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January 15, 2014

Hon. Linda Valentino, Chair
Hon. Charles Priest, Chair
Joint Standing Committee on Judiciary
2 State House Station
Augusta, Maine 04333

Re: Resolves 2013, ch.51, Directing the Attorney General to Report on the
Status of Discussions on Domestic Violence on Tribal Lands

Dear Senator Valentino and Representative Priest:

In order to satisfy the directive of this Resolve, my office reached out to the tribes in Maine and obtained information about services available to victims of domestic violence. We then invited the tribes to send interested parties to a meeting in Bangor so that we could learn firsthand about the "social, economic and legal issues involved in domestic violence on tribal lands" and so that we could discuss "coordination of tribal and state efforts to address domestic violence."

The meeting held January 10, 2014, addressed the eleven questions of the agenda items, copy attached. In addition to me and Susan Fuller and Tim Feeley of my office, eight interested parties, including program coordinators from all five domestic and sexual violence advocacy tribal programs, attended and took an active part in the discussion.

These five tribal advocacy programs cover Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe at Indian Township, Passamaquoddy Tribe at Pleasant Point, and the Penobscot Indian Nation. The January 10th, 2014, meeting was the first time that representatives from all five programs had come together.

The five domestic abuse tribal programs have recently formed a tribal domestic and sexual violence coalition — the Wabanaki Women's Coalition, Inc. Their mission is "to increase the capacity of tribal communities to respond to domestic and sexual violence and influence Tribal, National and Regional systems to increase awareness, safety, justice and healing for all our relations." The coalition assists each of the tribal communities to do more to respond to domestic and sexual violence by providing training and education to first responders and health care providers.

Many of the advocates provide both community education and direct support services to victims of domestic and sexual violence, while at the same time working on program development. I commended them on their challenging work and affirmed that domestic violence is a top priority of the Attorney General's Office.

We described the work of our Domestic Abuse Homicide Review Panel, staffed by Susan Fuller, and provided copies of the Panel's 9th biennial report. We offered to include detailed information about the Wabanaki Women's Coalition in the appendix to the panel's upcoming 10th biennial report, and this offer was welcomed. We discussed the public service announcements my office is producing and invited input from the attendees about any individuals who would be good subjects for these PSA's. We also discussed the legislation that was scheduled for hearing earlier this week in the Criminal Justice and Public Safety Committee; the Wabanaki Women's Coalition testified in favor of this legislation to strengthen our domestic violence laws.

Jane Root spoke about her role as a domestic violence advocate for the Maliseets since 1998 and her role as interim director of the Wabanaki Women's Coalition. The Coalition is not part of the Maine Coalition to End Domestic Violence but it will be a presence in the Maine legislature and at public policy forums alongside MCEDV.

Unlike state programs, all of the tribal programs deal with both domestic violence and sexual assault. The tribal programs also assist non-natives and they assist all tribal members, even those living far away. An advantage the tribes have over state advocates is that the tribal chief can banish someone from tribal property if they are being abusive, even if the victim does not pursue a complaint. Often the person banished is a non-native living with a tribal member.

The Maliseets and the Micmacs have emergency shelters; other tribes use motels or safe homes to provide shelter. The advocates assist victims in both tribal and state courts. Unlike state courts, there are no victim witness advocates generally in tribal courts.

We discussed at some length whether tribal protection from abuse orders are being served on the offender, whether they are entered into the computer system (NCIC), and whether they are being enforced by state law enforcement and in state courts. We discussed the need to train and educate state and local law enforcement to ensure that tribal orders, including tribal orders from other states, are served and enforced properly.

One glitch exists with respect to orders issued by Passamaquoddy law enforcement. Only those orders issued to Indian Township police are entered into NCIC; Pleasant Point, which now lacks a 24-hour dispatch, is not issued an NCIC ID because they cannot confirm the provisions of a protection order within the requisite time. The two communities are one hour apart in travel distance, so orders served by Pleasant Point law enforcement are not being entered into the state's computer system. I promised to follow up with the Department of Public Safety to see if there is any way the Pleasant Point police can be authorized to enter data.


We also discussed the gap caused by arrest and conviction information not being shared by the tribal courts with state courts or with the Maine Department of Public Safety. If a person is convicted of a crime in tribal court, that conviction is not communicated to the state's data bank. That same person may be charged with a similar crime in another part of the state and law enforcement has no way of knowing about the earlier charge. For purposes of bail, charging decisions and sentencing, information that the person has a prior conviction or a prior arrest is information that needs to be shared to ensure offender accountability and public safety. Attorney Amy Faircloth offered to take up this issue with Tribal Judge Eric Mehnert.

