

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.

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

Attachment #1 – Consultation on Improving the Response to Sexual Violence (DOJ)

Consultation Question: *What resources and training are needed to ensure an effective response to sexual assault in your community?*

Consultation Question: *How can we facilitate effective, timely, two-way communication on our Agencies' sexual assault efforts and resources with you and your communities?*

Background

The Department of Justice has launched two initiatives, summarized below, that are aimed at improving the response to sexual assault in tribal communities. We are interested in learning from tribal leaders how we can make the best use of these resources to provide appropriate training and resources to tribal communities and ensure effective communication about our efforts.

OVC American Indian and Alaska Native SANE-SART Initiative

Through the **American Indian and Alaska Native (AI/AN) Sexual Assault Nurse Examiner (SANE)–Sexual Assault Response Team (SART) Initiative**[†], the Office for Victims of Crime (OVC) provides support to enhance AI/AN communities' capacity to provide high-quality multidisciplinary services and support for adult and child victims of sexual assault. OVC, in collaboration with the Indian Health Services (IHS), the Office on Violence Against Women (OVW), the Federal Bureau of Investigation (FBI), and the Department of Interior's Bureau of Indian Affairs (DOI/BIA) want to learn from you how we can ensure that this initiative, specifically the Federal Advisory Committee and National Training Strategy described below, is responsive to the families, individuals and victims/survivors in your community.

In the first year of this program, OVC consulted with federal and tribal partners, and convened a focus group that included tribal representatives at the local, regional, and national levels with expertise in sexual assault. By listening to diverse perspectives, OVC learned about many significant challenges—including jurisdictional complexity and the diversity of tribes in terms of culture, geography, and resources—that can undermine the establishment of effective interventions. To date, OVC has funded 3 demonstration sites, a Training and Technical Assistance provider, 2 federal coordinating positions—one at FBI and one at IHS and implemented a Federal Advisory Committee (Committee).

Committee

With the support of the Attorney General, OVC established the Committee to address the myriad challenges related to jurisdictional and cultural issues. The goals of the Committee are to inform OVC and its Federal, Tribal, and non-governmental partners of existing resources, challenges, and gaps related to sexual assault response, and to make funding, training, and policy recommendations that will enhance community capacity to provide services and support for victims of sexual violence. In addition, OVC will convene subcommittees to support the Committee's work. Members will include Tribal representatives, experts in the sexual assault services field, and individuals who have experience working with AI/AN communities. OVC anticipates that the first meeting will be held in February-

[†] A more in-depth summary can be found at the following website (http://ovc.ncjrs.gov/provisional/SANE-SART_AI_AN_Initiative.pdf).

March 2012. The meetings are open to the public and there will be opportunities for written comments.

AI/AN SANE-SART Training Strategy (National Training Strategy)

Recognizing the complexities of addressing sexual violence in tribal communities and the need for coordinated efforts within federal agencies and across AI/AN communities, OVC is implementing a National Training Strategy with an emphasis on cultural-responsiveness training for federal agencies and stakeholders that are involved in a national, state and tribal response to sexual violence. OVC is interested in hearing from tribal leaders about their training needs and how training can improve the federal government response to sexual assault in Indian Country.

OVW's National Indian Country Clearinghouse on Sexual Assault

OVW has provided funding for the establishment of a national clearinghouse on the sexual assault of Native women. The National Indian Country Clearinghouse on Sexual Assault (NICCSA) is in the research and development phase of a comprehensive, user friendly website (www.NICCSA.org). The site will be a valuable tool for professionals promoting safety, justice, and healing for American Indian/Alaska Native victims of sexual violence. Among the many features of the site is a listing of all certified Sexual Assault Nurse Examiners in the country (searchable by state) and updated listings of all Sexual Assault Nurse Examiner certification courses in the United States. The NICCSA website will provide access to sexual violence case law, federal statutes, tribal codes, important journal articles from a wide variety of disciplines, updates from the field, downloadable audio and video lectures from leading tribal healthcare and criminal justice experts, links to federal agencies and non-profit organizations, as well as original content detailing successful strategies to improve outcomes for victims and tribal communities. The NICCSA clearinghouse is designed as a one stop shop for information on sexual violence against American Indian/Alaska Native women and teen girls and includes a toll-free hotline to provide personalized assistance in problem solving complex legal, forensic, and programmatic challenges for tribal callers.

