

THE NATIONAL NATIVE AMERICAN BAR ASSOCIATION

RESOLUTION # 2019-04

TITLE: Calling on Congress to Pass Legislation Addressing Violent Crime in Indian Country and Providing Victim Assistance

WHEREAS, the National Native American Bar Association (“NNABA”) was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and NNABA promotes and addresses social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians; and

WHEREAS, domestic violence in Indian country is at epidemic levels,¹ and American Indian and Alaska Native (AI/AN) women are less likely to have access to needed services;² and

WHEREAS, Special Domestic Violence Criminal Jurisdiction (SDVCJ) provisions included in the 2013 Reauthorization of the Violence Against Women Act (VAWA) reaffirmed tribal authority to exercise limited inherent criminal jurisdiction over non-Indians for dating violence, domestic violence, and the violation of protection orders,³ which improved the safety and security of reservation residents;⁴ and

WHEREAS, tribal nations that have implemented VAWA’s SDVCJ provisions have proven that tribes can and do afford non-Indians Congressionally-sanctioned due process protections, including a right of review in federal court on a habeas corpus petition; and

WHEREAS, SDVCJ has proven effective in addressing certain crimes in Indian Country, but as a consequence of the limited nature of this jurisdiction, other gender-based

¹ See NCAI Policy Research Center, *Research Policy Update: Violence Against American Indian and Alaska Native Women*, National Congress of American Indians (Feb. 2018), http://www.ncai.org/policy-issues/tribal-governance/public-safety-and-justice/violence-against-women/VAWA_Data_Brief_FINAL_2_1_2018.pdf (noting that AI/AN women experience higher rates of domestic violence); André B. Rosay, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey*, U.S. Department of Justice (May 2016), <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf> (noting that more than four in five AI/AN women have experienced violence in their lifetime; more than half of AI/AN women have experienced sexual violence in their lifetime; and the murder rate of AI/AN women is almost three times that of non-Hispanic White women).

² See NCAI Policy Research Center, *supra* note 1 (“AI/AN women are 2.5 times as likely as non-Hispanic white women to lack access to needed services.”).

³ 25 U.S.C. § 1304(c).

⁴ See Angela R. Riley, *Crime and Governance in Indian Country*, 63 UCLA L. REV. 1564, 1572 (2016) (“[I]mplementation has been a success in several respects. Tribes have provided defendants with the requisite procedural protections, and the preliminary data reveal that the laws are improving the safety and security of reservation residents.”). See also National Congress of American Indians, *VAWA 2013’s Special Domestic Violence Criminal Jurisdiction Five-Year Report* (Mar. 20, 2018), www.ncai.org/resources/ncai-publications/SDVCJ_5_Year_Report.pdf (noting that within the first five years of SDVCJ implementation, there were 143 arrests resulting in 74 convictions. The 85 defendants accounted for 378 prior contacts with tribal police. At least 73 defendants had criminal records.)

violence committed by non-Indians, such as sexual assault, trafficking crimes, stalking crimes, as well as attendant crimes to domestic violence, such as child abuse and assaults on tribal police officers and bailiffs, cannot be tribally prosecuted;

WHEREAS, victims of such crimes in Indian Country often lack access to victim resources;

WHEREAS, tribal nations and their law enforcement authorities lack access to federal crime information databases that would aid in protecting people in their jurisdictions, investigating crime, and bringing perpetrators to justice;

WHEREAS, tribal nations have a moral obligation to ensure the protection of their entire community regardless of race, citizenship, or relations to tribal citizens, which in turn mandates that tribal nations have the ability to hold all perpetrators accountable for crimes committed in their communities; and

WHEREAS, NNABA's goal is to ensure that violent crime will not be tolerated on tribal lands, and the reauthorization of VAWA will bring great benefits to Indian communities and their neighbors in public safety, health, productivity, economic development, and the well-being of our people.

NOW THEREFORE BE IT RESOLVED, NNABA calls on the United States Congress to pass legislation reaffirming the inherent authority of tribal nations to prosecute crimes committed by non-Indians against Indians in Indian Country, including sexual assault, trafficking crimes, stalking crimes, child abuse, and crimes that co-occur with those offenses such as assaults on tribal police officers and bailiffs;

NOW THEREFORE BE IT FUTHER RESOLVED, NNABA calls on the United States Congress to pass legislation providing tribal nations with access to crime databases necessary to prevent and investigate crimes and to bring perpetrators to justice;


NOW THEREFORE BE IT FURTHER RESOLVED, NNABA calls on the United States Congress to pass legislation creating a permanent set-aside for tribal nations in the Crime Victims Fund;

NOW THEREFORE BE IT FURTHER RESOLVED, that NNABA calls on the United States Congress to reauthorize VAWA; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NNABA until it is withdrawn or modified by subsequent resolution.

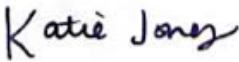
CERTIFICATION

The foregoing Resolution was adopted by the Board of Directors of the National Native American Bar Association, on April 10, 2019, via online voting pursuant to § 4.9 of the Native American Bar Association Bylaws.



Joel W. Williams, President

ATTEST:



Katie Jones, Secretary