



NATIONAL CONGRESS OF AMERICAN INDIANS

August 9, 2006

Re: Consultation with the DOJ and Tribal Leaders Caucus- Sept. 18-19

Dear Tribal Leader:

I am writing to draw your attention to an important letter that you received last month (attached) from the United States Department of Justice's, Office on Violence Against Women and to urge your participation in the upcoming government-to-government **consultation with the Department of Justice (DOJ), on September 19th**, at Mystic Lake, Minnesota. NCAI will be hosting a **Tribal Leaders Caucus from 3-6pm on September 18th** at the same location to prepare for the consultation, and I hope that you will be able to join us for that as well. There is a tremendous opportunity before us to improve public safety in our communities and right now is the critical time for consultation with the DOJ.

Congress recently established a flexible grant program for Tribal governments with substantial authorized appropriations. Implementation of the new Grants to Tribal Governments program will be a primary subject of the consultation. Under provisions included in the Violence Against Women Act reauthorization, Tribes will be able to apply for grants for a number of purposes, including:

- 1) Strengthening tribal justice systems including law enforcement, prosecution, courts, probation, and correctional facilities;
- 2) Increasing tribal capacity to respond to crimes;
- 3) Enhancing services to Indian women who are victims of violent crime;
- 4) Developing education and prevention programs and strategies directed toward curtailing domestic violence;
- 5) Providing transitional housing, including rental assistance, to victims of domestic violence.

In addition to the new Tribal government grant program, the legislation also includes provisions related to criminal information sharing that will be discussed at the consultation such as:

- 1) Tribal Access to the Federal Criminal Information Databases: the statute permits Indian Law Enforcement Agencies to access the federal criminal information databases in cases of domestic violence, dating violence, sexual assault, and stalking;
- 2) Creation of a Tribal Registry: the statute authorizes the creation of a national tribal sex offender registry and a tribal protection order registry.

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The consultation will also include a discussion of the federal response to violent crime on Indian reservations and how it can be improved. As you can see, this consultation with the Department of Justice will cover a number of issues of critical importance to Tribal leaders and I hope that you, or your representative, will be able to participate. In addition to elected leaders, I would also encourage those involved with tribal law enforcement, tribal courts, victim's services, health care, housing, and drug treatment and prevention programs to attend. I have attached the text of the statute that will be the subject of the consultation for your review.

Please feel free to contact me, or NCAI Associate Counsel Virginia Davis, 202-466-7767 or vdavis@ncai.org, with any questions or for more information. I hope to see you all soon in Minnesota.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Garcia', with a stylized flourish at the end.

Joe Garcia
President



U. S. Department of Justice
Office on Violence Against Women

Washington, DC 20530

July 5, 2006

Dear Tribal Leader:

Congress recently re-authorized the Violence Against Women Act (VAWA 2005), which includes many significant changes that are designed to strengthen the response to violence against women in communities throughout the country. Title IX of VAWA 2005 specifically addresses violence against American Indian and Alaska Native women. Title IX provides a tremendous array of new tools and resources that will improve the Federal response to crimes of violence against Indian women, and increase the level of Federal grant funding available to tribal governments to combat violence against Indian women. One of the most important changes in Title IX of VAWA 2005 is the requirement for the U. S. Attorney General to host an annual consultation with tribal governments.

Section 903 of VAWA 2005 directs the Attorney General and the Secretary of the U.S. Department of Health and Human Services to use the consultation as an opportunity to solicit recommendations from tribal governments on three topics:

- Administering grant funds appropriated for tribal governments and programs created to benefit tribal governments by the original VAWA and subsequent legislation;
- Enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and
- Strengthening the Federal response to crimes of domestic violence, dating violence, sexual assault, and stalking.

We are excited about the opportunity for consultation that has been created by VAWA 2005. The Office on Violence Against Women (OVW), is leading the Department of Justice's effort to plan and organize this momentous event.

