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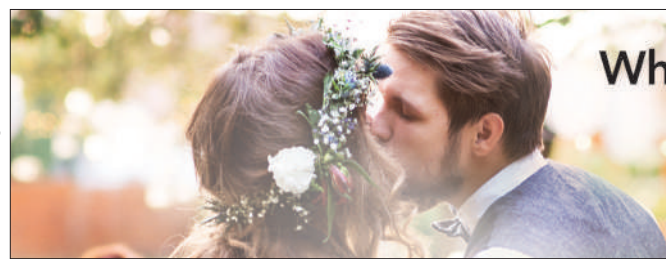
Western North Carolina's Source for Weekly News, Entertainment, Arts, and Outdoor Information

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## SILENT NO MORE

VIOLENCE AGAINST NATIVE WOMEN FUELS OUTCRY

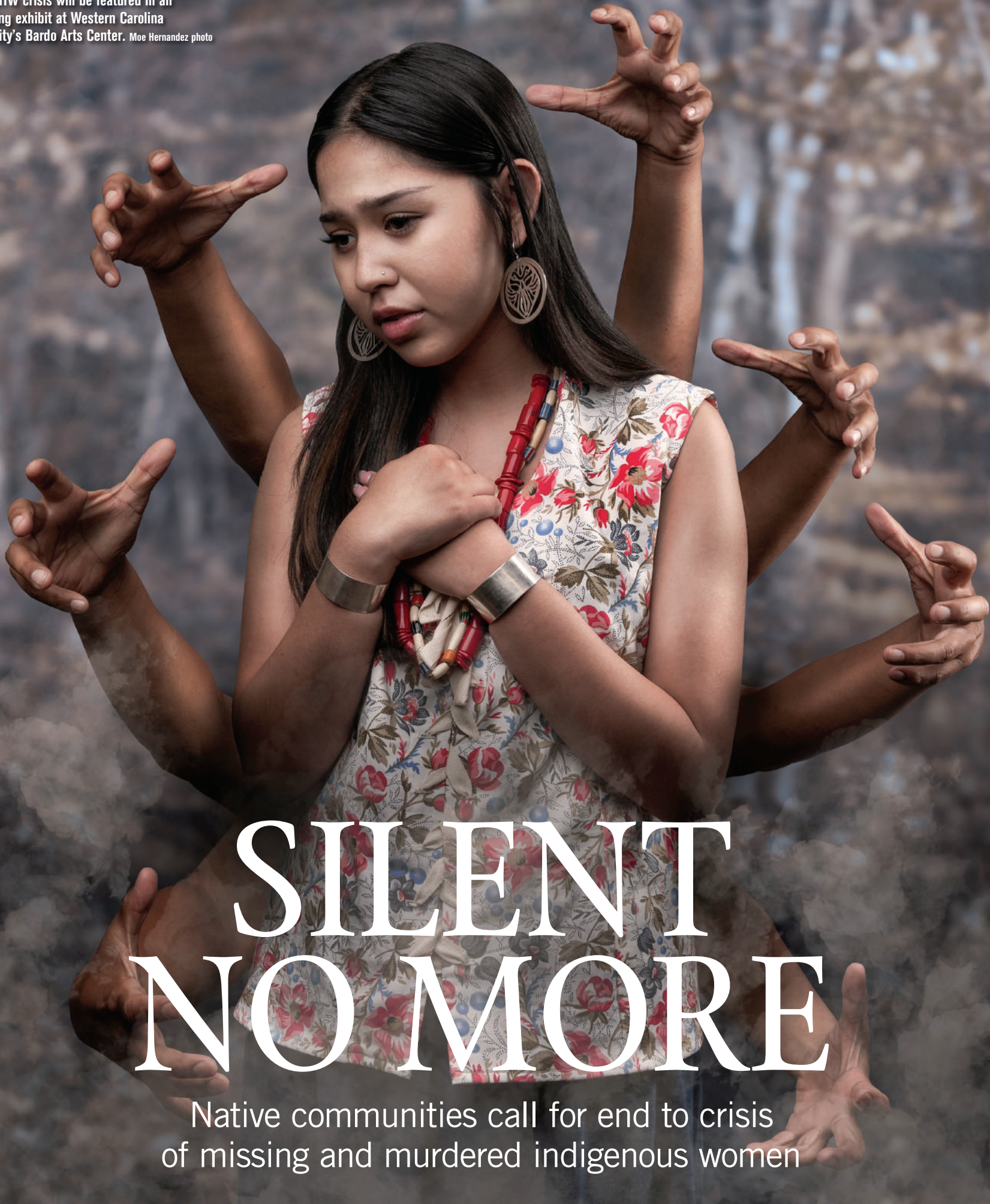


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Images from Moe Hernandez' series illustrating the MMIW crisis will be featured in an upcoming exhibit at Western Carolina University's Bardo Arts Center. Moe Hernandez photo

