

OVW Government to Government Consultation – New Buffalo, Michigan
August 21-22, 2019

Jane Root, Executive Director
Wabanaki Women’s Coalition, Tribal Designee
TESTIMONY OF THE WABANAKI TRIBES OF MAINE
Aroostook Band of Micmac - Edward Peter Paul, Tribal Chief
Houlton Band of Maliseet – Clarissa Sabattis, Tribal Chief
Passamaquoddy at Indian Township – William J. Nicholas, Sr, Tribal Chief
Passamaquoddy at Pleasant Point – Marla Dana, Tribal Chief
Penobscot Indian Nation – Kirk Francis, Tribal Chief

Good Morning, OVW Acting Deputy Director Laura L. Rogers, Deputy Director for Tribal Affairs Sheriann Moore, Distinguished Tribal Leaders and representatives from across Indian Country and Alaska, Distinguished Federal Partners, my Coalition sisters and guests.

I am Jane Root, Executive Director of the Wabanaki Women’s Coalition the Tribal Domestic and Sexual Violence Coalition in Maine. I come before you today as the Designee for the five Wabanaki Tribal Governments. Specifically, Chief Peter Paul of the Aroostook Band of Micmac located in Northern Maine, a rural area on the N Canadian border with a tribal enrollment of 1,444 members. Chief Sabattis of the Houlton Band of Maliseet also located in Northern Maine along the Canadian border with a tribal enrollment is 1,804. The service area for both is Aroostook County, which is approximately 6,672 square miles, larger than the states of Connecticut and Rhode Island combined. It’s an economically depressed county, which makes finding affordable housing, transportation, and employment very difficult for everyone but especially for Tribal members. Chief Nicholas of the Passamaquoddy at Indian Township is located in Washington County, Maine, located in the northeastern part of the state, bordering Canada. The county covers 2,568 square miles with fewer than 34,000 residents. Approximately 1100 members live on the Indian Township reservation. Chief Dana of the Passamaquoddy at Pleasant Point also located in Washington County. The enrollment is 2,213. Declining employment opportunities have contributed to lower incomes and limited economic prospects, making Washington County the most impoverished county in Maine. On the Passamaquoddy reservations, the unemployment rate is 65% (USDOJ 2009). Chief Francis of the Penobscot Indian Nation located in Penobscot County. It is the only reservation that is near an urban

area. Although in Maine with a total population of less than 1.5 million people an urban area is a town larger than 10,000 residents. The Penobscot Nation has one of the oldest continuously operating governments in the world. Currently, the census lists 2,404 members. The land base today is only a fraction of what their ancestors occupied. Their ancestral territory included many rivers that flow into the Gulf of Maine. These include all the watersheds from the Machias River in the east, to Cape Ann in Massachusetts.

As research has shown, American Indians and Alaskan Natives are 2.5 times more likely to suffer sexual violence compared to all other races, and one in three Indian women reports having been raped in the course of her lifetime. The five Wabanaki communities are fortunate in that each has an OVW funded Domestic and Sexual Violence Advocacy Center that serve the victims/survivors of domestic and sexual violence, dating violence, stalking and sex trafficking. The five Centers are members of the Wabanaki Women's Coalition which is funded by the OVW Tribal Coalition Grants. The Advocacy Centers report that their most used and helpful TA provider is the Wabanaki Women's Coalition.

Reauthorization of VAWA

As we continue to work toward the next reauthorization of VAWA, we ask for the continued support of our Tribal brothers and sisters as well as our non-native allies whose support to date has helped to get the inclusion of the Tribes in Maine and Alaska specifically named in the House passed version of the VAWA reauthorization. We must not think the fight for inclusion is over however as the battle to get inclusion in the Senate version is still very much on. It is notable that Maine Governor Janet Mills has submitted a letter of support for the specific language in the reauthorization of VAWA to include the Maine Tribes.

