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**NATIONAL INSTITUTE OF JUSTICE FRAMING PAPER ON THE IMPACT OF THE  
COVID-19 PANDEMIC ON THE NATIONAL BASELINE STUDY**

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**BACKGROUND**

Congress relies on the U.S. Department of Justice (USDOJ) to conduct national-level crime, justice, and victimization studies. As the USDOJ’s research and evaluation arm, the National Institute of Justice (NIJ), carries out many of the congressionally authorized studies nationwide, including those involving American Indian (AI) and Alaska Native (AN) tribes and citizens.

In 2005, Congress enacted Title IX, Section 904(a) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law No. 109-162 (codified at 42 U.S.C. § 3796gg-10 note), as amended by Section 907 of the Violence Against Women Reauthorization Act (VAWA), Pub. L. No. 113-4. The law authorizes NIJ, in consultation with the Office on Violence Against Women (OVW), to conduct analyses and research on violence against AI and AN women living in Indian country and AN villages. NIJ addresses this directive as a “program of research” to meet the varied study needs through multiple research projects occurring over time.

NIJ has worked extensively to obtain tribal input on this program of research through direct consultation with tribal governments and the Federal Advisory “Task Force on Research on Violence Against American Indian and Alaska Native Women” (commonly referred to as the Section 904 Task Force) created by the 2005 VAWA Reauthorization. In addition to the Section 904 Task Force, NIJ gathered input and feedback on the program from prominent researchers and experts on violence against women, indigenous research and evaluation methods and execution, and public health and safety issues in Indian Country.

**TYPES OF RESEARCH FUNDED UNDER THIS PROGRAM**

NIJ’s research program on Violence Against Indian Women (VAIW) began in 2007. In 2008, NIJ published the report titled, “Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is Known.”<sup>1</sup>

NIJ’s research program funds and supports three major types of scientific research—primary data collection, secondary data analysis, and evaluation. Secondary data analysis provides an opportunity to expand our understanding of the nature, consequences, and responses to violence against indigenous women by using existing data sources. The 2016 NIJ report titled “[Violence Against American Indian and Alaska Native Women and Men](#)” is an example of secondary data analysis funded under this program.

Another component of the program involves evaluation. Under this category, NIJ examines programs or interventions to enhance law enforcement, prosecutorial, and judicial responses to

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<sup>1</sup> Bachman, R., Zaykowski, H., Kallmyer, R., Poteyeva, M, and Lanier, C. (2008). Violence Against Indian and Alaska Native Women and The Criminal Justice Response: What is Known.” National Institute of Justice. NCJ Number [223691](#).



violence against indigenous women and programs or interventions to improve victim engagement with the criminal justice system. An example of a study funded under this category is the University of Alaska Anchorage's Justice Center's assessment of the Village Public Safety Officer program (see <https://www.ncjrs.gov/pdffiles1/nij/grants/251890.pdf>).

The third type of research funded under this program involves primary data collection. This type of research is important because many of the data required to address topics outlined in the statute and the goals of NIJ's research program are not available from existing data systems or sources, have not been collected, or have been collected but are incomplete. An example of this type of research is the [National Baseline Study \(NBS\)](#), a study of health, wellness, and safety of AI and AN women living in tribal communities. NBS, which began in 2014, is the flagship of NIJ's VAIW program of research.

### **NATIONAL BASELINE STUDY (NBS)**

By design, the NBS is occurring in geographically dispersed tribal communities across the United States (lower 48 and Alaska). The study includes a tribal sampling plan for recruiting tribes and a local sampling strategy for recruiting randomly selected households, from which to invite all adult American Indian and Alaska Native women to participate in the study.

The NBS survey uses key measures contained in the Centers for Disease Control and Prevention's National Intimate Partner and Sexual Violence Survey Study. The NBS asks participants a series of questions about their health, well-being, safety, and resiliency. Questions include participants' lifetime and previous 12-month experiences with psychological aggression, coercive control and entrapment, physical violence, stalking, and sexual violence. The NBS survey includes questions about the perpetrator (race/ethnicity), where the incident took place (on/off tribal lands), was the incident reported to law enforcement, and, if not reported, why it was not reported. Importantly, these questions address questions related to criminal jurisdiction, which have not been previously studied. The survey also asks participants about the impact of their victimization and service needs, which will help address gaps in health and legal services and their respective outcomes, particularly for victims living on tribal lands.

As described, the NBS will capture significantly more information than previous studies. Once completed, the research results will provide a much more nuanced understanding of the victimization experiences of indigenous women living in tribal communities in the U.S. The NBS findings and results will inform policy, prevention, and interventions specifically for Indian country and Alaska.