news



# SILENT NO MORE

Native communities call for end to crisis of missing and murdered indigenous women

June 29-July 5, 2022

Smoky Mountain News

Maggie Calhoun Bowman's family has spent the last 17 years making peace with the fact that they will never know how she ended up dead in a rain gully, covered over with leaves and a pink coat.

Bowman didn't really have a home. Recently divorced, she wandered from berth to berth, bouncing between the houses of various friends and family members. But her family became concerned when she didn't come around for Thanksgiving, and when she still hadn't turned up a week later when the December per capita payments went out, they knew there was something wrong.

A week later, a cadaver dog finally sniffed out her body — there wasn't much left. The family gathered the few remaining fragments for burial.

"That's all we know," said Bowman's sister, Bernice Bauchenbaugh. "All of the people that were in suspicion at that time, they're all gone, so we're never going to know what happened."

Bauchenbaugh sat beside her daughter, Karina Crowe, at a fold-up table laden with ruby red signs, each bearing the black-lettered name of a Cherokee women whose life, like Bowman's, had been taken too soon. They were two of about 25 people at the Yellowhill Community Center that Sunday afternoon, April 24, painting the names of lost sisters, daughters, mothers and friends on rectangular pieces of wood. The following weekend, Cherokee men and women would hold those signs aloft as they walked down Tsali Boulevard for the third annual Missing and Murdered Indigenous Women's March.

Loretta Bolden, who spent 19 years as a teacher at Cherokee Central School, organized the first march in 2020 after finding that the number of missing and murdered Eastern Band of Cherokee Indians members was much larger than she'd first realized.

"And I'm finding a lot of people don't know," she said.

"These people are not nameless. They're not unknown people," said Leah Wolfe, another of the effort's organizers. "They have families, and these people, they need closure, at the end of the day. They were somebody's mother, they were somebody's daughter."

Susanne Brady, seated at a table toward the back of the room with her grandchildren, Kalina and Billy Jack Hicks, Jr., misses her daughter each day. Danielle Brady Hicks, who was only 34 when she died, was the youngest of Brady's five children, and her only girl. Brady remembers her daughter as a little girl who liked dolls, horses and fishing, and who grew into a smart, kind-hearted woman who could seemingly do anything — except leave her allegedly abusive husband Billy Jack Hicks, the father of her two children.

Danielle, then pregnant with a third child, died of a gunshot wound on an October day in 2020. Hicks sits in the Jackson County Detention Center, held without bond and accused of her murder.

Her daughter's teenage children now live

with her. She sees their arrival as a second chance to do for them what she wasn't able to do for Danielle. It's a responsibility she guards carefully.

"I tell them I couldn't protect your mom," she said. "So I have to protect you."

A couple tables away, Diane Wolfe is painting awareness for yet another stolen sister — her aunt, Marie Walkingstick Pheasant, a "quiet, sweet, loving girl" whose life ended too soon. It's been nearly a decade since she died, but the case remains unsolved.

Pheasant was 26 and the mother of two young children when her body was found in a burned-out vehicle in Cherokee's Big Cove

"These people are not nameless. They're not unknown people. They have families and these people, they need closure."

— Leah Wolfe

Community on Dec. 29, 2013. Despite investigative efforts from the Cherokee Indian Police Department, N.C. State Bureau of Investigation and the FBI, nobody was ever charged in her death, though police suspected foul play.

Josh Taylor, who until June 27 was Cherokee's chief of police, believes the responsible person is still out there, as are people who continue to keep silent about what they know. In the aftermath of Pheasant's death, the police department issued a \$5,000 reward for information leading to an arrest and conviction. Over the past year the department has ratcheted that number upwards — it now sits at \$20,000.