The guiding principle at the core of OVW's grant funding programs is helping communities develop a coordinated community response to domestic violence, dating violence, sexual assault, and stalking in order to use the coercive power of the criminal justice system to enhance victim safety and promote offender accountability. While recognizing that the goal of advancing this principle may be complicated in Indian country due to complex questions of jurisdiction, or a lack of traditional criminal justice

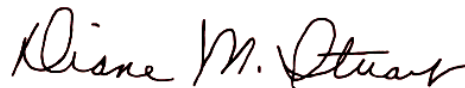
infrastructure at the tribal level, the Department of Justice firmly believes that crimes of violence against women in Indian country must be treated as a serious public safety issue. The tribal communities that have experienced the most success in addressing violence against women are communities where tribal officials have demonstrated leadership and support on this issue.

Before beginning the planning process for the consultation, the staff from OVW's Tribal Unit met with the Executive Director and General Counsel for the National Congress of American Indians (NCAI), and has relied on their guidance throughout the planning process. With NCAI's assistance, OVW was able to assemble a committee comprised of tribal government leaders, and Native women advocates, who have worked closely with OVW in planning the details of the consultation. The consultation has been scheduled for September 19, 2006, and will be held at the Mystic Lake Hotel and Casino, in Prior Lake, Minnesota. Please note this date and location on your calendars. Reservations for the hotel must be made by August 17. Please see the enclosed RSVP form for more logistical information.

We are eager to have official representation from all Federally-recognized tribes at the consultation. Tribes who currently receive grant funding from OVW may use a portion of their training and technical assistance travel funds to help defray the cost of sending no more than three representatives to the consultation. At least one of the three representatives must be a government official for the tribe. Regrettably, funding is not available to help defray the cost of attending the consultation for tribal governments who do not currently receive funding from OVW. Non-OVW grantees are welcome to attend at their own cost. There will be a process in place to collect written comments from tribal governments who are unable to attend the consultation. More information about this process will be available on the OVW web site, www.usdoj.gov/ovw, by mid-August.

Please find enclosed a fact sheet on OVW and its work in Indian country. This sheet should provide you with some insight into the purpose of OVW and how the grant funding available to tribal governments from OVW can help in addressing violence against Alaska Native and American Indian women. We look forward to seeing you in Minnesota in September. If you have any questions or concerns about the consultation please contact OVW's Tribal Unit at (202) 307-6026.

Sincerely,

A handwritten signature in black ink, appearing to read "Aisne M. O'Leary". The signature is fluid and cursive, written in a professional style.

Director

Enclosures

**U.S. Department of Justice
Office on Violence Against Women**

◆ TRIBAL CONSULTATION ◆
September 19, 2006 ~ 8:00 a.m. to 5:00 p.m.
Mystic Lake Casino Hotel, Prior Lake, MN

RSVP

Your response (please print) will be confirmed by Mending the Sacred Hoop TA Project through telephone, fax, email, or letter. Attendees are asked to make their own travel arrangements and room reservations. **Call the Mystic Lake Hotel at 952-445-9000 or call 1-800-262-7799 and ask for Reservations.** A block of rooms has been reserved at \$69.00 or \$89.00 under *Mending the Sacred Hoop*. The hotel registration cut-off date is **August 17, 2006**. The Tribal Consultation will take place September 19, 2006 from 8:00 a.m. to 5:00 p.m. however, the consultation will continue until all comments have been expressed. *See the back of this form for hotel information.*

Please submit one form per person

Name: _____
Title: _____
Tribe: _____
Address: _____
City: _____
State: _____ Zip: _____
Phone: () _____
Fax: () _____
Email: _____

Special Requests

Requests must be received by: August 17, 2006

- Sign language interpretation
 Access
 Special dietary needs (*please specify*): _____
 Other (*please specifically describe the accommodation requested*): _____

Fax or Mail this form to:

Mending the Sacred Hoop TA Project ◆ 202 E. Superior Street ◆ Duluth, MN 55802
◆ (Fax) 218-722-5775 ◆ (Toll-free) 1-888-305-1650

◆ Or RSVP online: <http://www.msh-ta.org/tcreg/> ◆

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From our breathtaking indoor pool and atrium to the excitement of high-stakes table gaming, Mystic Lake Casino Hotel is one of the foremost Minnesota attractions.

Hotel guests must be 21 years of age or older to check in and must be 18 years of age or older to gamble. **Mystic Lake Casino Hotel is alcohol free.**



Super Shuttle is available to take Mystic Lake Hotel guests to and from the St. Paul/Mpls airport. Shared ride van service (up to 11 passengers) is available. First guest pays \$37.00 (one way) additional guests each pay \$9.00 (one way).