### **NBS DELAYS**

In preparation for a national study, NIJ directed a research methods pilot study beginning in 2009 and ending in 2013 that involved testing different sample techniques, cognitively testing survey instruments, and assessing different modes of survey administration. This pilot study was crucial to finalizing the NBS research design and the specific tribal nation engagement and participant



recruitment protocols. Upon completion of the pilot study, NIJ procured contractors to implement the NBS starting in 2014. Those contracts were for a three-year period of performance.

The study encountered a number of unanticipated delays. Considerably more time was needed to confer with and secure tribal nation study agreements at each study site than NIJ had planned. At the same time, the coding and programming of the study survey was delayed due to software constraints and hardware capabilities. These setbacks pushed the study timeline considerably beyond the original anticipated performance period allowed by Federal procurement regulations. This required NIJ to halt study activities in 2018. NIJ immediately began to procure new contracts, and those contracts were awarded in May 2019.

NIJ wants to assure tribal leaders and stakeholders of our commitment to completing the NBS study, given the importance of the topic and the urgent need to support healthy and safe tribal communities. NIJ knows this study is required to provide a critical foundation for quantifying the magnitude of violence and victimization experienced by Native women living in tribal communities and understanding their service needs.

### **COVID-19 PANDEMIC**

The NBS tribal nation engagement protocol requires initial outreach between NIJ and tribal leaders from communities randomly selected for the study. Further discussions occur with tribal leaders and stakeholders by in-person government-to-government engagement that may involve presentations to the tribal council, study-related program staff, and tribal institutional review boards or research review boards. If tribal leaders express interest in participating, the study team works directly with the tribe to secure study approval. Tribes that wish to participate are asked to provide formal written approval that may include a tribal resolution or executive order and a memorandum of understanding or agreement that authorizes study participation. This process ensures close attention and adherence to established governance protocols for each tribal community.

NIJ and the NBS research team had planned to begin tribal nation outreach and recruitment late spring, early summer 2020; however, the COVID-19 pandemic has caused federal, state, and tribal government closures as well as travel bans. While the NBS team had plans in place for a robust schedule of site recruitment in various locations in Indian country and Alaska starting May 2020, postponement of those site visits was required by the current public health crisis.

The NBS study team has been tracking the COVID-related tribal closures since April 2020. The tracking now includes tribal re-openings, including key tribal points of contacts' employment status (terminations, layoffs, furloughs, reinstatements) to gauge the availability of tribal representatives. The study team checks tribal websites and/or makes personal phone calls to tribes without websites to inquire about restrictions on business with outside entities such as researchers. This practice helps determine the timing for starting the official outreach and



recruitment of tribes for the study. The study team also tracks each tribe's broadband and the Internet connectivity capacity and phone service to identify optimal times and platforms to support virtual communications.

NIJ is committed to ethical and engaged efforts in line with responsible research conduct and federal trust responsibilities. The federal-Indian trust doctrine makes clear the federal government's responsibility to ensure the well-being of tribes and their citizens, especially when the issues may have a substantial direct impact on them, which extends to all research and evaluation efforts. NIJ also recognizes that the COVID-19 pandemic has had a particularly devastating impact in tribal communities and is consulting with tribal leaders and stakeholders to get their input and advice on how best to move forward with this very important study. Because of the ongoing pandemic, the NIJ and NBS team are drafting new protocols regarding outreach and recruitment that ensures the protection of tribal nations, their citizens, and study staff and seek tribal input on the NBS tribal outreach, engagement, and recruitment protocols to be used during the pandemic.

### **QUESTIONS FOR DISCUSSION**

The following discussion questions seek to solicit ideas and recommendations to inform NIJ's adjustments to the NBS outreach and engagement protocols for site recruitment during the current pandemic crisis.

1. What precautions have tribal nations put in place regarding human subject research during the COVID-19 pandemic?
2. What are the challenges tribal leaders are experiencing with tribal engagement during the COVID-19 pandemic?
3. What challenges are tribal leaders experiencing using only virtual methods to communicate with other government entities and tribal citizens?
4. What are some effective ways to launch tribal outreach to recruit randomly selected tribes for the NBS during and post the COVID-19 pandemic?
5. What are some strategies for building trust with the randomly selected tribes using only virtual methods during the COVID-19 pandemic?
6. What are the best ways to collaborate with tribal communities to implement the NBS during the COVID-19 pandemic?

NOTE: This paper is not a statement of official Department policy. It is intended to provide information and suggest questions to be considered by tribal leaders and representatives as they prepare to participate at the 15<sup>th</sup> Annual Government-to-Government Violence Against Women Tribal Consultation. The Department welcomes all input from tribes on this and other matters of concern to tribal communities.