"Next year will be the 10th anniversary of her death," said Alica Wildcatt, public information officer for the CIPD. "And I was thinking about this the other day: \$50,000, is that worth us getting information to arrest somebody to give her justice? You can't put a price on anybody's life or getting them justice."

Diane Wolfe, now 57, remembers Pheasant's good sense of fun and abiding love for her two children, a baby girl and a boy who was just a toddler when she died.

Now she's gone forever, and a conviction wouldn't bring her back to life.

But it would break the family out of the stalemate it's been stuck in for nine years. Pheasant's death remains an active investigation, which means the police can't share details about the circumstances surrounding it, and her family can't publicly voice their suspicions. Her children are no longer babies,

## Say their names

For the past year, the Cherokee Indian Police Department has worked to compile a list of Eastern Band of Cherokee Indians women and girls known to have been murdered or gone missing.

So far, the department's public information officer, Alica Wildcatt, has identified 31 such cases, of which only 10 occurred on the Qualla Boundary. The victims range in age from eight months to 54 years, and 14 of them died from gunshot wounds.

- Dora Owl\*
- Edna Long- Bradley
- Edith Emily Saunooke-Clark
- Jacqueline Davis\*
- Malinda Catolster
- Hermie Elizabeth Sequoyah- Queen
- Ollie Cucumber-Hornbuckle
- Bethna Sue Bradley-McCoy
- Stacy Bigwitch
- Mary Catherine Haymond
- Patricia Louise Ander-Mount
- Martha Joyce Driver-Teesateskie
- Tina Michelle Brown-Young
- Banita Jumper-Gregory
- Carol Deanah McCoy
- Lucy Ann Wildcatt\*
- Rita Ann Mathis
- Lucinda Ann Littlejohn\*
- Gina Raquel Younce-Puckett
- Magdalene Calhoun-Bowman\*
- Tamara Susan Seay
- Aubry Kina-Marie Littlejohn
- Marie Manurva Walkingstick Pheasant\*
- Ora Lea Taylor-Hawkins
- Eva Michelle Blythe-Blevins
- Cheyenne Toineeta\*
- Danielle Davina Brady-Hicks
- Jessica Nicole Calhoun
- Ahyoka Calhoun
- Megan Leigh Hull
- Lively Crue Colindres

\* denotes unsolved case

If you have any information connected to the six deaths that remain unsolved or know of any missing or murdered EBCI women whose names are not on the list, contact the Cherokee Indian Police Department at 828.359.6600.

and the family is wrestling with how much to tell them, and when.

"They're getting older," Diane Wolfe said. "They're going to see the newspaper, the picture, and it's going to be a shock to them."

The deaths of Maggie Bowman, Danielle Hicks and Marie Pheasant are devastating tragedies, but they're not isolated incidents. They're symptoms of a nationwide epidemic of missing and murdered indigenous women.

According to a 2016 National Institute of Justice Research Report, more than 4 in 5 Native American women have experienced violence in their lifetime, over half have experienced sexual violence and the majority have been victims of physical violence at the hands of intimate partners. Native women are 1.7

times more likely than White women to have experienced violence in the past year. In some counties, they face murder rates more than 10 times the national average.

Due to a variety of factors — jurisdictional issues, recordkeeping, data quality — exact figures on such cases are hard to come by. By combing police records and investigating community reports, Wildcatt has compiled a list of 31 Cherokee women known to have been murdered, gone missing or died under mysterious circumstances. The earliest case dates to 1947, when a stranger kidnapped Dora Owl, took her out toward Fontana Dam, shot her and left her for dead.

"The bullet didn't kill her instantly," said Dylan Rose, who is Owl's great-grandson. "She actually crawled her way all the way to a nearby road, where she was pretty much left for dead. Finally, someone came and picked her up, and on the way to the hospital to get help for her, she died."

Owl's case is one of seven on the list that remains unsolved. Only 10 of the deaths occurred on the Qualla Boundary, with the remaining ones taking place outside tribal lands, sometimes as far away as Florida or Los Angeles. Only one remains a missing persons case, that of a 13-year-old girl named Jacqueline Davis who disappeared in 1969. Of the 31 deaths, 15 resulted from gunshot wounds, seven from severe beating and three from being stabbed or cut.