The project also includes offering technical assistance to individual tribes in assessing the feasibility of developing and implementing a SANE/SART response in their communities. A limited number of tribes will be able to receive on-site assistance with developing and implementing a systemic response to sexual assault.

Attachment #2 – Improving the Response to Sexual Violence (IHS)

Consultation Question: *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?*

Background

Sections 17 and 25 of the Tribal Law and Order Act of 2010 (TLOA), Public Law 111-211 required the Indian Health Service (IHS) to consult with Tribal organizations and the Department of Justice (DOJ) Office on Violence Against Women, to develop standardized policies for addressing sexual assault that are consistent with DOJ policies. As a result, the IHS has developed a sexual assault policy that will enable more American Indians and Alaska Natives (AI/AN) to get the care they need to heal and will aid the justice system in holding perpetrators accountable by:

- Standardizing the care for sexual assault survivors at IHS hospitals and clinics;
- Providing direct access to trained sexual assault forensic examiners 24 hours a day, 7 days a week;
- Encouraging personnel to collect accurate evidence in a timely manner and to assist the patient, law enforcement, and prosecution in adjudicating criminal acts;
- Ensuring survivors' needs are addressed, and;
- Supporting community efforts to participate in a sexual assault response team.

This policy was released March 2011 and is available online at:

www.ihs.gov/IHM/index.cfm?module=dsp_ihm_pc_p3c29

Domestic Violence Prevention Initiative (DVPI): IHS's DVPI expands outreach and increases awareness about domestic violence and sexual assault by funding projects that provide victim advocacy, intervention, policy development, community response teams, and community and school education programs.

- In March 2009, Congress appropriated \$7.5 million to the IHS in the Omnibus Appropriations Act.
- For FY 2010, Congress added an additional \$2.5 million for a total of \$10 million.
- The DVPI has awarded 65 projects to IHS-, Tribal-, and Urban-operated programs.
- Funding is also being used for medical forensic training and to purchase forensic equipment.

Recommendations: The IHS has developed the following planning recommendations for ongoing improvements for domestic violence and sexual assault services:

1. Develop IHS policies and procedures for domestic violence, child sexual abuse, and elder abuse;
2. Develop a sexual assault policy for all IHS facilities (beyond hospitals);
3. Revise the IHS Sexual Assault Policy based on comments received from Tribes, Urban Indian leadership, the DOJ, and the Government Accountability Office;
4. Develop an IHS Sexual Assault Policy Implementation and Monitoring Plan;
5. Offer Sexual Assault Nurse Examiner-Sexual Assault Forensic Examiner-Sexual Assault Response Team training and provide forensic examination equipment for 28 IHS and 17 Tribal hospitals by December 31, 2012; and
6. Develop and offer domestic violence/sexual assault (DV/SA) training and curriculum for IHS facilities.

We are committed to meaningful consultation with Tribes and Tribal organizations in order to move forward with these recommendations. Your suggestions for specific improvements are essential.

Attachment #3 – VAWA Reauthorization and Administration of VAWA Grants

Consultation Question: *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?*

Background:

On November 30, 2011 Senators Leahy and Crapo introduced S. 1925, a bill to re-authorize the Violence Against Women Act of 1994, which includes several provisions related to tribal governments that were proposed earlier this year by DOJ. These provisions were also included in S. 1763, the Stand Against Violence and Empower Native Women Act, also known as the SAVE Act, which was recently introduced by Senator Akaka. DOJ's proposals, which address tribal criminal jurisdiction, tribal civil jurisdiction, and federal criminal offenses, were developed in response to concerns raised by tribal leaders in previous consultation sessions.

Tribal leaders have repeatedly expressed concern that the crime-fighting tools currently available to their prosecutors differ vastly, depending on the race of the domestic-violence perpetrator. If an Indian woman is battered by her Indian husband or boyfriend, then the tribe typically can prosecute him. But absent an express Act of Congress, the tribe cannot prosecute a violently abusive husband or boyfriend if he is non-Indian. DOJ's proposal recognizes certain tribes' power to exercise concurrent criminal jurisdiction over domestic-violence cases, regardless of whether the defendant is Indian or non-Indian.

