

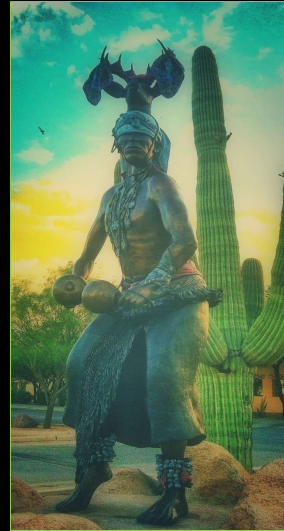


Significant changes have occurred in the ability of tribal governments and tribal courts to address crime occurring in Indian country

- SORNA & Implementation
- Tribal Law and Order Act of 2010 (Restores Tribal Sentencing Authority)
- Violence Against Women Act of 2013 (SDVCJ) (Restores Tribal Criminal Jurisdiction)
- CTAS (Coordinated Funding)
- DOJ Tribal Access Program (TAP)
- Federal Consultation Process
- B.I.A. Guidance on Arrest Authority
- SAUSA Program
- SLEC Certification/ Cross-Deputization

## FIRST VAWA ARREST

On July 2, 2014, for the first time since 1978 when the U.S. Supreme Court stripped tribal governments of their criminal authority over non-Indians in *Oliphant v. Suquamish Indian Tribe* (1978), PYT obtained the first conviction of a non-Indian, a twenty-six year old Hispanic male, for the crime of domestic violence assault committed on the Pascua Yaqui Reservation.



## FIRST VAWA ARREST

- Prosecutor: Fred Lomayesva, Esq. (Hopi)
- Judge: Judge Melvin Stoof (Lakota)
- Attorney General: Amanda Lomayesva (Lumbee)
- Tribal Investigator: Jacob Garcia (Tohono O'odham) (SLEC)
- DV Investigator: Similati Vanisi (Tongan)
- Probation Officer: Yvette Alvarez (Yaqui)
- Chief of Police: Michael Valenzuela (Yaqui) (SLEC)
- Deputy Prosecutor: Mercedes Garcia (Yaqui)
- Tribal Court Clerk: Rene Garcia (Yaqui)
- Chief Judge: Cornelia Cruz (Yaqui)
- Victim Advocate Manager: Canada Valenzuela (Yaqui)
- Chief Prosecutor: OJ Flores (Yaqui) (SAUSA)
- Chief Appellate Judge: James Hopkins (Algonquin/Metis)
- Prosecutor: Lupe Gutierrez (Hispanic) (SAUSA) (East L.A.)
- Chief Detention Officer: Peter Flores (Yaqui)

## VAWA IMPLEMENTING TRIBES (13)

- Pascua Yaqui (AZ)
- Tulalip Tribe (WA)
- Confederate Tribes of Umatilla (OR)
- Sisseton-Wahpeton Oyate (SD/ND)
- Assiniboine & Sioux Tribes of Fort Peck (MT)
- Little Traverse Bay Band of Odawa Indians (MI)
- Eastern Band of Cherokee Indians (NC)
- Seminole Nation (OK)
- Nottawaseppi Huron Band of the Potawatomi (MI)
- Standing Rock Sioux Tribe
- Muscogee (Creek ) Nation
- Sac and Fox Nation
- Kickapoo Tribe of OK

## BY THE NUMBERS

**Between February, 20, 2014 –December 9, 2016**


- **84 total SDVCJ/VAWA arrests** for domestic violence, dating violence, or violations of orders of protection
- 5 Referrals for Federal prosecution
- 2 Jury trials (cross-section juries)
- 2 Extraditions from State to Tribe on VAWA Warrants
- 1 Offender Extradited from Tribe to State of Oklahoma on an Armed Robbery warrant
- No appeals to Federal Court
- 19 total convictions (cases open and pending)
- 20-30 Children were exposed to violence or were victims

INJUSTICE  
EXTRAPOLATION

$$\begin{array}{r} 554 \\ \times 7 \\ \hline 3878 \\ \times 2 \\ \hline \end{array}$$

