

# Impact of Oklahoma v. Castro-Huerta

Vicki Otto, Special  
Victims Bureau

Pima County  
Attorney's Office

- VAWA 2013 first extended tribal prosecution authority over non-Indians for certain DV offenses committed against tribal members in Indian country.
- VAWA 2023 expanded the list of offenses to include:
  - stalking,
  - harassment,
  - certain crimes against children,
  - certain assaults against a law officers & court personnel,
  - interfering with criminal investigations, and
  - sexual offenses, committed by non-Indians against tribal members in Indian country.
- Tribes may implement all, some, or none of the provisions of VAWA 2013 and VAWA 2023.

## Background

## Facts of *Castro-Huerta*

- ✦ Castro-Huerta is not Indian; his wife and stepdaughter are members of the Creek nation.
- ✦ Settled law permits tribal authorities to prosecute tribal members for offenses committed against other tribal members, so the tribe had jurisdiction over Castro-Huerta's wife.
- ✦ Castro-Huerta (and his wife) starved his stepdaughter until she weighed only 19 lbs and was in critical condition.
- ✦ 2014 (pre-expansion of VAWA 2023)
- ✦ OK prosecution resulted in a sentence of 35 years; post-appellate federal prosecution resulted in a sentence of 7 years.
- ✦ Oklahoma appealed.

## Holding

Indian country is part of the State(s) it is in, not separate.

Federal preemption does not prevent a State from exercising jurisdiction in Indian country.

Under *Bracker* analysis, State jurisdiction in Indian country does not infringe upon tribal sovereignty.

**SO: The Federal government and the State government have concurrent jurisdiction over crimes committed by non-Indians against Indians in Indian country.**

◆ Known, Pima County: Moderate influx of DV cases being investigated by Pascua Yaqui and Tohono O’Odham police departments

◆ Unknown, Pima County: how many of those cases involve tribal victims (some DV cases arise at the casino involving non-tribal patrons)

◆ Unknown, General:  
How this will change over time  
How this will vary by jurisdiction

## Current Impact, Considerations

## Considerations Moving Forward

Impact of Domestic, Sexual, and Gender-based violence on Tribal Communities

Preparing/Continuing to Serve Tribal Victims:

- Meaningful relationships with our tribal counterparts in every role
- Identification of resources

Implementation:

- Culturally Sensitive Victim Advocacy
- Travel and Tech Considerations
- Training
- Expert Testimony
- Culturally Sensitive Trial Advocacy

Questions?

