ensure a 24/7 response for domestic violence calls. Mr. Sneezy emphasized the importance of partnerships between tribes and local and state governments. During his testimony, he provided the following recommendations:

- The tribe should be able to exercise jurisdiction over non-Indians.
- Lift the red tape attached to federal grants and include violence against the elderly and children in the domestic violence definition.
- The FBI should come back to the reservation and be seen investigating criminal cases.

Mr. Sneezy closed his testimony by acknowledging his appreciation for Indian women.

Germaine Omish-Guachema, Executive Director, Strong Hearted Native Women's Coalition, designated tribal representative for the Rincon Band of Luiseno Indians (CA)

Ms. Omish-Guachema thanked the previous speakers for their words and acknowledged the DOJ and the work it has completed in the consultation process. She explained a little bit about her reservation and that it has a high population of non-Natives living there. Because of this, non-Native perpetrators seem to have a high impact on the tribe. Ms. Omish-Guachema noted an increase of gang activity coming from the larger cities in California. The gang members are making contact with young Native women from Rincon through Facebook and other social networking tools and using phrases like "I love you," "I want to be with you forever" to bring their gang-related activities onto the reservation. In regard to domestic violence and sexual assault, the Strong Hearted Native Women's Coalition (Coalition) has been offering PL 280 training around California. Also, the majority of clients seen by the Coalition usually come forward after the crime, and law enforcement is not ever notified by the victim. Ms. Omish-Guachema recommended that:

- Human trafficking be added to the VAWA reauthorization.
- All domestic violence and sexual assault cases be prosecuted regardless of their win probability so that Native women receive validation that what happened to them is not their fault. This will improve the chances for women to report the crimes at the time of the incident rather than when they are cared for after the crime.

- The points on pages 8 through 11 of the most current *Restoration* magazine be entered as topics to be included in this consultation.
- FVPSA revise their grant requirements to include a tribal coalition component to their grant application.
- DOJ sponsor family justice centers around the U.S. to provide one place for victims to obtain services.

Carol Justice, Tribal Prosecutor, designated tribal representative for the Northern Arapaho Tribe (WY)

Ms. Justice thanked everyone who had preceded her for his or her stories and testimony. She stated that the Northern Arapaho Tribe is in favor of reauthorization of the VAWA and any sort of legislation to protect American Indian women and youth. Ms. Justice continued with a statement, “if you want to control juvenile crime, then control crimes against children.” By preventing these crimes against boys and girls, the cycle of domestic violence will end. Ms. Justice provided the following recommendations:

- Reauthorize VAWA.
- Prioritize and rapidly investigate domestic violence and sexual assault tribal crimes.
- Make crime victims’ service funds available.
- Address the need for SANE nurses for Native communities, which is hampered by certification requirements.
- Provide training on full faith and credit for the states concerning federal and tribal laws.
- Create a federal mechanism for certified licensed prosecutors for tribal courts who understand the differences between state and tribal law.

Liz Salway-Littlecreek, Juvenile Re-entry Coordinator for the Wind River Tribal Youth Program, designated tribal representative for the Northern Arapaho Tribe (WY)

Ms. Salway spoke of the challenges that the youth face on the Wind River reservation and the crime they experience. One point that Ms. Salway made is the removal of minor children from the home when abuse is identified. The children feel they are being punished as they are taken away from the comfort of family. Ms. Salway also voiced her concerns about methamphetamine use and abuse on the reservation. She provided the following recommendations:

- Provide both adult and youth with counseling when a youth is assaulted.
- Fund services for youth victims as their needs differ from adults.

Donna Trosper, Director of Wind River Tribal Youth Program, designated tribal representative for the Northern Arapaho Tribe (WY)

Ms. Trosper stated that communication between law enforcement agencies is lacking. She also reported that their law enforcement has not received training to handle child abuse. Ms. Trosper gave an example where Child Protective Services was called but did not answer, the reports were not filed timely nor completed very well, and the prosecutor deemed the child abuse to be unsubstantiated, and the child was taken back across the state line.