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Driving Directions to Mystic Lake Casino Hotel:

- 494 (East or West)** • Take 494 EAST or WEST to 169 South.
• Follow 169 South to Cty. Rd. 83.
• Exit and take 83 South (left).
• Follow approx. 4 miles to Mystic Lake.

- 169 from the North** • Take 169 South to Cty. Rd. 83
• Exit and turn left.
• Take 83 South approx. 4 miles to Mystic Lake.

- 169 from the South** • Take 169 North to Cty. Rd. 83
• Exit and turn right.
• Take 83 South (right) approx. 4 miles to Mystic Lake.

- 35 from the North** • Take 35 South to Cty Rd. 42. Turn right.
• Follow 42 West to Cty. Rd. 83.
• Take 83 South (left).
• Follow approx. 2.5 miles to Mystic Lake.

- 35 from the South** • Take 35 North to 185th St.
• Exit and head West on 185th.
• 185th West becomes Co. Rd. 21.
• Take 21 to Co. Rd 82 and turn left.
• Follow Co. Rd 82 to Mystic Lake which will be on your right.

- 52 from Rochester** • Take 52 North to Cty Rd.42 in Rosemount.
• Turn left and Follow 42 West to Cty. Rd. 83.
• Take 83 South (left).
• Follow approx. 2.5 miles to Mystic Lake.

H.R.3402

Violence Against Women and Department of Justice Reauthorization Act of 2005 (Engrossed Amendment as Agreed to by Senate)

TITLE IX--SAFETY FOR INDIAN WOMEN

SEC. 901. FINDINGS.

Congress finds that--

- (1) 1 out of every 3 Indian (including Alaska Native) women are raped in their lifetimes;
- (2) Indian women experience 7 sexual assaults per 1,000, compared with 4 per 1,000 among Black Americans, 3 per 1,000 among Caucasians, 2 per 1,000 among Hispanic women, and 1 per 1,000 among Asian women;
- (3) Indian women experience the violent crime of battering at a rate of 23.2 per 1,000, compared with 8 per 1,000 among Caucasian women;
- (4) during the period 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15 to 34, and 75 percent were killed by family members or acquaintances;
- (5) Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women; and
- (6) the unique legal relationship of the United States to Indian tribes creates a Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.

SEC. 902. PURPOSES.

The purposes of this title are--

- (1) to decrease the incidence of violent crimes against Indian women;
- (2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women; and
- (3) to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

SEC. 903. CONSULTATION.

(a) In General- The Attorney General shall conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103-322; 108 Stat. 1902) and the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).

(b) Recommendations- During consultations under subsection (a), the Secretary of the Department of Health and Human Services and the Attorney General shall solicit recommendations from Indian tribes concerning--

- (1) administering tribal funds and programs;
- (2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and
- (3) strengthening the Federal response to such violent crimes.

SEC. 904. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST INDIAN WOMEN.

(a) National Baseline Study-

(1) IN GENERAL- The National Institute of Justice, in consultation with the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women in Indian country.

(2) SCOPE-

(A) IN GENERAL- The study shall examine violence committed against Indian women, including--

- (i) domestic violence;
- (ii) dating violence;
- (iii) sexual assault;
- (iv) stalking; and
- (v) murder.

(B) EVALUATION- The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in subparagraph (A) committed against Indian women.

(C) RECOMMENDATIONS- The study shall propose recommendations to improve the effectiveness of Federal, State, tribal, and local responses to the violation described in subparagraph (A) committed against Indian women.

(3) TASK FORCE-

(A) IN GENERAL- The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under paragraph (1) and guide implementation of the recommendation in paragraph (2)(C).

(B) MEMBERS- The Director shall appoint to the task force representatives from--

- (i) national tribal domestic violence and sexual assault nonprofit organizations;
- (ii) tribal governments; and
- (iii) the national tribal organizations.

(4) REPORT- Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the study.

(5) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2007 and 2008, to remain available until expended.

(b) Injury Study-

(1) IN GENERAL- The Secretary of Health and Human Services, acting through the Indian Health Service and the Centers for Disease Control and Prevention, shall conduct a study to obtain a national projection of--

- (A) the incidence of injuries and homicides resulting from domestic violence, dating violence, sexual assault, or stalking committed against American Indian and Alaska Native women; and
- (B) the cost of providing health care for the injuries described in subparagraph (A).