The Maine Implementing Act and the Maine Indian Claims Settlement Act (The Acts), of 1980 have created barriers to the safety of Native women in Maine and the full application of the tribal provisions of the VAWA 2013. The full implementation of the VAWA by Indian tribes in Maine is prevented due to the interpretation of these provisions by the State. Further, these Acts articulate a jurisdictional relationship between the Tribes and the State of Maine that impedes the full implementation of VAWA and prevent Indian tribes from fully safeguarding the lives of women within tribal jurisdiction. The Acts delineated a framework for the application of Federal Indian Law for the Indians, or Indian nations, tribes, or bands of Indians and created a mechanism for overriding the framework and include the following two provisions questioned by Indian tribes.

Section 1735 b

The provisions of any Federal law enacted after October 10, 1980, for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would **affect or preempt the application of the laws of the State of Maine**, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this subchapter and the Maine Implementing Act, shall not apply within the State of Maine, **unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.**

Section 1725 h

(h) General laws and regulations affecting Indians applicable, but special laws and regulations inapplicable, in State of Maine. Except as otherwise \1\ provided in this subchapter, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States **(1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.**

RECOMMENDATION: The Tribal provisions of the Reauthorization of the Violence Against Women Act, all previous Tribal provisions and all subsequent Tribal provisions shall apply within the State of Maine and Alaska.

Regarding Full Access to Federal Database (NCIC)

TOLA requires the Attorney General to permit Indian law enforcement agencies to enter information into and obtain information from federal criminal information databases. While we congratulate the TAP initiative to date it is not enough.

RECOMMENDATION: Not only should TAP be expanded it needs to be fully funded and expanded to afford all Tribes the opportunity to access NCIC that wish to do so including those that do not currently have tribal law enforcement or tribal court.

Expansion of VAWA 904 Jurisdiction

The House version of the reauthorization of VAWA includes expansion of 904 to broaden tribal criminal jurisdiction over non-Indian perpetrators of domestic violence, sexual assault, dating violence, and stalking and child abuse. We ask that the House version receive continue full support from our allies and Tribal sisters and brothers.

CTAS Purpose Area 5: TRANSITIONAL HOUSING ASSISTANCE: The current OVW policy on Transitional housing assistance requires the victim to leave her (and her children's) home and relocate in order to qualify for Transitional Housing Assistance. This is counter to best practice which would be that the victim be able to stay in her housing (rental) and the abuser be removed. For instance, Jane Doe comes into emergency shelter with her children. She gets a Protection from Abuse Order that stipulates he must leave the home. She is now safe to go back. However, with the abuser gone she can no longer afford rent, utilities, etc. If she returns to the home she and her children have lived in the Advocacy program cannot provide her transitional housing assistance. However, if she moves into another rental they can. Is this Victim Centered services? A statutory change needs to be made to remove 'relocate' from the wording. We have brought this issue to this floor in past Consultations. Our Advocacy Centers remind us constantly of the barrier this presence to victims.

Another Transitional Housing Assistance issue that our Domestic and Sexual Violence Advocacy Center staffs continue to ask us to address is the purchase of furniture for Transitional Housing Assistance participants. Many of the survivors they work with come into shelter with just the bare minimum of belongings. When they enter the transitional housing assistance program they are starting from scratch. They need beds, table and chairs, kitchen items, and so forth. OVW PA 5 has notified grantees that they may only purchase household items such as furniture with approval of the Program Manager and that the furniture must be returned to the Advocacy Center when the Survivor ages out of the Transitional Housing Program. For us that is 8 months. Our grants are not large enough to offer but the bare minimum of assistance for furniture so therefore most times they are purchasing used furniture, most usually beds. This is unconscionable. First, who would ask a survivor and their children to return their beds because they are no longer eligible to keep them? Second, what is the Advocacy Center going to do with used furniture? Who deserves to have their beds be taken because the

Advocacy Program is no longer providing assistance. This appears to be a fairly recent change in the OVW policy regarding purchasing furniture for Transitional Housing Assistance participants. The Advocacy Centers report that in conversations with other grantees they are not aware of this requirement.

RECOMMENDATION: We ask that OVW clarify the issue of purchasing furniture and the requirement of retaining (when furniture purchase that is allow) from the survivor when they ‘aged out’ of the program verbally today and in writing to all grantees. Remove ‘relocate’ from the statue. Revise the rule that has been interrupted to require a grantee to get a program manager approval to provide transitional housing assistance in the form of furniture and then further require the survivor return the furniture to the tribal advocacy program at the end of the provided assistance period today and in writing to all grantees.