**7,756 Victims**

1<sup>ST</sup> VAWA JURY TRIAL  
*PYT V. GARRIS*



## VICTOR GRACIA

REPEAT OFFENDER



- Hispanic. Felon
- Five (5) police incident reports involving DV on the PYT reservation pre-VAWA.
- Two (2) police incident reports involving DV on the PYT reservation post-VAWA.
- *Defendant was highly intoxicated. Victim called PYLES to remove from premises. Defendant returned an hour later and attempted to assault the victim by punching her.*

## IVAN TANORI

VIOLATION OF AN ORDER OF PROTECTION



- Hispanic.
- Took place in April 2014.
- Five (5) PYLES reports pre-VAWA.
- *PYLES responded in response to a child abuse call. Upon arrival, it was found that the defendant had an Order of Protection against him by the victim. The victim acquired the Order of Protection following a Nov. 2013 (pre-VAWA) incident where he assaulted the victim in the face with a screwdriver. The couples' children were present during the assault.*
- The defendant has been indicted federally for charges based upon the Nov. 2013 assault.

## OFFENDERS (CRIMINAL HISTORY)

- Only 3 offenders did not have criminal records in the State of Arizona
- 7 of the offenders had been arrested for violent crimes, weapons, or threats (assault, threats, weapon misconduct, assaults, trespassing, and domestic violence) in the State of Arizona
- 2 offenders are Felons, both having been convicted for Burglary in the State of Arizona
- 10 of the offenders have been arrested in Arizona for cases involving drug use/possession/DUI or alcohol
- 2 offenders had active felony warrants, one out of Oklahoma for Armed Robbery
- VAWA offenders have been involved in approx. 100 PYT Police incidents (pre/post VAWA)

## WHAT'S THE ANSWER?

**In Part:**

**FULL OLIPHANT FIX –Full jurisdiction  
over all who commit offenses within  
Indian Country**

## TRIBAL YOUTH AND COMMUNITY PROTECTION ACT (S. 2785)

- **Tribal Youth and Community Protection Act:** The Tribal Youth and Community Protection Act expands the scope of the VAWA 2013. The bill would restore tribal jurisdiction over crimes committed by any offender for the following types of offenses:
  - (1) **crimes against children;**
  - (2) **drug-related crimes;** and
  - (3) **crimes against law enforcement and court personnel during the exercise of tribal criminal jurisdiction.**
- The bill would also clarify existing law to ensure tribes can charge and prosecute threatened and attempted domestic and dating violence where that conduct constitutes a crime.

## TRIBAL LAW AND ORDER ACT REAUTHORIZATION 2016 (S. 2920)

- Require consultation by the Departments of Justice, Interior, and Health and Human Services with Indian tribes regarding integrating and consolidating programs for which tribes are eligible and submit a plan from that consultation.
- Authorize tribes to access databases for the purpose of background checks.
- **Extend the Bureau of Prisons pilot program for another seven years and require a report on its implementation and effectiveness in five years;**
- Authorize tribal liaisons in the Federal Public Defenders' Offices and the appointment of Special Assistant Federal Public Defenders;
- **Establish a Federal criminal trespass offense for violating a tribal court order of exclusion for violating a violent crime or drug sale or distribution crime under tribal law;**
- **Improves justice for Indian youth** including requiring a GAO baseline study on Indian youth in detention, notice to tribes of Indian youth in state juvenile systems, tribal participation on state advisory groups, partnerships with Bureau of Indian Education schools, federal consultation with tribes.

## THE FUTURE

1. Effective and efficient coordinated tribal service delivery models
2. Effective deterrence via TLOA, VAWA, and T.A.P./Purpose Code X. (tools to stop violence)
3. *Improved coordination for family and social services, Child Welfare cases (address underlying issues)*
4. *Alternatives to incarceration via solution-focused sentencing.*
5. *Data informed prevention, intervention and treatment opportunities.*
6. *Enhanced partnerships between local, tribal, county, state and federal systems (MOUs, IGAs)*
7. *Integration of Language & Culture (bi-furcated systems)*