(2) REPORT- Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the findings made in the study and recommends health care strategies for reducing the incidence and cost of the injuries described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 2007 and 2008, to remain available until expended.

SEC. 905. TRACKING OF VIOLENCE AGAINST INDIAN WOMEN.

(a) Access to Federal Criminal Information Databases- Section 534 of title 28, United States Code, is amended--

- (1) by redesignating subsection (d) as subsection (e); and
- (2) by inserting after subsection (c) the following:

(d) Indian Law Enforcement Agencies- The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into Federal criminal information databases and to obtain information from the databases.

(b) Tribal Registry-

(1) ESTABLISHMENT- The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain--

- (A) a national tribal sex offender registry; and
- (B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

(2) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.

SEC. 906. GRANTS TO INDIAN TRIBAL GOVERNMENTS.

(a) In General- Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

SEC. 2007. GRANTS TO INDIAN TRIBAL GOVERNMENTS.

(a) Grants- The Attorney General may make grants to Indian tribal governments and tribal organizations to--

- (1) develop and enhance effective governmental strategies to curtail violent crimes against and increase the safety of Indian women consistent with tribal law and custom;
- (2) increase tribal capacity to respond to domestic violence, dating violence, sexual assault, and stalking crimes against Indian women;
- (3) strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities;
- (4) enhance services to Indian women victimized by domestic violence, dating violence, sexual assault, and stalking;
- (5) work in cooperation with the community to develop education and prevention strategies directed toward issues of domestic violence, dating violence, and stalking programs and to address the needs of children exposed to domestic violence;
- (6) provide programs for supervised visitation and safe visitation exchange of children in situations involving domestic violence, sexual assault, or stalking committed by one parent against the other with appropriate security measures, policies, and procedures to protect the safety of victims and their children; and
- (7) provide transitional housing for victims of domestic violence, dating violence, sexual assault, or stalking, including rental or utilities payments assistance and assistance with related expenses such as security deposits and other costs incidental to relocation to transitional housing, and support services to enable a victim of domestic violence, dating violence, sexual assault, or stalking to locate and secure permanent housing and integrate into a community.

`(b) Collaboration- All applicants under this section shall demonstrate their proposal was developed in consultation with a nonprofit, nongovernmental Indian victim services program, including sexual assault and domestic violence victim services providers in the tribal or local community, or a nonprofit tribal domestic violence and sexual assault coalition to the extent that they exist. In the absence of such a demonstration, the applicant may meet the requirement of this subsection through consultation with women in the community to be served.

`(c) Nonexclusivity- The Federal share of a grant made under this section may not exceed 90 percent of the total costs of the project described in the application submitted, except that the Attorney General may grant a waiver of this match requirement on the basis of demonstrated financial hardship. Funds appropriated for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.'

(b) Authorization of Funds From Grants To Combat Violent Crimes Against Women- Section 2007(b)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1(b)(1)) is amended to read as follows:

`(1) Ten percent shall be available for grants under the program authorized in section 2007. The requirements of this part shall not apply to funds allocated for such program.'

(c) Authorization of Funds From Grants To Encourage State Policies and Enforcement of Protection Orders Program- Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended by striking subsection (e) and inserting the following:

`(e) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007. The requirements of this part shall not apply to funds allocated for such program.'

(d) Authorization of Funds From Rural Domestic Violence and Child Abuse Enforcement Assistance Grants- Subsection 40295(c) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)(3)) is amended by striking paragraph (3) and inserting the following:

`(3) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this paragraph shall not apply to funds allocated for such program.'

(e) Authorization of Funds From the Safe Havens for Children Program- Section 1301 of the Violence Against Women Act of 2000 (42 U.S.C. 10420) is amended by striking subsection (f) and inserting the following:

`(f) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this subsection shall not apply to funds allocated for such program.'

(f) Authorization of Funds From the Transitional Housing Assistance Grants for Child Victims of Domestic Violence, Stalking, or Sexual Assault Program- Section 40299(g) of the Violence Against Women Act of 1994 (42 U.S.C. 13975(g)) is amended by adding at the end the following:

`(4) TRIBAL PROGRAM- Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this paragraph shall not apply to funds allocated for such program.'

