RESOLUTION # 2012-2


WHEREAS, the National Native American Bar Association ("NNABA") works to promote issues important to the Native American community and to improve professional opportunities for Native American lawyers, we do hereby establish and submit the following resolution; and

WHEREAS, NNABA was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and NNABA strives to be a leader on social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians; and

WHEREAS, the crime rate in Indian Country is nearly twice the national average and more than 20 times the national average on some reservations; and

WHEREAS, the domestic and sexual violence against American Indian and Alaska Native women has reached epidemic proportions – 34 percent of native women will be raped in their lifetimes and 39 percent of native women will be subject to domestic violence; and

WHEREAS, the United States Department of Justice statistics show that 88% of all violent victimizations of Indian women from 1992 to 2001 were committed by non-Indians; nearly four of five Indian victims of sexual assault described the offender as white; and three out of four Indian victims of intimate partner violence identified the offender as a person of a different race; and

WHEREAS, the U.S. Census Bureau recently reported that 50% of all Native American married women have non-Indian husbands, and thousands of other Native American women cohabit with, formerly cohabited with, are divorced from, or share children in common with non-Indian men; and

WHEREAS, less than 3,000 tribal and federal law enforcement officials patrol more than 56,000,000 acres of land comprising Indian Country, which reflects less than half of the law enforcement present in comparable rural communities; and
WHEREAS, either the United States, or—in cases where the United States has delegated this authority to the state—the state government, has the authority to prosecute non-Indian offenders committing crimes against Native women on tribal lands; and

WHEREAS, federal authorities regularly fail to investigate and prosecute violent crimes in Indian communities, as is demonstrated by recent GAO study which found that, between 2005-2009, U.S. Attorneys’ Offices declined to prosecute 50 percent of the Indian country matters referred to them and 67 percent of those declined were sexual abuse and related matters; and

WHEREAS, state authorities in Public Law 280 states or those similarly situated likewise often fail to prosecute crimes occurring on Indian lands largely due to the fact that they do not receive any additional funding from the United States to handle Indian Country cases, which typically results in an understaffed police presence on Indian lands and a reluctance on the part of state prosecutors to take cases that arise there; and

WHEREAS, if either the federal government or the state government does not prosecute the non-Indian offender who commits crimes on tribal lands, then the offender goes free without facing any legal consequences for his actions, and the Native victim is denied any criminal recourse against her abuser; and

WHEREAS, federal law places limitations on Tribes’ ability to protect the safety and welfare of Indian women and children by restricting Tribes from exercising criminal jurisdiction over non-Indian perpetrators in Indian Country; and

WHEREAS, the federal government has not adequately allocated resources to fill the void of criminal prosecution of non-Indian offenders in Indian Country; and

WHEREAS, the complicated criminal jurisdiction scheme has exacerbated the crime rates and has been increasingly exploited by criminals; and

WHEREAS, the federal government has a treaty and trust responsibility to ensure the safety and welfare of Native Americans and Alaska Natives living in Indian Country, especially when federal laws limit the Tribes from exercising their inherent sovereignty to protect the safety and welfare of tribal members; and

WHEREAS, the Violence Against Women Act of 2005 should be reauthorized and amended to include tribal criminal jurisdiction provisions and to allocate resources for Tribes to prosecute non-Indian offenders.

NOW THEREFORE BE IT RESOLVED, that the National Native American Bar Association calls upon the United States Congress to reauthorize and amend the Violence Against Women Act by (1) restoring tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, and related crimes that are committed in Indian country; (2) allocating resources to tribes who wish to exercise the aforementioned criminal jurisdiction over non-Indians; and (3) clarifying that every tribe has full civil jurisdiction to issue and enforce protection orders involving any persons, Indian or non-Indian.
CERTIFICATION

The foregoing resolution was adopted by the membership at the Annual Meeting of the National Native American Bar Association, on Wednesday, April 18, 2012, with a quorum present.

Patty Ferguson-Bohnee, President

ATTEST:

Linda J. Arnold, Recording Secretary