Fundamentally, this legislation builds on the Tribal Law and Order Act (TLOA). The philosophy behind TLOA was that tribal nations with sufficient resources and authority will be best able to address violence in their own communities; it offered additional authority to tribal courts and prosecutors if certain procedural protections were established. Similar to TLOA, the additional tribal authority contemplated in DOJ's proposal would be available only to those tribes that guarantee sufficient protections for the rights of defendants. Tribes exercising this statutorily recognized jurisdiction over crimes of domestic violence would be required to protect a robust set of rights, similar to the rights protected in State-court criminal prosecutions. This approach thus builds on the Indian Civil Rights Act of 1968, as amended in 1986 and 1990, and on TLOA. Tribes that choose not to provide these protections would not have this additional authority.

DOJ recognizes that expanding tribal criminal jurisdiction to cover more perpetrators of domestic violence would tax the already scarce resources of most tribes that might wish to exercise this jurisdiction. The proposed legislation would authorize \$5 million in grants to support tribes in strengthening their criminal-justice systems, providing indigent criminal defendants with licensed defense counsel at no cost to those defendants, ensuring that jurors are properly summoned, selected, and instructed, and according crime victims' rights to victims of domestic violence. DOJ is interested in hearing from tribal leaders what kinds of resources will be needed for tribes to make use of the recognition of tribal jurisdiction included in the Leahy/Crapo bill and the SAVE Act.

Consultation Question: *Should the Department of Justice seek legislative consolidation of the Office on Violence Against Women's (OVW) Grants to Indian Tribal Governments (Tribal Governments) and Tribal Sexual Assault Services (Tribal SASP) Programs?*

Background:

In the Violence Against Women Act of 2005 (VAWA 2005), Congress authorized the Tribal Governments Program, which is designed to enhance the ability of tribes to respond to violent crimes against Indian women. In contrast to OVW's previous tribal program, which had been hindered by low levels of funding and inflexible

statutory requirements, the Tribal Governments Program is funded by statutory set-asides from seven other OVW grant programs and permits grantee Indian tribal governments to pursue a broad spectrum of activities. Only tribal governments and their designees are eligible to receive Tribal Governments Program funding. In FY 2012, we anticipate that we will have approximately \$30-\$35 million available for awards in the Tribal Governments Program.

In VAWA 2005, Congress also authorized the Tribal Sexual Assault Services Program (TSASP), the purpose of which is to provide intervention, advocacy, accompaniment (e.g., accompanying victims to court, medical facilities, police departments, etc.), support services, and related assistance for adult, youth, and child victims of sexual assault, family and household members of victims, and those collaterally affected by the sexual assault. which funds direct services to adult and child victims of sexual assault. By statute, OVW may award TSASP funds to Indian tribes, tribal organizations or nonprofit tribal organizations; in FY 2010, through the CTAS process, OVW awarded these funds only to Indian tribes. OVW did not make any awards for the Tribal SASP program in FY 2011 because we did not receive any proposals that met the statutory requirements of the program.[‡] In FY 2012, we anticipate that we will have approximately \$2 million available for awards in the TSASP program.

While the Grants to Tribal Governments Program is a very broad and flexible program that permits a wide range of activities, TSASP is much more narrowly focused on providing services to victims of sexual assault. All of the activities authorized under TSASP can also be undertaken under the Grants to Tribal Governments Program, with two exceptions: TSASP funds may be used to provide services to child sex abuse victims and to family members and others who may be collaterally impacted by a sexual assault. Given the substantial overlap in the two programs, DOJ is considering whether to ask Congress to consolidate the TSASP program into the Tribal Governments Program. Under such a consolidation, funding from TSASP would be directed into the Tribal Governments Program and administered as part of that program. Tribal governments, or their designees, would submit a single project proposal to apply for the funds and recipients of Tribal Governments funding would be able to use these funds for any of the existing Tribal Governments statutory purpose areas, as well as those found in the TSASP. TSASP would cease to operate as a separate program. The Department could seek this consolidation as part of the appropriations process or during the next reauthorization of the Violence Against Women Act.