"The six who haven't received justice are the ones that speak to me the loudest," Wildcatt said. "I wanted to get all this information so that I could put anybody's name out there that hasn't received justice. Nobody should die in the manner that any of these women did. But to get the families closure and some peace about how they were taken from them, I think that's what makes it the most important to me."

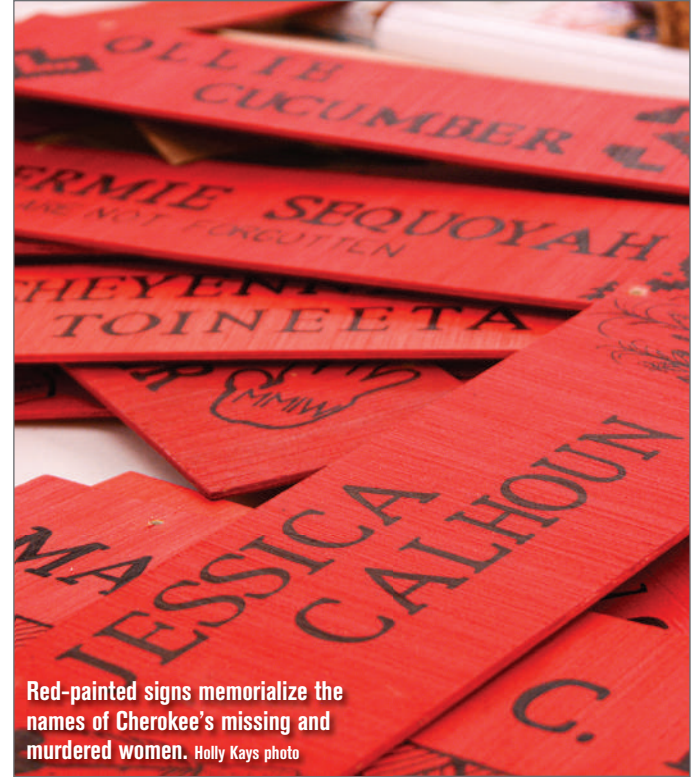
Understanding the missing and murdered indigenous women crisis, often referred to in shorthand as MMIW, requires a journey back in time through a relationship as violent and tumultuous as any abusive romantic entanglement — the relationship between Native American tribes and the United States government.

"It's really attributed to colonization and a lot of the federal laws and policies that have passed from the early 1800s, and how that's continued to govern the lives and safety of Native women," said Rose Quilt, director of policy and research for the National Indigenous Women's Resource Center. "These loopholes give non-Native abusers and predators opportunity, and they do take this opportunity to target indigenous women with impunity."

It doesn't take much research to turn up examples of the myriad ways that European settlers and, later, the American government killed, abused and otherwise mistreated the Native people they eventually displaced. From the Trail of Tears in the 1830s to the 1890 massacre of hundreds of Lakota Sioux at Wounded Knee to the forcible removal of Native children from their families for Westernization at Indian boarding schools,



Beloved Woman Carmaleta Monteith stands in the background before a pop-up art installation in Cherokee on the May 5 National Day of Awareness for Missing and Murdered Indigenous Women and Girls. Holly Kays photo



Red-painted signs memorialize the names of Cherokee's missing and murdered women. Holly Kays photo

## MMIW, CONTINUED FROM 7

the stories are as numerous as they are tragic.

But some of the most insidious developments came about in more recent decades, when the massacres were over and the eviction from ancestral lands complete.

In 1953, Congress passed a resolution initiating a federal policy of terminating Indian tribes' protected status. The policy included disbanding tribes, selling their land and moving them into cities and urban jobs, where they might assimilate into the general population.

In alignment with that policy, the Bureau of Indian Affairs launched a relocation program that pledged help with housing and employment for Native Americans who moved from their rural reservations to metropolitan areas. Many enrolled but later struggled with unemployment, low-end jobs, discrimination and disconnection with the culturally grounded communities from which they'd derived identity, values and a sense of belonging. Due to these challenges, half returned home within five years.

Even as relocation programs enticed many adult tribal members to leave their communities voluntarily, child welfare agencies were taking Indian children from their families en masse and placing them with non-Indian foster families. Until the Indian Child Welfare Act passed in 1978, parents didn't have the right to say no if the government wished to place their children in off-reservation schools, and there were no policies encouraging placement of Indian children with Indian families. Research at the time found that 25-35% of Native children were being removed from home, with 85% of those placed outside their family or home community — even when fit and willing relatives were available to take them in.