Several of the tribal attendees were very interested in discussing the 2013 reauthorization of the Violence Against Women Act and its possible impact on Maine tribes. While the tribal programs have received grants from the Office of Violence Against Women over a number of years, the attendees were interested in the new provision that permits tribal courts to try non-tribal individuals. Penobscot Tribal Judge Eric Mehnert and Domestic Violence Legal Advocate Amy Faircloth are submitting a grant proposal to the US Department of Justice for a pilot project to implement this provision of VAWA in Maine. I pointed out that there are strong differences of opinion about whether those provisions of VAWA apply in Maine, particularly since our state courts try these cases against nontribal offenders, but federal officials try them in the western states and they are not given high priority there.

A list of the attendees is attached, along with the agenda for the Bangor meeting, as well as a copy of the Resolve.

Thank you for the opportunity to explore and learn from the tribal domestic and sexual violence programs in Maine and to become acquainted with, begin a dialogue with and commence what I hope will be a long-lasting relationship with these very able and energetic advocates.

Yours very truly,


Janet T. Mills
Attorney General

Cc: Meeting attendees
Attachments – List of attendees
Agenda
Resolve

Attorney General's meeting with Tribal Domestic Violence Advocates

**RE: Resolves 2013, ch.51, Directing the Attorney General To Report on the Status of
Discussions on Domestic Violence on Tribal Lands**

**Location: Bangor Police Department, Training Room
January 10, 2014**

Attendance

Janet T. Mills, Attorney General

Susan Fuller, Attorney General's Office

Tim Feeley, Attorney General's Office

Debi Francis, Social Services Assistant Director, Penobscot Indian Nation

Amy Faircloth, Domestic Violence Legal Advocate, Penobscot Indian Nation

Chief Edward "Charlie" Peter-Paul, Aroostook Band of Micmacs

Julia Walton, Family Violence Program Coordinator, Aroostook Band of Micmacs

Dolly Barnes, Domestic Violence Program Coordinator, Passamaquoddy Tribe at Indian Township

Nancy Soctomah, Passamaquoddy Peaceful Relations Program Coordinator, Passamaquoddy Tribe at
Pleasant Point

Chief Brenda Commander, Houlton Band of Maliseets

Jane Root, Maliseet Domestic and Sexual Violence Advocacy Center Program Coordinator, Houlton Band
of Maliseets, and Interim Director of the Wabanaki Women's Coalition

**Meeting: Friday, January 10th, 2014,
1:00pm to 3:00pm, Bangor Police Dept. Training Room**

Thank you for agreeing to discuss issues regarding responses to domestic violence involving tribal members.

As the agenda for our discussion, I propose the following questions:

1. What is the incidence of domestic violence on the individual tribal reservations/trust lands?
2. What is the incidence of domestic violence cases in which one of the parties is not a member of any tribe?
3. What is the process for a victim to obtain a protection from abuse order from a tribal court?
4. Are there any problems with tribal members obtaining protection from abuse orders from state court?
5. Are there problems with state courts honoring or enforcing protection from abuse orders issued by a tribal court?
6. What is the conviction rate for domestic violence crimes in tribal courts?
7. Are there problems encountered by tribal members who appear as victims/witnesses in domestic violence cases in state courts?
8. How can state and tribal courts better communicate regarding records of convictions in domestic violence cases?
9. How can state and tribal law enforcement better cooperate with respect to enforcement of laws against domestic violence?
10. What are the particular problems encountered by tribal members who are victims of domestic violence?

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11. How are domestic violence offenders being held accountable for their actions when the victim is a tribal member?

Please let me know if you have any comments or suggestions or sources of information that would be helpful in responding to my responsibilities under Resolve 2013, chapter 51, attached.

Please also confirm that you will attend the meeting at the Bangor Police Department at 1:00 p.m. on Friday, January 10, 2014.

Thank you.

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

—
H.P. 996 - L.D. 1400

**Resolve, Directing the Attorney General To Report on the Status of
Discussions on Domestic Violence on Tribal Lands**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, recent federal legislation specifically addresses tribal issues involving violence against women; and

Whereas, coordination in procedures and services concerning domestic violence benefits the State as a whole; and

Whereas, prevention of and responses to domestic violence involving tribal members and domestic violence on tribal lands can benefit from a coordinated statewide approach; and

Whereas, additional time is necessary to prepare a report by January 2014; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Attorney General report. Resolved: That the Attorney General shall report by January 15, 2014 to the Joint Standing Committee on Judiciary on the status of ongoing discussions between representatives of the Joint Tribal Council of the Passamaquoddy Tribe, the Council of the Penobscot Nation, the Council of the Houlton Band of Maliseet Indians, the Aroostook Micmac Council, domestic violence advocates and the State concerning the social, economic and legal issues involved in domestic violence on tribal lands and coordination of tribal and state efforts to address domestic violence. The Joint Standing Committee on Judiciary may report out a bill based upon the report to the Second Regular Session of the 126th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.