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**Consultation Question: Do tribes support creating a separate process under the Office on Violence Against Women's (OVW) Tribal Jurisdiction Program, in addition to the current one, to award a portion of the appropriated funds specifically for basic costs associated with the implementation of Special Domestic Violence Criminal Jurisdiction, for those tribes that are already exercising the jurisdiction?**

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## **BACKGROUND**

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) recognized the authority of participating tribes to exercise "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit crimes of domestic violence or dating violence or violate certain protection orders in Indian country. VAWA 2013 also authorized an OVW grant program to support tribes in exercising this jurisdiction, commonly referred to as the Tribal Jurisdiction Program. These grant funds may be used to strengthen tribal criminal justice systems, provide indigent criminal defense, conduct jury trials, and provide services and applicable rights to crime victims. Congress first appropriated funds for this grant program in fiscal year (FY) 2016, allocating \$2.5 million, and increased that amount to \$4 million each year for FY 2017 through FY 2020.

In several of these fiscal years, OVW has had to extend the application deadline for this program to get more applications, and still the funding available for the program often exceeds the number of applications received. At the 2018 consultation, OVW specifically requested input on how to encourage more tribes to apply and expend unobligated funds under the program. In response to tribal leaders' testimony, OVW made a number of changes to the program, including simplifying the application, allowing grant funds to be used for minor renovations, and removing the requirement to submit and receive approval of the SDVCJ questionnaire prior to using funds to prosecute cases or incarcerate defendants. Even with these changes, OVW has had trouble attracting sufficient numbers of applicants to award all available funds for this program.

OVW has heard from tribes that are already exercising the jurisdiction that they would like to receive funding to support discrete costs such as incarceration, medical care, and indigent defense without all the trappings of a "project." Tribes that have recently planned and implemented the changes in their justice system to implement and exercise SDVCJ are unlikely to need to expend time or funds to plan and implement a grant project involving multiple tribal partners or additional changes to their code and criminal justice system. They have already completed this work. Instead, they need funds to support the exercise of the SDVCJ and technical assistance support for training and peer-to-peer networking opportunities.

To meet the needs of tribes currently exercising SDVCJ, while still funding tribes that are making changes in their justice systems to exercise SDVCJ, OVW is considering providing two different and separate application processes under the Tribal Jurisdiction Program. First would be the regular solicitation for tribes interested in comprehensive projects, and second would be a new process for tribes currently exercising SDVCJ to request financial support for anticipated costs associated with



exercising the jurisdiction. OVW would then allocate the funds appropriated for the Tribal Jurisdiction Program depending on the number of successful applicants under the regular solicitation and the number of eligible implementing tribes that request funds for expenses associated with exercising SDVCJ. OVW is consulting with tribes to determine whether to implement this new second process under the program. OVW also is requesting tribal input on the proposed parameters of the potential separate process for implementing tribes. For example, OVW might:

- Solicit statements of interest from tribes that wish to apply for these funds and are currently exercising SDVCJ but not have an open Tribal Jurisdiction Program award.
- Invite eligible tribes to apply non-competitively for a share of available funds.
- Require only a brief project narrative and budget from the invited tribes, similar to the applications for OVW's Violence Against Women Tribal Special Assistant U.S. Attorney Program (TSAUSA).

## **QUESTIONS**

1. Do tribes support the concept of a separate, simplified process for awarding grants to tribes interested in funding to support expenses associated with exercising SDVCJ?
2. Do tribal leaders have any suggestions as to how OVW might administer these separate funds? Would tribal leaders support the simplified application process described above? Please keep in mind that the Tribal Jurisdiction Program statute does not authorize OVW to reimburse past expenses related to the exercise of SDVCJ, only to issue grants to tribes to cover future expenses.
3. Do tribal leaders have any additional recommendations for ensuring that all Tribal Jurisdiction Program funds are expended each year?





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**Consultation Topic: A request for continued input on the Department of Justice's (DOJ) Office on Violence Against Women (OVW) proposal to streamline the application process for OVW's tribal-specific grant programs, as well as feedback on the COVID-19/Violence Against Women Assistance to Tribes Solicitation application process.**

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From June 30 to July 9, 2020, OVW hosted a series of four online webinars – two government-to-government consultations with tribal leaders and designated governmental representatives as well as two listening sessions with other tribal stakeholders – to solicit recommendations regarding OVW's proposal to create a streamlined application process for its tribal-specific grant programs, including administering OVW's Tribal Governments Program (i.e., Purpose Area 5) outside of DOJ's Coordinated Tribal Assistance Solicitation (CTAS). A majority of those who testified and submitted comments expressed their support for removing OVW's Tribal Governments Program (TGP) from CTAS, and suggested ways that OVW could simplify the application process for TGP and for OVW's other tribal-specific grant programs, which are already not part of CTAS.<sup>1</sup>