"I think about the assimilation era policies and boarding school policies, where little children are being told, essentially, everything about you as a human being is bad.

What does that do to a child, and what does it do to that child as they grow into a young adult or an adult and they have children of their own?" said Principal Chief Richard Sneed. "We still deal with the fallout of those backwards policies from 100-plus years ago. Those aren't things that are immediately corrected — which is why we have to get back to a traditional set of our values and our identity as Cherokee people."

The same year that the Indian Child Welfare Act gave Native American communities a reason to rejoice, the U.S. Supreme Court's decision in *Oliphant vs. Suquamish Indian Tribe* dealt them a blow from which they have yet to recover. In that decision, which stemmed from a case in which two non-Indian men were charged in the Suquamish tribal court for crimes on the reservation, the Supreme Court ruled that tribal courts do not have the authority to charge, prosecute and punish non-Indians who commit crimes on tribal land.

That ruling meant that such crimes had to be prosecuted in state or federal court, stripping tribal nations of the ability to protect their own people from non-Indian criminals.

When tribes stopped prosecuting non-enrolled offenders, indigenous women and children paid the highest price.

"It just makes sense that people who are predators are going to look for communities that are opportunistic, easy prey," Sneed said. "Until such a time as tribes have the ability to arrest, prosecute and incarcerate non-Indians on tribal land, I think that it will continue to be an issue."

**M**ore often than not, murdered indigenous women and children die at the hands of the men who should have been their fiercest protectors — husbands, boyfriends, fathers.

Murder is very rarely the first sign of violence in such relationships. Professionals who deal with domestic violence often refer to the

"We still deal with the fallout of those backwards policies from 100-plus years ago. Those aren't things that are immediately corrected — which is why we have to get back to a traditional set of our values and our identity as Cherokee people."

— Principal Chief Richard Sneed

"spectrum of violence" and the importance of dealing with abusive behavior before it's allowed to escalate.

Tribal leaders say that local jurisdiction offers the best chance of that outcome. Local officers have the on-the-ground knowledge they need to efficiently investigate and respond to reports of criminal behavior. Many tribal nations exist on far-flung tracts of land hours from any major city, adding multiple layers of complication to reliance on state or federal law enforcement agencies.

"When there's a lack of cultural competency added onto layers of racism and prejudice, it can be really hard to get law enforcement, especially non-tribal law enforcement, to believe family members or to act with urgency on these cases," said Kerri Colfer, senior Native affairs advisor for the NIWRC. "It's often judging a victim more than a perpetrator."

When prosecution requires witness participation, proximity is key. It's always difficult to get traumatized domestic violence victims to take the stand — the challenge accel-

erates when that stand is in a different city, presided over by a judge who may not understand the victim's cultural context.

For many reasons, it's challenging to efficiently prosecute lower-level domestic violence crimes in federal court — which, until recently, is where all such cases involving enrolled victims and non-enrolled defendants had to go.

A 2013 report from the Indian Law and Order Commission highlighted the threats that this "jurisdictional maze" poses to victims in need of justice, concluding that the "extraordinary waste" of governmental resources that results "can be shocking, as is the cost in human lives."

"There have been times that three different jurisdictions were involved in the exact same incident," said EBCI Tribal Prosecutor Cody White. "State court was involved, we were involved, the federal government was involved, all by mandate of law, not by choice. It was all in the exact same incident. Justice cannot move expeditiously and efficiently when it's bifurcated like that."

Recent federal legislation has returned some limited prosecutorial authority to tribal governments. The 2013 reauthorization of the Violence Against Women Act included a provision that allows tribes to prosecute domestic violence crimes committed by non-Indians.

The reauthorization that passed this spring drastically expanded that authority. When it goes into effect Oct. 1, tribes that meet the qualifications outlined by the federal government will also be able to prosecute non-Indians for child violence, dating violence, assault of tribal justice personnel, obstruction of justice, sexual violence, sex trafficking, stalking and violation of a protective order. The EBCI expects to be ready to exercise this new authority by the Oct. 1 effective date.