CTAS PA 5 GRANT APPLICATION: In the 2019 CTAS Solicitation it states that the PA 5 OVW Grants to Tribal Governments Abstract not exceed 10 pages. It was stated by OVW that this much lower page requirement was a request of the Tribes at Consultation. Whether this is correct or not it is problematic. The grant application used to limit it to 20 pages. As the grant writer for OVW funding for 16 + years I found the 20-page limit restrictive. Our tribal victims service providers tell us that 10 pages is woefully inadequate to provide the requested information; additionally, include the required timeline and give the grant reader an adequate picture of what was being proposed.

RECOMMENDATION:

The FY2020 CTAS Solicitation CTAS PA 5 Abstract be required to be no less than 10 pages and no more than 15 pages.

FORMULA FUNDING

The Wabanaki Tribes DO NOT support formula funding with the OVW Tribal Governments funding that is population based. Several years ago OVW proposed moving to formula funding. What many who now suggest this idea again may not understand what this would mean for smaller Tribes. When this was being suggested before OVW put out a paper showing what the funding levels would look like. For our Tribes it would mean receiving \$75,000. After you take out IDC (which varies for each of our Tribes, the highest being over 60%) they would be left with a dismantled program. Where today our Advocacy Centers provide the full range of victim services that are needed to meaningfully provide the safety net for victims of domestic and sexual violence in our communities we would be reduced to having

no resources prevention or intervention. Some may be under the false impression that formula funding means you don't have to apply for this funding or be held to requirements different than they are under discretionary funding. We have heard DOJ programs including OVC and OVW refer to the FVPSA formula as a model for the distribution of funding. The FVPSA Formula is NOT a model of how to do it. The FVPSA formula has been determined for many years now to not be equitable for the majority smaller Tribes.

RECOMMENDATION: We all now know that over 1.6 million dollars was not awarded in 2019 from OVW Grants to Tribal Governments and has been rescinded and that 25 million was not awarded from the 2018 OVC Set Aside funds and in fact was returned to the general VOCA fund. Furthermore 2019 OVC Set aside looks to have even more funds that will go to Tribes. Therefore, we recommend that on site direct assistance to Tribes who desire funding to provide victim services be given by Tribal TA providers who have the experience and knowledge to provide such assistance. This should be a coordinated effort by OVW and OVC to ensure that ALL funds that have been earmarked for Tribes GOES TO TRIBES.

FVPSA

The tribal FVPSA funding predated the first funding that DOJ awarded after the passage of VAWA by several years. Most of our Tribes received FVPSA formula funding before they even had a victim services program. In 1998 the first Wabanaki Tribe to receive the STOP Violence Against Indian Women funding (as it was called then) was the Houlton Band of Maliseet Indians. This reader was given the honor of serving as the first Maliseet Domestic Violence Advocacy Program Director. The Tribal FVPSA grant was moved from the ICWA program to the new Maliseet Domestic Violence Response Program. The FVPSA Director then and for more many years before and after was Bill Riley. Bill Riley administered the Tribal FVPSA with the greatest consideration of the needs of Tribes. For our Tribes the funding was small but important because of its flexibility, its ease of applying for and its straight forward reporting requirement of just one annual report. The specific Tribal Program Specialist under Bill Riley was Shena Williams. Shena has work with and learned about us and our needs for many years. When Bill retired we had some trepidation about the new Director how they might change the Tribal grant fund that so many of us counted on. Mary Louise Kelley to our relief continued to support the Tribal FVPSA funding and the Tribal Unit. At least 7 years ago FVPSA asked Tribes for their feedback regarding the formula used to distribute the Tribal