Tom Tremaine, Chief Judge, designated tribal representative, Kalispel Tribe of Indians (WA)

Judge Tremaine thanked the Santa Ana Pueblo for hosting the tribal consultation and DOJ for extending the written testimony deadline to sixty days. He spoke of his work with the Kalispel Tribe as an attorney with the tribe in federal, state, and tribal courts for the last 25 years. Judge Tremaine said he has been on the bench for 3 months. When he was appointed, he was to follow the mandate to “administer a justice system that promotes, asserts, and makes the fullest use of the tribe’s sovereignty; that promotes the health, safety, and welfare of the entire community; and holds the individual accountable for his or her behavior and choices.” Judge Tremaine provided the following recommendations:

- Identify evidence-based practices related to treatment for perpetrators.
- Identify effective resources available to the community and data that will help identify and measure long-term change.

Charlene Abrahamson, Director of Behavioral Health, designated tribal representative for the Chehalis Tribe of Indians (WA)

Ms. Abrahamson made it clear that although she is a designated representative, she speaks on behalf of her program and not for the leadership of Chehalis Tribe as they reserve the right to submit written testimony. Ms. Abrahamson thanked Judge Tremaine and Vice Chair Wilson for speaking about the care of perpetrators as part of the community. She said jail does not solve anything long term and that the feedback about a perpetrators program from law enforcement is not very popular. Many courts mandate that perpetrators attend such a program, and Chehalis is fortunate and does have a perpetrator program. Ms. Abrahamson went on to say that, although the program is lucky to have a man who is trained to run the program, it is not sustainable at this time. Tribal members can participate as well as non-Natives; the non-Natives have to pay and use third party billing, but it still does not cover all of the costs. She reported that the grants the tribe does receive do not cover the cost of this program and the tribe pays for the rest of the costs.

Ms. Abrahamson also indicated that communication with federal agencies is very challenging. She gave the example of sending IHS emails that go unanswered for months and even asking for denial of services that go unanswered, which Ms. Abrahamson needs in order to pursue other means of payment. Ms. Abrahamson provided the following recommendations:

- Make funding available to help perpetrators, Native and non-Native, through a peer group setting.

- Improve communication between tribes and federal agencies so that services can be obtained.
 - Provide a trained nurse (SANE) to assist sexual assault victims following the crime.
 - Ensure that IHS works with tribes to develop a comprehensive strategy concerning domestic violence and sexual assault that includes perpetrator programs.
-

Dawn Bully, Domestic Violence Program Manager, Chehalis Tribe of Indians (WA)

Ms. Bully stated that she wears multiple hats. She is the Domestic Violence program manager, coordinator, and advocate. Ms. Bully supported the reauthorization of VAWA and indicated that a reduction of funding will slow down or stop the improvements that are just now starting to show. She also stressed that a loss of funding will lead to a greater loss of advocates due to burnout. Ms. Bully indicated that tribal coalitions are a great resource for training and technical support for domestic violence programs and applauded the efforts of Women Spirit Coalition out of Olympia, WA, which has provided much of the training and support for Chehalis. She made the following recommendations:

- Increase funding availability for tribal coalitions.
 - Make training available for law enforcement concerning domestic violence and sexual assault.
 - Make funding available for building and maintaining victim shelters.
 - Increase funding to provide better pay for advocates.
-

Kimberly Burdick, Domestic Violence, Sexual Assault, and Stalking Program Coordinator, designated tribal representative for the Quinault Indian Nation (WA)

Ms. Burdick spoke of her tribe as an OVW grantee and described their program, which provides a 24-hour crisis response line, crisis intervention, emergency shelter, and advocacy for women and their children. She also stated that their program educates the community on violence against women, prevention, and awareness of violence. Ms. Burdick also spoke of the Washington State Native American Coalition against Domestic Violence and Sexual Assault, Women Spirit Coalition, and the culturally specific services that they provide for tribal domestic violence and sexual assault programs. Ms. Burdick provided the following recommendations:

- Enactment of the reauthorization of VAWA and its amendments.
 - Permanent base funding for tribal coalitions.
-

Grace Her Many Horses, Chief of Police, designated tribal representative for the Rosebud Sioux Tribe (SD)

Chief Her Many Horses provided an overview of her reservation demographics: over 1 million acres of land with 20 communities, 40,000 enrolled tribal members, but 50,000 people live on the reservation. She only has 14 officers who work on the reservation. Chief

Her Many Horses spoke of the funding they received for more officers, but the reservation does not have the infrastructure to support additional officers with housing, vehicles, weapons, etc., as well as domestic violence and sexual assault training. The women's shelter is also finding the same problem with funding and lack of infrastructure. Chief Her Many Horses reported that her officers receive training from the White Buffalo Calf Woman Society coalition about domestic violence and sexual assault.