"I was a cop before I was a prosecutor," White said, "so I could imagine the relief of being able to get to a scene and my first analysis is scene preservation, witnessing, evidence

# Get help

If you're facing violence at home or are a survivor of domestic or sexual abuse, help is available. Call one of these 24/7 hotlines for confidential, compassionate assistance.

- StrongHearts Native Helpline offers culturally informed, anonymous, confidential and free service for Native Americans affected by domestic, dating and sexual violence. Dial or text 844.762.8483 or click the chat icon at [strongheartshelpline.org](http://strongheartshelpline.org).
- The National Domestic Violence Hotline provides lifesaving tools and immediate support to enable victims to find safety and live lives free of abuse. Call 800.799.7233 for help in more than 200 languages.
- The Rape, Abuse, and Incest National Network's National Sexual Assault Hotline partners with more than 1,000 local providers across the country. Call 800.656.4673 or chat online at [online.rainn.org](http://online.rainn.org).

- The National Deaf Hotline supports survivors of domestic violence and sexual assault who are deaf, deaf/blind, deaf/disabled or hard of hearing. Call 855.812.1001 or visit [thedeafhotline.org](http://thedeafhotline.org).

- The National Human Trafficking Hotline serves victims and survivors of human trafficking, with service in more than 200 languages. Call 888.373.7888 or text 233733. [humantraffickinghotline.org](http://humantraffickinghotline.org).

- The National Runaway Safeline aims to keep America's runaway, homeless and at-risk youth safe and off the streets. Call 800.786.2929 or visit [1800runaway.org](http://1800runaway.org) to work through problems and find local help from social service agencies and organizations.

- The National Suicide Prevention Lifeline is a national network of local crisis centers that provides free and confidential support to people in suicidal crisis or emotional distress. Call 800.273.8255 or chat online at [suicidepreventionlifeline.org](http://suicidepreventionlifeline.org).

collection, evidence preservation, all the things that a cop needs to be worried about — not jurisdiction.”

The VAWA reauthorization is a huge win, tribal leaders say, but it's not enough.

It will never be enough, Sneed said, “until we get to the place where tribes are treated as true sovereigns that have the ability to exercise jurisdiction over whomever who has violated tribal law on tribal land.”

That is, until Oliphant is overturned.

But even if the Supreme Court struck down Oliphant tomorrow, many tribes would struggle to adequately protect their people and hold perpetrators accountable.

“VAWA is what VAWA is. It's limited,” Sneed said. “It does give some jurisdiction. But then we go back to the issue of tribes have to have the capacity to implement it. They have to have the capacity in their law enforcement to be able to enforce it and within the tribal courts.”

The EBCI is an anomaly among Indian tribes, one of the few in the continental U.S. to retain a fragment of their ancestral land rather than being forced to resettle on some distant, resource-poor prairie. With a pair of extremely lucrative casinos and a boundary that abuts two of the country's most-visited National Park Service units, the EBCI has the resources to support a robust police force and court system. The Cherokee Indian Police Department employs about 70 sworn officers and covers a small land area compared to many Western tribes like the Navajo, so law enforcement can maintain a visible presence in Cherokee.

“We deal with the BIA, and they sometimes don't understand how we operate, because I believe that we operate head and shoulders above any other Indian law enforcement agency in this country,” said Wildcatt.

However, not every Indian tribe has a casino to fund essential operations like law enforcement, and very few of those that do own casinos have an enterprise anywhere

near as successful as Cherokee's. Most tribes rely on the federal government for funding, and time and again they come up short. The Broken Promises Report, completed in 2018 by the U.S. Commission on Civil Rights, found that in 2009, BIA funding met only 42% of the need for law enforcement personnel in Indian Country — in 2010, law enforcement agencies nationwide had an average of 3.5 officers per 1,000 residents while law enforcement in Indian Country had only 1.91 officers per 1,000 people.

“The need for tribal courts to receive adequate funding to fulfill their judicial duties, including the prosecution of criminal activity, is exacerbated by the failure of the federal government to prosecute many of the serious crimes occurring in Indian Country,” the report continues. “Of the approximately 9,000 Indian Country criminal matters resolved by federal prosecutors between 2005 and 2009, the U.S. Attorneys' Offices declined to prosecute half of the matters.”