set aside. At the Tribal FVPSA conference in 2018 we were asked to volunteer to be on a task force to study the formula issues and come up with a recommendation for the Tribes to consider at a future Tribal consultation. Many volunteered for this task including the Wabanaki Women's Coalition Director who was encouraged by the Wabanaki Advocacy Centers to participate. We met via conference calls every two weeks for several months. An in person meeting was scheduled so that we could finalize a draft formula plan when without warning our task force was dismantled. Then at the FVPSA Tribal Conference that long time program specialist were missing. When asked why we were told there wasn't funding to support their travel while at the same time a newly hired program manager was present as were other FVPSA staff that are not in the Tribal Unit. This reason for the absence of the program specialist does not ring true to us. As well many of the presentations provided were from non-native organizations about issues that tribal programs do not pertinent to their work. There are other changes in the requirements of the Tribal FVPSA since Mary Louise Kelley retired that are concerning to our Wabanaki grantees and was also voiced by many other Tribal Grantees at the conference. The Tribal grantees were for the first time required to submit a budget with their 2019 application. The grantees do not know what the funding level will be so submitting a budget is an exercise in futility. For the largest Tribes who receive over 1 million dollars this might make sense but for the majority small tribal grantees it is a funding source that can be used to cover program expenses that they hadn't included in their OVW grant such as providing food and shelter for their emergency shelter residence. We often need emergency resources such as food and clothing for the middle of the night sheltering of victims. At the listening session at the recent Tribal FVPSA conference grantees left the session hearing that food for program purposes such as support group and other community education events cannot be purchased with FVPSA funds. We want to know where in the FVPSA Statute it says this. This funding source that is so small for our Tribes is becoming increasingly 'how can we not assist Tribal Domestic Violence Program meet the needs of their victims instead of what it use to be which was 'let's figure out how we can make this happen'. These changes do not appear to come from a change in legislation but rather from a change in leadership.

The reauthorization of the Family Violence Prevention Services Act before Congress includes an increase set aside for Tribes from 10% to 12%. While is an improvement it doesn't address the antiquated formula used for the distribution of these funds. Small Tribes like ours receive on average \$17,000. This is woefully insufficient to

address emergency shelter and services. **RECOMMENDATION: FVPSA seek Tribal Funded Program Staff on the planning committee for future conferences. That FVPSA Tribal Grantee Program Specialist be at the conferences and have maximum input into the planning of such conferences. Lastly that FVPSA allow the Tribal work group to continue their work on the formula and report back to the Tribes at a future consultation their recommendation.**

Regarding OVW Rescinding Funds from Grant to Tribal Governments.

The Federal Government has a heightened trust obligation to Tribes. Therefore congress mandated rescission should not be applied to Tribal programs. This has been included in our testimony for the past few years but apparently to no avail as we see in the recently released OVW report that in fact that \$1,639,821 was rescinding from the Tribal Governments FY2019 Appropriation and \$684,324 from the Tribal Coalition FY2019 Funds. These are funds that should have been awarded to Tribes and Coalitions who are drastically underfunded. For the Wabanaki Women's Coalition the funding could have meant filling a much needed staff position.

Recommendation regarding murdered and missing Indigenous women and girls And Savanna's Act (S. 1942/H.R. 4485) We strongly support Savanna's Act passage as a starting point to improve the response to missing and murdered Native women by improving tribal access to the federal criminal information databases, requiring data collection on missing and murdered Native people, and by directing the Attorney General to review, revise and develop law enforcement and justice protocols to address missing and murdered American Indian and Alaska Natives. We further ask that the administration declare May 5th an annual day of mourning for the murdered and missing indigenous women and children in the United States.

HOWEVER We DO NOT support expanding the scope of Tribal Governments Program from the focus on violence against women crimes to any missing or murdered case, regardless of its connection to domestic violence, dating violence, sexual assault, or stalking. We DO NOT support reducing funding currently available to support tribal services.

RECOMMENDATION: Additional funding needs to be appropriated to support the Savanna's Act. Taking from already inadequate funding in the Tribal Governments Program is not a viable option.

