



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 30, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy:

Enclosed please find responses to questions for the record arising from the appearance of Catherine Pierce, Acting Director for the Department's Office on Violence Against Women, before the Committee on June 10, 2009, at a hearing entitled "The Continued Importance of the Violence Against Women Act." We apologize for the delay in responding and hope that this information is of assistance to the Committee.

Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald Weich".

Ronald Weich
Assistant Attorney General

Enclosure

cc: The Honorable Jeff Sessions
Ranking Minority Member

Questions for the Record
Acting Director Catherine Pierce
Office on Violence Against Women
Senate Committee on the Judiciary
June 10, 2009

Questions Posed by Senator Specter

Question 1: In Ms. Union's written testimony she voices her concern about the extremely high rates of sexual assault committed against American Indian women. She states that, "In fact, the *Denver Post* did a series of articles on injustice in Indian Country in late 2007 and reported that the Department of Justice declined to prosecute 76.5% of adult rapes between 2004 and 2007." Can you explain this?

Response: Federal prosecutors take seriously their obligation to pursue justice for American Indians and Alaska Natives and work diligently to improve the lives of Native people. Indian Country prosecutions, particularly violent crime prosecutions falling under either the Major Crimes Act or the General Crimes Act, are an important part of the Department of Justice's mission and the Department continually works to improve efforts in this area. These cases are a specific district priority for the 25+ Federal districts with non-PL 280 tribes. The majority of Federal districts with significant Indian Country responsibility have dedicated Assistant United States Attorneys assigned to these critical cases.

Decisions by United States Attorney's Offices to decline cases are made carefully. Declinations are driven by the evidence, applicable law, and circumstances of each case. But a decision to decline one or many cases does not suggest a lack of commitment to the enforcement of the law or unwillingness to do so. In some cases it may be because the United States Attorney's Office has no authority to proceed. Indeed, where Indian Country enforcement may be at issue, a declination may reflect a determination that no federal crime was committed (e.g., that the act was not sufficient to satisfy the Major Crimes Act), that there was no federal jurisdiction (e.g., because the locus of the crime was not on reservation land), that the evidence or witnesses were unlikely to support a conviction, that a state or tribe was proceeding with a prosecution, or that a federal prosecution was inappropriate for some other reason. The Department of Justice's case management system, which was originally designed to manage attorney workloads, was not originally designed to track information in this manner and thus does not reflect the full extent of the Department's commitment to law enforcement in Indian Country. The Department is now working to improve the manner in which it tracks Indian Country case statistics so that it will be able to provide more meaningful information.

The total number of declinations recorded as Indian Country matters fell from 899 in FY 2007, to 814 in FY 2008; the number of referrals received increased slightly from 1,721 matters in FY 2007, to 1,735 matters in FY 2008. Federal case referrals from

outside Indian Country in FY 2007 were 118,220 with 24,436 declinations.¹ In FY 2008, Federal case referrals from outside Indian Country numbered 155,774 with 24,321 matters declined for prosecution.

Question 2: VAWA was funded at \$415,000,000 for FY09, and in my appropriations request letter for 2010, I urged the Subcommittee to provide funding for the VAWA programs at the highest possible level above the fiscal year 2009 level of \$415 million for fiscal year 2010. In your testimony you outline the Department's continued efforts and new programs. What would you say are your top priorities for the remainder of the year and next?

Response: There are a number of areas that I see as top priorities for the Office on Violence Against Women (OVW) in the immediate future. As I mentioned in my testimony, OVW will support community-defined solutions that engage culturally specific communities and communities of color. We will expand our efforts to address increased access to sexual assault services, particularly in rural America. We will work more closely with American Indian and Alaska Native women to be more responsive to their priorities. We will address the complicated issue of child custody and our growing concern that battered women are losing custody of their children either to perpetrators (through the courts) or the State (through the Child Protection System). We will address the problem of children exposed to violence, and we will support programs that recognize that the safety of children is directly related to the safety of their mothers. Finally, we will focus on preventing the homicide of women and girls who have suffered from domestic violence, dating violence, sexual assault, and stalking.