Chief Her Many Horses stated that she has five special criminal investigators that run 158 cases per year and, of the domestic violence cases that have gone into federal court, 50% of those result in a conviction. She is very proud of her investigators. Chief Her Many Horses continued her testimony speaking about their domestic violence prosecutor, Jane Robson, who is slowly making headway with domestic violence victims in tribal court, reviews police reports in a timely fashion, and is not afraid to ask questions about an incident. The Rosebud Tribal Court has their own special prosecutor who specializes in non-Native offenders in federal court. Chief Her Many Horses went on to describe an increase in male victims of domestic violence and sexual assault, which greatly concerns her. She closed by describing the badge that all Rosebud police officers wear and she translated the words: "Akichita are the people to protect and take care of the people we serve—that's what we do whether it's a domestic violence victim or if the domestic violence victim is male, female, or child."

Denise Wildcat, Director of Domestic Violence Program, designated tribal representative for the Lac du Flambeau Tribe (WI)

Ms. Wildcat described her program, which was expanded to include sexual assault services. She agreed with Chief Her Many Horses in that they are seeing more men with their children coming to the shelter as victims. Ms. Wildcat gave the men credit for reporting a sexual assault recognizing that this is a difficult step to take.

The first issue Ms. Wildcat addressed was funding opportunities under IHS for domestic violence services as she sees this as a health issue as well as a crime. She stated that she has looked on the IHS website and Grants.gov for initiatives and funding opportunities to no avail. Ms. Wildcat indicated that with their sexual assault grant that they are able to partner with law enforcement and the clinic. They will have access to a SANE nurse soon.

Ms. Wildcat shared that they have a perpetrators program that has been running for about six years and it consists of two 18-week programs. They use the Duluth Model, which is a domestic violence curriculum created by the Domestic Abuse Intervention Program. Ms. Wildcat continued to describe how the teachers attend a training session in Duluth and sign a 3-year contract to remain with the Lac de Flambeau Tribe to provide the Duluth Model classes during the contract. All perpetrators charged with domestic assault or abuse are mandated to attend and pay a certain amount that sustains the program. They take 10 to 12 men and currently have a waiting list through February 2013. Ms. Wildcat agrees with the others that incarceration of the perpetrators does not work and that services that help them deal with his or her crime and face his or her own abuse works to break the cycle of violence. Ms. Wildcat provided the following recommendations during her testimony:

- IHS ensure that initiatives about domestic violence and sexual assault are readily available so that tribes can collaborate with IHS clinic facilities.

- IHS ensure that grant funding opportunities are easier to find and access.
 - Make funding available for building and maintaining victims' shelters.
 - Notify tribes of the VAWA amount states receive for tribal distribution.
 - Increase funding to provide better pay for advocates.
 - Revise grant policies to include cultural/traditional offerings such as food or gifts to build relationships with victims or to honor educators.
 - Improve communication about grant awards and the status of funds to be disbursed.
 - Increase funding to include training costs for staff.
 - Lift FVPSA grant restrictions so the costs of running the shelter can be spent as needed rather than as directed.
 - Make all grants provided by federal agencies less restrictive so that tribal programs can be developed to fit the needs of the tribal communities, not reconstructed to fit the grant criteria.
-

Wynona Sinyella, Councilwoman, Hualapai Tribe (AZ)

Ms. Sinyella spoke about her tribe having the same funding needs: training for officers, prosecutors, judicial departments, and tribal leaders to understand VAWA, to handle protection orders, and to write reports. She spoke of how they have started to change tribal codes to include domestic violence and described the process that they used for communication and collaboration. Ms. Sinyella recommended that all federal agency mandates be accompanied with funding to support the mandate.