TRIBAL COALITIONS: We are one of the fortunate 18 regions across the Country that have an OVW funded Tribal Domestic and Sexual Violence Coalition. Our Tribal Advocacy Centers benefit greatly from this resource. The Wabanaki Women's Coalition is a source of technical assistance, training, support, resources and connection. They also work at the state level keeping an eye on legislation and policies to ensure that the Wabanaki are included. The Tribal Coalitions are funded through the OVW Grants to Tribal Coalitions. Since this is a formula fund we do not know from year to year what the funding level will be. How is it that funds were rescinded from the Tribal Coalition funds when we are formula funded. Why were these funds not awarded? Our Coalition is under staffed. We are called to be involved in all the work groups in Maine on issues dealing with Domestic and Sexual Violence. While this means we have been very effective at getting the recognition in the State that we sought it also means that we are stretched too thin and burn out is a serious issue. We will never be able to add staff at the current level of OVW funding. We could however add staff were we to receive the proposed FVPSA funding. Funding for the Tribal Coalitions is in the FVPSA reauthorization bill before Congress. The five Wabanaki Advocacy Centers report that there most utilized and helpful is Wabanaki Women's Coalition. The Coalition is already providing TA on FPVSA issues. It is only equitable that Tribal Coalitions receive FVPSA funding as do the State Coalitions.

RECOMMENDATION: We ask our Tribal Sisters and Brothers and non-Native allies to continue to support the inclusion of funding for Tribal Coalitions in the FVPSA fund distribution.

CONSULTATION QUESTION: *How can OVW encourage tribes to apply for OVW funding to help ensure that violence against women grant funds reach more tribal communities?*

One of the items listed under what OVW is currently doing is to 'limit existing tribal grantees eligibility for continuation funding'. We DO NOT support this action. Why should a Tribe who is successfully administering OVW funds to operate a comprehensive victim services program be penalized because other Tribes have not applied for funding or have not successfully administered their grant award. Rather than penalizing those providing comprehensive services and safety to victims for their community you should be providing onsite technical assistance by experienced tribal advocates/program administrators. To not fund a successful victim service program after years of building up the safety net for victims/survivors in their community is a devastating mistake. Although OVW states in the framing

paper that they are providing TA to tribes to help them prepare to apply or adequately administer OVW funding it is woefully inadequate. TA needs to be provided by organizations that have experienced tribal administrators of OVW grants who have the knowledge to support the training and growth of victim service programs in Tribes. There is a lack of mentors with adequate backgrounds in working in victims services in Indian Country. As well as stated before, the available funds should all be distributed before you start thinking about not funding existing programs.

RECOMMENDATION: Require that TA providers demonstrate their years of expertise in administering Victim Services in Indian Country. Actual on the ground experience not learning about it from others experience. Ask people in the field of providing services for over 10 years for recommendations of those applying to be TA providers.

The CTAS PA 5 is a already a three year award but in the Framing paper it is questioned if Tribes would rather have a three year rather than two year grants.

WHAT ARE THE REASONS WHY RESPONSE RATE FOR THE TSASP SOLICITATION IS SO LOW? The Wabanaki Advocacy Centers report that they already provide comprehensive services to sexual assault victims through their OVW Tribal Governments Grants. If they were to apply for TSASP funding they would need to add staff to response to all sexual assault including children. There is a basic infrastructure issue of where to house this additional staff. Since NO one wants to fund infrastructure there currently isn't a solution to this problem.

SAVANNA'S ACT: We DO NOT support expanding the scope of Tribal Governments Program from the focus on violence against women crimes to any missing or murdered case, regardless of its connection to domestic violence, dating violence, sexual assault, or stalking. We DO NOT support reducing funding currently available to support tribal services.

RECOMMENDATION: Additional funding needs to be appropriated to support the Savanna's Act. Taking from already inadequate funding in the Tribal Governments Program is not a viable option.

COMMENDATIONS: We commend the staff of the Tribal Division of OVW under the excellent leadership of Sherriann Moore, Tribal Deputy Director for their steadfast commitment to providing quick responses to questions that arise and

follow through on requests for assistance. We believe they want to help Tribes succeed in their efforts to provide safety for their women and children. However, they can only do so much on their own. They too need support in their efforts to help Tribes from the Department of Justice, the federal administration and Congress. Specifically, we want to make a shout out to our Wabanaki Advocacy Centers Program Specialist, Rebekah Jones, Tribal Coalition Program Specialist Tia Farmer and Tribal Unit Supervisor Darla Nolan.

Welalin/Woliwon –Thank you