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NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER STANDS UP TO PROTECT NATIVE WOMEN FROM DOMESTIC VIOLENCE AND GUN VIOLENCE

(Lame Deer, MT) Today the National Indigenous Women's Resource Center ("NIWRC") files an [amicus brief](#) in support of the United States Department of Justice, asking the United States Supreme Court to affirm the First Circuit Court of Appeals' decision in *Voisine v. United States*. The NIWRC is joined by six Indian Nations that have—or are prepared to—implement and prosecute cases under the Violence Against Women Act § 904's special domestic violence criminal jurisdiction; the Tribal Law and Policy Institute; and seventeen tribal coalitions that work on the ground to assist survivors and end domestic violence in their communities. Collectively, the NIWRC and their fellow *Amici* urge the Supreme Court to uphold the application of federal firearm prohibition to individuals who have been convicted of domestic violence crimes against Native women.

The Supreme Court's decision in *Voisine* has the potential to uphold, or undermine, significant federal protections for Native women survivors of domestic violence. 18 U.S.C. § 922(g)(9), also known as the "Lautenberg Amendment" prohibits individuals convicted of a "misdemeanor crime of domestic violence" from possessing, trading, *etc.* firearms and/or ammunition. In *Voisine*, the First Circuit concluded that in enacting the federal firearm prohibition in 18 U.S.C. § 922(g)(9), Congress intended to prohibit *all* individuals convicted of domestic violence crimes in Federal, State, or Tribal Courts from purchasing and/or possessing firearms—regardless of whether their underlying domestic violence conviction was labeled as a "reckless" or "intentional" crime.

Petitioners, however, urge the Supreme Court to overturn the First Circuit's decision and conclude that Congress did not intend for § 922(g)(9)'s firearm prohibition to apply to criminals convicted of *reckless* domestic violence crimes. According to Petitioners, only those domestic violence crimes that are prosecuted as having been committed "knowingly" or "intentionally" should fall under the ambit of Congress' federal firearm prohibition. Because many Tribes allow for the prosecution of domestic violence crimes classified as "reckless," excluding *reckless* crimes from the reach of § 922(g)(9) will place a large number of Native women in grave danger.

"Petitioners attempt to conflate 'reckless' domestic violence crimes with 'accidents,'" NIWRC's attorney, Mary Kathryn Nagle, a partner at Pipestem Law, PC, states. "Domestic violence crimes prosecuted under tribal law, however, are not accidents. Tribal Courts that prosecute for 'reckless' domestic violence crimes establish a standard that requires demonstrating the defendant acted with a 'conscious disregard' for the safety and welfare of the defendant's intimate partner. There is no doubt Congress intended for the Lautenberg Amendment to cover these crimes."

The story of Survivor Diane Millich (Southern Ute Indian Tribe), reveals the danger firearms pose in the hands of individuals known to abuse Native women. Millich shares: "On the day after my Tribal Court issued my order of protection, I was at work when I saw him pull up in a red truck. My ex-husband walked in to my office and told me: 'you promised until death due us part so death it shall be.' He was armed with a 9MM gun. If not for my very brave co-worker I would not be alive today. My co-worker prevented my murder by pushing me out of harm's way and took the bullet in his shoulder." Millich adds, "although my ex-husband beat me on numerous occasions, he was never once charged or convicted of having committed a 'knowing' or 'intentional' crime."

In adding tribal domestic violence convictions to the Lautenberg Amendment's firearm proscription in the 2006 reauthorization of the Violence Against Women Act, Senator McCain noted "that Indian women experience the highest rates of domestic violence compared to all other groups in the United States." 151 Cong. Rec. S4,871(daily ed. May 10, 2005) (statement of Sen. McCain). "One in three Native women will be raped in her lifetime, and six in ten will be physically assaulted," says Lucy Rain Simpson, Executive Director of the NIWRC. Simpson adds that, "Even worse, on some reservations, the murder rate for Native women is ten times the national average."

"For Native women, the lethal threat a gun imposes in the home of a domestic violence perpetrator is especially severe given that guns are involved in over one-third approximately 35 percent, of homicides against Native women," explains Cherrah Giles, NIWRC Board President.

"We know domestic violence is not a one-time crime," states Jaqueline Agtuca, NIWRC's Policy Consultant. "Domestic violence is a crime that is repeated and only increases in severity." "Given the high rates of abuse, violence, and homicide that Native women experience, the presence of a gun in the home of an individual convicted of abusing a Native woman creates a serious threat that the Native woman—or her children—will be killed," says Wendy Schlater, Board member of the NIWRC.

"The NIWRC's mission is to end violence against Native women," states NIWRC Board President Cherrah Giles. "We know this violence won't end if the individuals who are convicted of beating and abusing our women are permitted to continue to possess firearms."

The Supreme Court will hear oral arguments in *Voisine v. United States* on February 29, 2016.

NIWRC files this brief as a part of its VAWA Sovereignty Initiative, a project focusing on the defense of the constitutionality and functionality of all VAWA tribal provisions. This Initiative is the NIWRC's next step forward in defending the 2013 VAWA reauthorization and other important advancements in federal law and policy related to the protection of Native women and children.

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About the National Indigenous Women's Resource Center: *The National Indigenous Women's Resource Center ("NIWRC") is a nonprofit organization that provides technical assistance, policy development, training, materials, and resource information for Indian and Alaska Native women, Native Hawaiians, and Native non-profit organizations addressing safety for Native women. The NIWRC's primary mission is to restore safety for Native women through preserving and restoring the inherent jurisdiction of Indian Nations to protect their women and children on tribal lands. For more information, visit www.niwrc.org.*