Rod Kaskalla, Domestic Violence Coordinator, designated tribal representative for the Pueblo of Nambe (NM)

Mr. Kaskalla welcomed everyone to New Mexico and then provided his first recommendation. He explained that many of the pueblo governors are in transition and it is difficult for them to be involved in the tribal consultation. Mr. Kaskalla thanked OVW and FVSPA for the grants that Nambe received for the first time. He spoke of his concern about slow response times from BIA and local law enforcement concerning domestic violence and sexual assault. Mr. Kaskalla believes that education about domestic violence and sexual assault for the community, tribal leaders, spiritual leaders, and law enforcement is very important to change the attitudes he sees and believes hamper the healing of the victims and perpetrators. He stated that although domestic violence and sexual assault are each separate entities, they are related; substance abuse, alcohol, poverty, domestic violence and sexual assault are all interrelated. Mr. Kaskalla provided the following recommendations during his testimony:

- Hold the tribal consultation in the spring.
- Federal agencies (BIA, DOJ, IHS, etc.) provide training for the community, tribal leaders, spiritual leaders, and law enforcement.

- Update tribal codes and laws with respect to domestic violence and sexual assault.
- Provide investigative training to tribal officers.
- Improve the IHS processes for tribes to access funding.
- Revise grant requirements to be more flexible to provide services to the community through partnerships with other agencies and organizations.
- Extend grant funding cycles up to 6 years.
- Revise grant statements of work to include cultural/traditional offerings such as food or gifts in order to build relationships with victims or to honor educators.

Closing Comments

Ms. Edmo introduced a few people to provide concluding comments.

Candice Wilson, Vice Chairperson, Lummi Nation (WA)

Ms. Wilson provided a concluding statement for the Lummi Nation. She wanted the federal representatives to know what was heard today and that they had the opportunity to learn about one day in the lives of the people from the various tribal communities and that they live through this every day.

Ms. Wilson spoke on behalf of the Washington State Native American Coalition against Domestic Violence and Sexual Assault, Women Spirit Coalition. Women Spirit supports reauthorization of VAWA and all the amendments to VAWA 2012. Ms. Wilson recommended that permanent base funding for tribal coalitions like Women Spirit be made available to continue with training and support for victims and advocates.

Ms. Wilson concluded her statement by reading a letter to the community with the permission of the Women's Sexual Assault Group, which is read out loud in federal and state courts sentencing hearings on behalf of Lummi sexual assault victims as a victim impact statement to the judges.

A Letter to our Fathers, our Grandfathers, our Uncles, our Brothers, and our Cousins:

When you molest us, you betray us. You took away our innocence; you damaged us, and made us feel ashamed. When you raped us, you hurt us, you made us afraid, and turned sex into something ugly; instead of sacred as the creator intended it to be. When you forced yourself upon us, we thought it was normal, but you took away our boundaries and voices, and left us with rage and fear that still haunts us all these years later. You tricked us, you told us no one would believe us, you threatened us, you made us feel guilty with your quarters and toys and scraps of attention.

We are putting you on notice, we are healing ourselves, we are taking back our power and voices, and we are giving up the alcohol and drugs that we used to forget our pain. We are growing stronger and healthier. We are learning to love ourselves and walking with our heads held high. And you, when will you stop hurting the ones we are supposed to protect? When will you come to us and apologize? When will you make amends for the damage you have caused? When will you heal? We know who you are...we will remember what you did to us...we are watching you.

From the Lummi Women Survivors of Incest, Child Sexual Assault and Rape, your Daughters, your Granddaughters, your Nieces, your Sisters, and your Cousins

Joe Garcia, Ohkay Owingeh, Traditional Council Representative (NM)

Mr. Garcia first spoke of spirituality and discussed how spirituality is a part of us; it is our strength, which guides us. Mr. Garcia believes that due to the fast-paced world, this country has forgotten the spirituality part and that the Indian people of this land can bring back to the United States of America the sense of spirituality, the sense of caring, the sense of belonging, and sharing with each other the happy, loving things we should be doing.