In 42% of cases, “weak or inadmissible evidence” was cited as the reason for declining, with another 18% declined due to “no federal offense evident.”

“Not only are there federal laws and policies in place that contribute to violence against Native women, there's also a lack of support system, meaning resources for tribes to help actually combat this issue,” said Colfer.

**T**hroughout its long history of stripping tribes of their rights and encouraging them to abandon traditional ways, the federal government justified its actions by promoting a paternalistic view of Native Americans as childlike peoples in need of government guardianship. This view formed the basis for the awkward relationship that continues today — the federal government holds land in trust for tribes, terming them sovereign nations but also choosing when to

dispense or withdraw funding, resources and authority.

As it relates to MMIW, the federal government has failed to either give tribes the freedom to deal with the issue themselves or to supply the resources needed to fulfill the trust responsibility it has claimed, said Quilt, the NIWRC's policy and research director.

"The federal response to MMIW is a breach of the federal trust responsibility — and not only that, but it's a human rights violation," she said.

Beyond VAWA, the federal government has been making moves in recent years to rectify what's wrong with violence prevention and prosecution on tribal lands. Oct. 10, 2020, was a landmark day for MMIW advocates, with President Donald Trump signing two long-awaited pieces of legislation into law: the Not Invisible Act and Savanna's Act.

"It was during 2020 when not a lot aside from COVID relief was happening, so it was exciting," Colfer said in an April interview. "And here we are in 2022, and nothing has been done with them, which is upsetting."

Savanna's Act, named for Turtle Mountain Band of Chippewa and Spirit Lake Indian member Savanna LaFontaine-Greywind, who was brutally murdered in 2017 in Fargo, North Dakota, aims to boost the reporting of violent crimes against indigenous people. It improves tribal access to certain federal crime information databases, requiring the federal government to consult with tribal leaders on how to further enhance database access and safety for Native women.

The Not Invisible Act, meanwhile, mandates creation of a commission composed of tribal leaders, law enforcement, federal partners, service providers and survivors to make recommendations to the Department of Interior and Department of Justice on combating violence against indigenous people. It also states that the DOI must designate a BIA official to coordinate prevention efforts, grants and programs related to missing persons, murder and human trafficking cases in Indian Country.

The legislation contained several deadlines to move the process along — the Commission was to be appointed by Jan. 10, 2021, and submit its recommendations no later than April 10, 2022. The Commission is to sunset on Oct. 10 of this year.

However, when Colfer and Quilt spoke to The Smoky Mountain News on April 21, no recommendations had been released because the Commission had not even been appointed.

"It is really disturbing and upsetting, because a lot of the families were hopeful after it passed," Quilt said.

Commission members were finally appointed in mid-May following a virtual event hosted by Secretary of the Interior Deb Haaland on May 5, which is National Missing or Murdered Indigenous Persons Awareness Day.

"The missing and murdered indigenous peoples crisis is centuries in the making, and it will take a focused effort and time to unravel the many threads that contribute to the

In a portrait by Dylan Rose, Araceli Martinez, 14, stands strong despite experiencing violence as a young child. Rose's work will be featured in an upcoming MMIW exhibition at the Bardo Arts Center. Dylan Rose photo



## Awareness through art

An exhibition of photography and sculptures bringing voice to the MMIW crisis will open Tuesday, Aug. 16, at Western Carolina University's Bardo Arts Center.

"We Will Not Be Silenced: Standing for Missing and Murdered Indigenous Women" examines the issue and movement bringing awareness to it through the lens of artists from the Eastern Band of Cherokee Indians, Comanche Nation, Lumbee Tribe of North Carolina and other Native American tribes.

The display will be open through Friday, Dec. 9, with a reception planned for 5-7 p.m. Thursday, Nov. 3.

alarming rates," Haaland said. "I'm grateful to those of you who rang the alarm and gave a voice to the missing."

Haaland also highlighted the launch of the Missing and Murdered Unit within the Bureau of Indian Affairs. The unit formed last year and since then has worked to build up personnel and infrastructure, with 17 BIA offices across the nation now holding at least one agent dedicated to solving missing persons and murder cases involving indigenous people.

The BIA did not respond to questions about why it took so long to appoint Commission members or if the original sunset date will remain in effect, given the late start commission members now have. According to Quilt and Colfer's organization,

the NIWRC, the Commission will have 18 months to finish the job. Colfer has been appointed as a member of the Commission.