Question 3: Many scholars have argued that the popular notion of crime rates going up in a bad economy is just a myth. However, David Kennedy of the John Jay College of Criminal Studies has suggested that a troubled household with a history of domestic violence is much more likely to be further strained during an economic downturn. Do you agree with Professor Kennedy's assessment that domestic violence may occur more frequently during an economic recession? If so, has OVW devoted specific resources to addressing this issue?

Response: Identifying the cause or causes of crime, including domestic violence, is an immensely difficult task. I would agree with Professor Kennedy's assertion, however, that, if a household already has a history of domestic violence, that violence may escalate during economic hard times. There has been research that supports this statement, and it is consonant with what we hear from experts and service providers in the field. I would also note that, during an economic downturn, a victim of domestic violence faces

¹ The question refers to a declination rate of 76.5% of adult rapes occurring in Indian Country. This is not a number provided by the Executive Office for United States Attorneys' (EOUSA) case management system, the Legal Information Office Network System (LIONS). We understand the number may have been provided by the Transactional Records Access Clearinghouse (TRAC), a private organization that obtains data from LIONS through the Freedom of Information Act and re-sorts and re-configures it in ways that are not apparent to EOUSA or to the public at large. As a result, there is no way to confirm the accuracy of figures provided by TRAC.

additional obstacles to leaving her abuser: in the best of economic times, a victim worries about finding a job and housing and providing for her children; these problems intensify during a recession. We therefore are extremely grateful that the American Recovery and Reinvestment Act provided OVW with \$225 million in funding to support OVW's formula grant program for States, our State and Tribal Coalitions Programs, our Tribal Governments Program, and our Transitional Housing Assistance Program.

Funding from these programs enables States, local governments, tribes, and victim service providers to retain and hire personnel to serve victims and hold offenders accountable. In particular, our Recovery Act Transitional Housing Program plays a critical role in helping victims escape violence and weather financial difficulties. These funds support programs that provide transitional housing, short-term housing assistance, and support services to victims of domestic violence, dating violence, sexual assault and stalking. To meet the goals of the Recovery Act and the needs of victims, we encourage applicants to propose projects that will employ victim advocates, renovate housing, offer additional housing units, and increase job opportunities for victims through employment counseling, job training, education, and other support services.

Question Posed by Senator Schumer

Question 1: Many prosecutors have told me that one of the huge impediments in fighting human trafficking and other operations who exploit immigrant women is that the S-visa power of prosecutors to encourage people to come forward and expose these operations is limited. Should the Department of Justice do more to make sure that witnesses who come forward to expose operations that exploit immigrant women are given S-visas that permit their eventual adjustment to that of lawful permanent resident? Is there anything Congress can do to facilitate this function?

Response: The key witnesses to uncovering human trafficking crimes are victim witnesses. The Trafficking Victims Protection Act of 2000, as reauthorized in 2008, provides immigration relief, including Continued Presence pursuant to 22 U.S.C. Section 7105, and T visas pursuant to 8 U.S.C. Section 1101(a)(15)(T), to victims of severe forms of trafficking. In addition, other immigrant victims of enumerated crimes, including human trafficking, assault, and other offenses, are entitled to apply for U visas. Federal law enforcement agencies, including the Federal Bureau of Investigation and the Department of Homeland Security's Immigration and Customs Enforcement, play a significant role in assisting victims in applying for such immigration relief. Accordingly, we believe that the current visa structure is sufficient to permit the full investigation of human trafficking crimes. However, many members of immigrant communities are unaware of these legal protections and are reluctant to come forward to law enforcement.

The Department of Justice has funded task forces to train state, local, and federal law enforcement and non-governmental victim service providers in developing proactive, multi-disciplinary, victim-centered investigation strategies designed to detect hidden human trafficking crimes that would otherwise remain hidden, and to earn the trust of victims who would otherwise be reluctant to confide. These task forces are directed primarily at engaging state and local law enforcement and NGOs to help identify and protect human trafficking victims; they do not direct any federal law enforcement resources toward the protection of human trafficking victims or the federal investigation or prosecution of their abusers. Focusing federal investigative and prosecutorial resources on human trafficking would be an effective means of enhancing the capacity of these task forces to rescue victims of human trafficking and related forms of exploitation and bring the perpetrators to justice.