Mr. Garcia then spoke about nation-to-nation relationships and how in 2005 the position of deputy director of tribal affairs at OVW was created by statute and the importance of the position. The deputy director of tribal affairs position should not be diminished to some lower activities such as administering grants office work. He believes that the items listed in the statute should be upheld and support be given to the deputy director of tribal affairs.

Mr. Garcia recommended that the leadership of the DOJ continue the nation-to-nation relationship building and support the deputy director of tribal affairs position.

Ann Lambert, Council Member, Ft. Peck Assiniboine Sioux Tribe (MT)

Ms. Lambert spoke on the critical use of technology for training purposes. She voiced her concern about the lack of adequate reporting within law enforcement, which can be fixed within tribal police departments with ongoing and continuous training. Ms. Lambert also focused on community education about violence prevention and targeting the schools to teach that hitting each other is not acceptable behavior. Ms. Lambert stated that she sees young people who date hitting one another when they are angry, and the youth see it as normal. By the time the youth are in long-term relationships, the youth will still think it is okay to hit. Ms. Lambert closed by echoing Judge Tremaine's statement that it is our responsibility to provide a safe community environment. She recommended that:

- Tribes contact their local community colleges to train tribal police officers.
- Initiatives be directed to public schools for prevention efforts around domestic violence and sexual assault.

Terri Henry, Tribal Councilwoman, Eastern Band of Cherokee (NC), and Co-Chair of the NCAI VAWA Task Force

Ms. Henry thanked the federal representatives for the opportunity to be heard on the issues addressing violence against Native women and expressed her gratitude to each of the tribal leaders present and delegates representing tribal leaders that stand up for safety and justice of American Indian and Alaska Native women.

Ms. Henry spoke of the testimony presented at last year's consultation by the Eastern Band of Cherokee and found that the lack of jurisdictional authority over violent assaults against Native women when committed by non-Indians is just as relevant this year as it was last year. She asked Ms. Mason to express her deep gratitude to the U.S. Attorney General and to the Associate Attorney General for their leadership in developing the legislative initiative to address tribal jurisdiction and criminal offenses (Senate Bill 1763).

Ms. Henry recommended that tribal nations and the U.S. Attorney General find a way to address the jurisdictional gap of authority over violent assaults against Native women when committed by non-Indians and deal with all of the elements needed to have justice in Indian Country.

Ms. Henry voiced her concern over VAWA 2005, Title 9, specifically the mandate of the establishment of a Tribal Sex Offender and Order of Protection Registry and the lack of implementation of this mandate. Ms. Henry recommended that the DOJ provide a status report on the implementation of the registry and that OVW take necessary steps to implement this mandate immediately.

Ms. Henry next addressed the issue of tribal consultations as directed by VAWA for DOJ and HHS to solicit recommendations from tribal leadership. She stated her appreciation of HHS participation in this year's consultation and remarked that it is long overdue. Ms. Henry stated that the federal agencies and their components should meet to solve interagency issues that may stand in the way of accomplishing the goals in the effort of preventing violence against Native women. She recommended that federal agencies seek base level funding for

tribes, coordinate training and technical assistance resources, and develop a MOA between agencies and their components.

Ms. Henry provided answers to the questions given in the agenda. She believed that combining the Tribal CTAS program with the Grants to Tribal Governments Program is complicated at this time. She thought that some of the questions may be tricky as they are offering a solution, but propose to take away something else. Ms. Henry further recommended that:

- OVW not combine the programs at this time, but possibly in the near future.
- DOJ should develop a tribal-wide training on tribal sexual assault response and coordinate with IHS about local task force activity to direct grant award implementation.
- FVPSA follow the statute and propose in the next reauthorization to cap administration costs with a tribal consultation.
- Federal agencies support the needs of tribal justice system infrastructure for resources, training, coordination, and funding of the different levels of details.

Ms. Henry closed with an appeal to stabilize the grant programs that are currently in place rather than reinventing something every year. This will go a long way in helping the tribes fully fund advocate positions and provide sorely needed services consistently.

