

# Reauthorize VAWA to Strengthen Tribal Provisions, Protect Native American Women

Reauthorize the Violence Against Women Act (VAWA) to include the tribal provisions within S. 2843 and H.R. 1585 that provide essential protections for American Indians and Alaska Natives and that uphold the federal trust responsibility to 573 sovereign Native Nations.

## Why this issue matters

In a letter addressed to Senate Leaders and issued on December 19, 2019, members of the bipartisan Congressional Native American Caucus highlighted the following points:

According to the National Institute of Justice, American Indian and Alaska Native (AI/AN) women experience murder rates more than ten times the national average and experience rape at a rate of twice the national average.

Additionally, four out of five Native American women have faced violence during their lifetime, and the vast majority of these victims have experienced violence at the hands of at least one non-Native American perpetrator.

According to the U.S. Department of Justice, more than one-third of the Indian Country cases referred to them are declined, and about 37 percent of the Indian Country cases referred to U.S. Attorneys' Offices are left unprosecuted.

For these reasons, in 2013, Congress created legislation enabling sovereign tribal governments to prosecute perpetrators who choose to commit these gender-based crimes against AI/AN women, abuse Native children, or assault law enforcement on tribal lands. As detailed in a five-year report issued by the National Congress of American Indians, VAWA 2013's limited reaffirmation of inherent tribal criminal jurisdiction over non-Indians is known as Special Domestic Violence Criminal Jurisdiction (SDVCJ).

## What the research says

**Understanding the historical context of violence in AI/AN communities is vital to understanding our current situation.** In a 2018 white paper, the Society of Indian Psychologists explained that violence is a legacy lived within many AI/AN families resulting from generations of physical, sexual, psychological, and spiritual abuse since colonization began.

**Many AI/AN women strongly believe authorities will not do anything if they report their victimization to law enforcement.**

According to the Society of Indian Psychologists, incidents go unreported for many reasons, including mistrust of law enforcement officials, mistreatment by judicial and law enforcement entities, and revictimization through the legal system process.

**Belonging to a socially invisible community has consequences beyond being misunderstood and stereotyped.** As noted by psychologists Iva GreyWolf, PhD and Charlotte McCloskey, PhD, Native Americans are often overlooked, considered extinct, romanticized, forgotten, and bear the burden of negative stereotypes.

**Twenty-five Tribes are known to be exercising SDVCJ.** As of June 2019, the twenty-five Tribes that have implemented SDVCJ have collectively reported 237 arrests of non-Indian abusers leading to 95 convictions. ***Although preliminary, the absence of habeas petitions suggests the fairness of tribal courts and the care with which Tribes are implementing SDVCJ.***

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## Policy recommendations

VAWA 2013 made important inroads. However, more needs to be done.

As described in their December 19 letter, the bipartisan Congressional Native American Caucus would like to see a reauthorization of VAWA that ensures tribal sovereignty, upholds Congress' trust responsibility and specifically allows tribal governments to close jurisdictional loopholes that have long victimized AI/AN women and children.

Such a reauthorization would:

- Ensure that VAWA's tribal grant programs cover essential costs to prosecute perpetrators who victimize Native women and children;
- Close jurisdictional gaps by restoring Tribes' inherent authority to exercise jurisdiction over additional crimes (including sexual violence, stalking, sex trafficking, assault against law enforcement, child abuse and endangerment);
- Expand the Tribal Access to National Crime Information Program (TAP);
- Address specific jurisdictional issues for Alaska Native women to expand safety resources; and
- Bolster response and access to data for missing and murdered AI/AN women.

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