Consultation Question: *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?*

Background:

In a change from OVW's past policies, in FY 2011 all tribes were permitted to apply for OVW funding through the Coordinated Tribal Assistance Solicitation (CTAS) regardless of whether they had an existing Grants to Tribal Governments or TSASP award, so long as the new application was for different activities. The rationale

[‡] The money available for awards in 2011 will be made available for grants in 2012. OVW plans to administer TSASP and the Grants to Tribal Governments program as two separate purpose areas in DOJ's Coordinated Tribal Assistance Solicitation this year, as was done in FY 2010.

behind this change is that tribal governments provide a wide range of services related to preventing and responding to violence against women and one part of the tribal government should not be precluded from applying for funding to support new activities simply because another project is already underway in another part of the tribe. For example, if the tribe has a grant to provide victims services, this should not preclude the tribal court from applying for funds to establish a special domestic violence docket or other project. This change in policy resulted in a significant increase in the number of applications in FY 2011. OVW is seeking input from tribal governments about whether this change should be continued.

Attachment #4 - Administration of FVPSA Grant Programs

Family Violence Prevention and Services Act (FVPSA)

Question

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?

Background Information

As the FVPSA program prepares to establish clearer guidance to the Tribes in the regulations, there has been some effort to become more familiar with the administrative cap allowances in other federal grant programs. Findings are that the administrative cap for many federal grant programs vary. For example: 1) Program "A" does not exercise an administrative cap - therefore the program office will recognize the Tribe's approved cost/rate. 2) Program "B" exercises a 15% cap with the option of some flexibility for a higher percentage if the grantee submits documentation citing "hardship"; and 3) Program "C" negotiates the cost/rate based on paperwork submitted by the grantee. *(This is not an all inclusive list)*

The language in the FVPSA regarding the usage of FVPSA funds states that: Not less than 70 percent of funds distributed for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents.

Based on the statute's guidelines, what are your recommendations or considerations regarding a reasonable cap on administrative costs for FVPSA tribal grants?

Question

What recommendations do the Tribes have for ensuring meaningful collaborations between the States, State Domestic Violence Coalitions, Tribes, and tribal Coalitions?

Background Information

Historically, HHS/ACF guidance to States and State Domestic Violence Coalitions has been to collaborate and coordinate domestic violence services and programming with Tribes and tribal organizations. The reauthorized statute makes clear that States and State Domestic Violence Coalitions are required to collaborate with Tribes and tribal organizations to address the needs of Indian (including Alaska Native) and Native Hawaiian victims of family violence, domestic violence or dating violence, as applicable in each State.

Following are two examples of actions taken by ACF to address Tribal accessibility and meaningful collaboration with States and State Domestic Violence Coalitions:

- 1) In FY 2011 the FVPSA program worked more robustly with States and Tribes to identify issues that create barriers to meaningful collaboration and access to funding. For example, the State of Maine and the Maine Coalition to End Domestic Violence are working to change organizational and grant policies to provide greater accessibility to Tribes and Tribal Organizations. It is anticipated that proposed changes will ensure Tribal participation in statewide planning and eligibility for funding.

- 2) The FVPSA Program is planning a regional grantee meeting in Alaska in 2012 to bring together Tribes and tribal organizations, the State, and the State Domestic Violence Coalition to share promising practices and identify and address successes and challenges for meaningful collaborations.

Question

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?

Background Information

It is important that HHS/ACF administer grant funding with procedures that are responsive to Tribal requirements and needs. Deference to Tribal decisions can often best be accomplished by understanding Tribal requirements for delegating authority to entities acting on behalf of a Tribe. ACF wants to ensure that when it receives applications from an entity other than a Tribe that Tribal procedures, if implemented by the Tribe, have been observed and approved by the Tribe. Further clarity on what is acceptable to the Tribes regarding their policies in this regard would be helpful for effective grants administration.

Question

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 the Department of Health and Human Services focuses on these services?

Background Information

The Administration on Children, Youth and Families (ACYF) is committed to facilitating healing and recovery and promoting the social and emotional well-being of adult, children, youth and families who have experienced exposure to violence, maltreatment, and/or trauma. An important component of promoting well-being in this regard includes addressing the impact of trauma which can have profound impacts on coping, resiliency and skills development. The ACYF promotes a trauma-informed approach, which involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress across the lifespan. Moving forward, as programs plan to provide supportive services to their clients, priorities must include responses that help support trauma-informed services to ensure positive outcomes. Training and technical assistance on trauma informed care will be available through collaborative efforts of the National Indigenous Women’s Resource Center and the state domestic violence coalitions.