Juana Majel-Dixon, Traditional Councilwoman, Pauma Band of Mission Indians (CA), co-chair to NCAI VAWA Task Force and Vice President of the National Congress of American Indians

Ms. Majel-Dixon thanked everyone for sharing their stories and examples and humbly thanked Vice Chair Wilson from Lummi for reading her letter. She thanked the federal partners for their patience in listening and staying through the entire consultation and reminded them to go to www.clanstar.org to view the Restoration Magazine, Volume 5, to view the legislative history on VAWA 2005.

Ms. Majel-Dixon is gravely concerned about Sex Offender Registration and Notification Act (SORNA) and the PL 280 states that are not addressing this issue concerning tribes. The National Sexual Assault Registry inside of VAWA 2005 was intended to help those tribes who cannot fit and follow underneath SORNA, nor are subjugated to what the states or counties might want to do. She gave an example of California, which is not on-board for the sexual assault registry. This means that 116 tribes are affected by California's decision, which is very dangerous for Native women. For tribes in PL 280 states the Department of Interior has a policy that denied tribes located in PL 280 states access to federal funds. She wants to ensure that a memo is sent to the tribes about the habitual offender piece and how it applies to Indian Country and requested the assistance of OVW to collaborate on the message. Ms. Majel-Dixon also wanted to reiterate that the statistics presented by the FBI are skewed, as non-Native offenders are not included in the data.

Ms. Majel-Dixon then commended HHS on their definition of what consultation should be with tribes. She hoped that other federal agencies at the same level will look at how HHS wrote the definition on collaboration with a good team of Native leaders to advise them. Ms. Majel-Dixon then addressed IHS.

She had questions about SANE and SART, and as Ms. Majel-Dixon understands the IHS policies, IHS nurses, including forensic nurses, who have completed their 8-hour shift, cannot go out and respond to a rape to collect evidence. If a victim has to wait for several hours before evidence can be collected, then the protocol in place revictimizes the woman. Ms. Majel-Dixon also raised a question about certifying SANE nurses and the challenges most tribes are facing to meet the requirements. She also talked about the challenges in funding SART for tribal communities, especially in PL 280 states where the state government does not want to work with tribes. Ms. Majel-Dixon spoke of the critical relationships needed to create a SART team and that includes interagency federal partner relationships among DOJ, Department of the Interior (DOI), and the BIA.

Ms. Majel-Dixon also voiced her concerns that mirrored Mr. Garcia's about the deputy director of tribal affairs not having the support to meet the statutory law's specific requirements for this position. She asked OVW Director Carbon to assist in seeing that the deputy director of tribal affairs provides tactical assistance to enforce the federal laws related to violence against Indian women, including civil and criminal litigation arising from those laws.

Marylouise Kelley, Director, Family Violence Prevention Division, Family and Youth Services Bureau, Department of Health and Human Services

Ms. Kelley thanked everyone for attending the consultation and said she appreciated the testimony and comments given throughout the day about FVPSA and on revising the requirements for state domestic violence and tribal coalitions. She reminded people to look in their meeting packets for FVPSA materials to read and take back to their communities. Ms. Kelley addressed the questions about the collaboration with tribes, states, and tribal coalitions. She believes it is incumbent upon the FVPSA staff to learn more about tribal coalitions and the ways that FVPSA can support the collaborations among tribes, states, and tribal coalitions. Ms. Kelley closed by saying that FVPSA will be working with the new national resource center, the National Indigenous Women's Resource Center, to address safety for Indian women.

Mose A. Herne (Akwesasne Mohawk), Acting Deputy Director, Division of Behavioral Health, Indian Health Service, Department of Health and Human Services

Mr. Herne thanked all the attendees for their comments and their patience. He stated that this experience was very educational and listening to the stories and testimony was informative and instructional for him. Mr. Herne stated that the response to domestic violence and sexual assault requires a coordinated, collaborative, and, as Mr. Garcia pointed out, holistic effort from tribal communities, federal partners, local and state partners, Indian health care providers and law enforcement including prosecution, advocates, judges, etc.