(g) Authorization of Funds From the Legal Assistance for Victims Improvements Program- Section 1201(f) of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg-6) is amended by adding at the end the following:

`(4) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this paragraph shall not apply to funds allocated for such program.'

SEC. 907. TRIBAL DEPUTY IN THE OFFICE ON VIOLENCE AGAINST WOMEN.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.), as amended by section 906, is amended by adding at the end the following:

SEC. 2008. TRIBAL DEPUTY.

(a) Establishment- There is established in the Office on Violence Against Women a Deputy Director for Tribal Affairs.

(b) Duties-

(1) IN GENERAL- The Deputy Director shall under the guidance and authority of the Director of the Office on Violence Against Women--

(A) oversee and manage the administration of grants to and contracts with Indian tribes, tribal courts, tribal organizations, or tribal nonprofit organizations;

(B) ensure that, if a grant under this Act or a contract pursuant to such a grant is made to an organization to perform services that benefit more than 1 Indian tribe, the approval of each Indian tribe to be benefitted shall be a prerequisite to the making of the grant or letting of the contract;

(C) coordinate development of Federal policy, protocols, and guidelines on matters relating to violence against Indian women;

(D) advise the Director of the Office on Violence Against Women concerning policies, legislation, implementation of laws, and other issues relating to violence against Indian women;

(E) represent the Office on Violence Against Women in the annual consultations under section 903;

(F) provide technical assistance, coordination, and support to other offices and bureaus in the Department of Justice to develop policy and to enforce Federal laws relating to violence against Indian women, including through litigation of civil and criminal actions relating to those laws;

(G) maintain a liaison with the judicial branches of Federal, State, and tribal governments on matters relating to violence against Indian women;

(H) support enforcement of tribal protection orders and implementation of full faith and credit educational projects and comity agreements between Indian tribes and States; and

(I) ensure that adequate tribal technical assistance is made available to Indian tribes, tribal courts, tribal organizations, and tribal nonprofit organizations for all programs relating to violence against Indian women.

(c) Authority-

(1) IN GENERAL- The Deputy Director shall ensure that a portion of the tribal set-aside funds from any grant awarded under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103-322; 108 Stat. 1902), or the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491) is used to enhance the capacity of Indian tribes to address the safety of Indian women.

(2) ACCOUNTABILITY- The Deputy Director shall ensure that some portion of the tribal set-aside funds from any grant made under this part is used to hold offenders accountable through--

(A) enhancement of the response of Indian tribes to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including legal services for victims and Indian-specific offender programs;

(B) development and maintenance of tribal domestic violence shelters or programs for battered Indian women, including sexual assault services, that are based upon the unique circumstances of the Indian women to be served;

(C) development of tribal educational awareness programs and materials;

`(D) support for customary tribal activities to strengthen the intolerance of an Indian tribe to violence against Indian women; and
`(E) development, implementation, and maintenance of tribal electronic databases for tribal protection order registries.'.

SEC. 908. ENHANCED CRIMINAL LAW RESOURCES.

(a) Firearms Possession Prohibitions- Section 921(33)(A)(i) of title 18, United States Code, is amended to read: `(i) is a misdemeanor under Federal, State, or Tribal law; and'.

(b) Law Enforcement Authority- Section 4(3) of the Indian Law Enforcement Reform Act (25 U.S.C. 2803(3) is amended--

(1) in subparagraph (A), by striking `or';

(2) in subparagraph (B), by striking the semicolon and inserting `, or'; and

(3) by adding at the end the following:

`(C) the offense is a misdemeanor crime of domestic violence, dating violence, stalking, or violation of a protection order and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim, and the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing the crime;'.

SEC. 909. DOMESTIC ASSAULT BY AN HABITUAL OFFENDER.

Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

`Sec. 117. Domestic assault by an habitual offender

`(a) In General- Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least 2 separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction--

`(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

`(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from violation under this section, the offender shall be imprisoned for a term of not more than 10 years.

`(b) Domestic Assault Defined- In this section, the term `domestic assault' means an assault committed by a current or former spouse, parent, child, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, child, or guardian, or by a person similarly situated to a spouse, parent, child, or guardian of the victim.'.