Based on the testimony and comments received, as well as its own experience administering tribal-specific programs, OVW has decided to solicit applications for the TGP outside of CTAS beginning in FY 2021 while continuing to consult and seek feedback on the application process for its tribal-specific programs. In addition, OVW issued a special solicitation on July 30, 2020 – titled the COVID-19/Violence Against Women Assistance to Tribes (Tribal COVID-19/VAW) solicitation – to respond to tribes' needs in responding to violence against women during the pandemic and to provide an example of a streamlined application structure that OVW could adapt for FY 2021. OVW is now requesting feedback from tribes regarding: (1) their experiences with applying to the Tribal COVID-19/VAW solicitation, and (2) any further recommendations for streamlining the application process for OVW's tribal-specific grant programs.

The Tribal COVID-19/VAW solicitation was funded with unobligated funds from two separate tribal-specific grant programs: the Tribal Governments Program (TGP) and the Tribal Sexual Assault Services Program (TSASP). The application process articulated in the Tribal COVID-19/VAW solicitation differed from standard OVW applications in several ways. First, OVW consolidated the application instructions for both TGP and TSASP into one combined solicitation. Second, applicants only had to submit a project narrative and a budget by the deadline for the application to move forward to peer review. This option was adopted so that only those applicants likely to be funded would have to submit the full set of documents that are required for award processing. Finally, the solicitation shortened and simplified the project narrative section of the application, with a simplified chart template for the "What will be done" section of the narrative.

OVW implemented these solicitation changes to expedite the disbursement of remaining FY 2020 funds to tribal communities that have been disproportionately affected by the COVID-19

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<sup>1</sup> OVW's other tribal-specific programs are the Tribal Sexual Assault Services Program, Grants to Tribal Governments to Exercise Special Domestic Violence Criminal Jurisdiction, and the Tribal Domestic Violence and Sexual Assault Coalitions Program.

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pandemic. OVW is considering adapting some of these changes for FY 2021 tribal program solicitations; however, before doing so, OVW is consulting further with tribal governments on these and other strategies for increasing tribes' access to OVW grant funds. Several tribal leaders and stakeholders who testified in June and July recommended that OVW continue to consult on this subject at the 15<sup>th</sup> Annual Government-to-Government Violence Against Women Tribal Consultation. By way of this framing paper, OVW is carrying out this recommendation.

Accompanying this framing paper is a report of the testimony and recommendations received at the June/July sessions and OVW's responses to those recommendations. OVW received many excellent suggestions and plans to implement as many of the recommendations as possible. OVW is also eager to hear from tribes and tribal organizations on how the adjustments made in the Tribal COVID-19/VAW solicitation affected them. The set of specific consultation questions below are intended to help guide feedback from tribal leaders, but OVW welcomes testimony on any aspect of OVW's efforts to streamline the application process for OVW's tribal-specific programs and to increase tribal access to OVW funding.

## **QUESTIONS**

1. For those tribes that applied under the Tribal COVID-19/VAW solicitation, was the application easier to complete in comparison to applications for other OVW grants or other federal grants? Which parts of the solicitation or application process worked well or which did not work well? Is there any part of the prior process that you prefer?
2. OVW has already received some feedback from tribal applicants that combining two grant programs in the Tribal COVID-19/VAW solicitation was confusing and did not work well. Do tribal leaders also recommend against this approach?
3. Some tribal applicants found the chart for completing the "what will be done" section of the project narrative to be helpful, but others found it too limiting or confusing. The chart was optional but encouraged; the idea behind it was to make it easier to complete the project narrative without needing a professional grant writer to prepare the narrative. Would tribal leaders recommend continuing to give this option or making any adjustments to it? Are there other steps OVW could take to guide applicants through the application, particularly those that do not have a grant writer on staff?
4. At the June/July 2020 consultations and listening sessions, some testified that it is hard for new, smaller applicants to compete against experienced applicants. OVW is considering a short, easy application for new TGP applicants that would like to obtain a limited number of smaller awards to plan or begin to develop a project. Applying for a planning grant would not be mandatory for new applicants. New applicants could choose to apply for a planning grant or to immediately compete for a standard/larger award. Do tribes support this idea?
5. Do tribes have any additional ideas for streamlining the application process for OVW's tribal-specific grant programs or enhancing tribes' access to OVW funding, beyond those discussed here or raised in the accompanying report on the June/July consultations and listening sessions?