Mary Lou Leary, Principal Deputy Assistant Attorney General, Office of Justice Programs, Department of Justice

Ms. Leary thanked the attendees for taking time to provide testimony, comments, and recommendations. She was very moved by the letter read by Ms. Wilson of the Lummi Nation, and the words will echo to motivate everything done by DOJ. Ms. Leary also expressed her appreciation at having her shawl be part of the shawl ceremony.

Karol Mason, Deputy Associate Attorney General, Department of Justice

Ms. Mason thanked everyone for their time, conversation, and dialogue for this day as well as the past 2 1/2 years. She appreciated the development of the relationship between the tribal leaders and DOJ, and asked for continued patience as the DOJ works to address the domestic violence and sexual assault issues in Indian Country.

Susan B. Carbon, Director, Office on Violence Against Women, Department of Justice

Ms. Carbon commented on a couple of things. First, she noted that during the 904 Research Task Force meeting the day before and this morning at the beginning of the consultation, elders were asked for and provided their guidance about the consultation structure. During the day, she noticed the children in the room and she reflected upon the future. Ms. Carbon stated that despite differences on how best to do it, everybody has come here with an open mind and a will to do the right thing, and acknowledging that sometimes trying to figure out what that is and how best to do it is a challenge.

Ms. Carbon appreciated the time people took to prepare and present their statements as well as the people's honesty and candor. She thanked everyone for giving their time, thoughts, and perspective, and asked that the tribal leaders and representatives continue the conversation with OVW. Ms. Carbon encouraged submission of written testimony, which is open for 60 days. She acknowledged that the 2010 report missed the mark for dissemination and said that OVW will do their best to get a report out sooner.

Ms. Carbon reiterated the recommendations that she heard today as well as the themes that arose during the consultation:

- Need for training in law enforcement and prosecution
- Need for bench code development
- Funding challenges
- Not wanting to compete within tribe and between tribes
- Stability of the funding and work
- Importance of tribal sovereignty and how DOJ can support that
- Concept of a tribal family justice center to support the work

Ms. Carbon notified the attendees that the planning for the next tribal consultation will start soon and to contact the OVW with suggestions and ideas on how to design the agenda to meet everyone's expectations.

Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs, OVW

Ms. Edmo thanked Ms. Leary, Ms. Mason, and Ms. Carbon for their support for Indian Country issues and thanked the representatives from HHS as well because all are committed to trying to make lives better for tribal communities.

Ms. Edmo had a couple of housekeeping items to take care of before introducing Governor Quetawki for the closing ceremony. She announced the availability of the shuttle to the airport and that the agenda, written testimonies information, and extra copies of documents would be available as people leave the room.

Traditional Closing Ceremony

Governor Quetawki reminded the federal representatives that there is no "I" in team, and it really does take a team effort to move things forward. He appreciated everyone taking the time to come together and address the serious issue that affects everyone back home.

Governor Quetawki prayed to the Creator to give everyone the strength and wisdom to move this forward and make lives better for the children and the people. (Zuni prayer)

Ms. Majel-Dixon and others released the shawls and gave them back to their owners.

Adjournment

Ms. Edmo adjourned the tribal consultation for 2011.

Written Testimony Received after Tribal Consultation Event

Written testimony submitted by the tribe/Alaska Native village/tribal coalition were entered into the record and are summarized as follows. The written testimony listed is available for viewing on the OVW website at www.OVW.usdoj.gov.

Keweenaw Bay Indian Community

Keweenaw Bay Indian Community's written testimony, dated February 21, 2012, submitted the following comments and recommendations:

- Supports the reauthorization of VAWA 2011, in particular the provisions set forth in Title IX Safety for Indian Women.
- Supports the passage of the Stand Against Violence and Empowerment Act.
- Recommends that Congress enact legislation that would restore criminal jurisdiction to the American Indian nations over all persons within tribal jurisdiction and overturn *Oliphant v. Suquamish Indian Tribe*.

APPENDICES

Appendix A: Consultation Agenda

**DOJ/HHS Violence Against Women Tribal Consultation
December 15, 2011, Santa Ana Pueblo, NM**

8:00 AM- 8:30 AM **Registration**

Tribal leaders who wish to offer testimony may register to do so in the morning.

8:30 AM- 9:30 AM **Welcome & Introduction**

Lorraine Edmo (Shoshone-Bannock), Deputy Director for Tribal Affairs, Office on Violence Against Women, U.S. Department of Justice

Traditional Opening

Introduction of Federal and Tribal Representatives

Welcoming Remarks

Tom Perrelli, Associate Attorney General, U.S. Department of Justice

Overview of the day's agenda*

Lorraine Edmo

9:30 AM – 9:45 AM..... **Report from recent consultation sessions**

Virginia Davis, Deputy Director for Policy Development, Office on Violence Against Women, U.S. Department of Justice

Shena Williams, Administration for Children and Families, U.S. Department of Health and Human Services

Beverly Cotton, National SANE-SART Coordinator, Division of Behavioral Health, Indian Health Service

9:45 AM – 12:30 PM..... **Consultation on improving the response to sexual violence in tribal communities**

We are particularly interested in receiving input on the following questions:

- ***What resources and training are needed to ensure an effective response to sexual assault in your community?*** [please see Attachment #1 for background information]
- ***How can we facilitate effective, timely, two-way communication on our Agencies' sexual assault efforts and resources with you and your communities?*** [please see Attachment #1 for background information]
- ***What steps can the Indian Health System take to work with Tribes in the development of a comprehensive strategy that addresses sexual assault in Indian Country and in your community?*** [please see Attachment #2 for background information]

* The topics on today's agenda were developed with input from tribal leaders. Tribal leaders are, of course, welcome to raise additional issues that do not appear on the agenda.

TRIBAL CONSULTATION

12:30 PM – 1:30 PM.....Lunch

1:30 PM – 3:00 PM.....Consultation on Tribal Priorities for Reauthorization of the Violence Against Women Act (VAWA) in 2011

We are particularly interested in receiving input on the following questions:

- ***What types of resources will tribes need to implement the proposed recognition of tribal criminal jurisdiction included in the VAWA reauthorization legislation currently pending in Congress?***
[please see Attachment #3 for background information]
- ***Should OVW ask Congress to merge the Tribal Sexual Assault Services Program into its Grants to Tribal Governments Program?*** [please see Attachment #3 for background information]
- ***Are there additional legislative proposals that would enhance the safety of Alaska Native women that should be included in the VAWA reauthorization?***

3:00 PM – 5:00 PM.....Consultation on Grant Programs Authorized in VAWA and the Family Violence Prevention and Services Act (FVPSA)

We are particularly interested in receiving input on the following questions:

- ***Last year OVW changed its policy to permit tribes to apply for OVW tribal government grants every year, regardless of whether the tribe had an open award. Should OVW continue this policy this year?*** [please see Attachment #3 for background information]
- ***FVPSA reauthorized in December 2010. The reauthorization provided clear guidance to the States that not more than 5% of FVPSA funds should be utilized for administrative costs. Guidance was less clear for Tribes/Tribal organizations (including Alaska Natives). What is a reasonable cap on administrative costs for Tribal grants?*** [please see Attachment #4 for background information]
- ***What recommendations do the Tribes have for ensuring meaningful collaborations between the States, State Domestic Violence Coalitions, Tribes, and Tribal Coalitions?*** [please see Attachment #4 for background information]
- ***Section 309(b) of FVPSA provides that “an Indian Tribe shall have the option to authorize a tribal organization or a nonprofit private organization to submit an application and administer the grant funds...” – how do Tribes envision this working? What process seems workable to them so that there is a consistent standard used? Or is a consistent standard not possible and why?*** [please see Attachment #4 for background information]
- ***The Administration on Children, Youth and Families’ (ACYF) priorities focus on the social and emotional wellbeing of families. What are your recommendations or considerations regarding the provision of trauma/evidence informed services? What challenges might you face in delivering trauma/evidence informed services as HHS integrates these priorities throughout its services?***
[please see Attachment #4 for background information]

5:00 PM – 5:30 PM.....Closing Comments and Recess





U.S. DEPARTMENT OF JUSTICE
OFFICE ON VIOLENCE AGAINST WOMEN

2011 TRIBAL CONSULTATION

— ◆ REPORT ◆ —

Working Together to End the Violence