One day away from turning 8, Araceli Martinez climbed into the car with her mom and little brother to go buy some stocking stuffers for Christmas, only 15 days away.

It was shaping up to be a great week — until she saw her dad pull up in his Mustang. Araceli was still 7, but old enough to know that her father's appearance meant violence was imminent.

"He come to the window, and he pulled out a gun and told me to get out of the car," said Araceli's mother Tasha Martinez, standing beside her daughter in a shady spot on the

banks of the Oconaluftee River. Even with years of distance, the memory is disorientingly vivid. When he pulled the gun on her, Tasha said, she held down the emergency button on her phone — 911 came on the line, asking if she needed help. He heard the voice, and he "flipped out."

Araceli, still a child, took on the role of protector. Her 5-year-old brother sat with her in the backseat, rocking back and forth with his hands over his ears. A metal Star Wars action figure, a stormtrooper, sat between them. She picked it up and hit her dad with it, pulled at his sweatshirt, did whatever she could to fight him off, despite a fear so deep she vomited as she fought. She got the door open, and Tasha screamed at her to take her brother and run. She did. After a few moments passed that to Tasha felt like hours, the SWAT team arrived.

"A lot of our offenders have either suffered some kind of childhood trauma themselves or witnessed violence in their own families. And so it's a cycle that continues to happen."

— Cody White, tribal prosecutor

Nearly seven years have passed, and by all appearances Araceli has put that terrible day behind her. A shy 14-year-old who takes comfort in the traditional dress, language and crafts of her ancestors, she carries herself with an air of strength and bravery. In 2017, she was crowned Little Miss Cherokee. She wants to make a difference for the girls and women who come after her.

"He was supposed to have protected her," Tasha said. "That's her dad, her blood, her father, and he's the one that hurt her and caused her so much pain. And I think that that's why she wants to be such a voice for this, because she is able to and others aren't."

Still, the trauma has left its mark. They're all three on medication for anxiety and nervousness, Tasha said, a condition that's not improved by the fact that the kids' father, an illegal immigrant, now lives just one county over despite being previously deported to Guatemala.

"He has put a chip on her shoulder to where she's constantly ready for whatever," said Tasha. "I admire her bravery and courage that she has. She ain't scared of nothing. She's been through so much that she's got this attitude of 'I can take on this world, and I will stand my ground.'"

But Tasha worries that the past has stolen an essential innocence from her daughter's life.

"I want her to just enjoy life without having to be ready all the time for something," Tasha said, "and that's how she feels she has to be."

When Taylor started as police chief, he believed that drug abuse was hands-down the biggest law enforcement issue on the Qualla Boundary.

"I was 110% wrong," he said. "The domestic violence and the child molestation are our number one problem. That's what leads to drugs."

Childhood trauma has repercussions. According to the U.S. Substance Abuse and Mental Health Services Administration, research has shown that survivors are at increased risk of learning problems, long-term health issues like diabetes and heart disease, and involvement with the child welfare and juvenile justice systems. Trauma is a risk factor for nearly all behavioral health and substance use disorders.

Those risks are higher for children without a strong support system to aid their recovery. When traumatized children grow up without the help they need to move past the violence done to them, they often become adults who help perpetuate that cycle into the next generation.

"It's not only, from what we've seen, a pass-down of violent behavior but also the passing down of the victimization, the passing down of the silence," said White, the tribal prosecutor. "If a girl sees mom be silent but be stoic, that's how she may feel that she needs to respond in that situation."

Alcohol and drug abuse, toward which some trauma survivors turn to numb the pain, can also fuel physical abuse. White has dealt with families who most of the time are a cohesive unit of people who treat each other well. But when alcohol is introduced, violence ensues.

"A lot of our offenders have either suffered some kind of childhood trauma themselves or witnessed violence in their own families," he said. "And so it's a cycle that continues to happen."

The tribe is doing its best to break that cycle by empowering domestic violence victims to seek justice early on, getting child survivors the counseling they need, and exercising its authority under VAWA to prosecute perpetrators — but also through services for the perpetrators themselves.

The tribe operates a Batterers Treatment Program through its Analanisgi Program, which focuses on behavioral health. Perpetrators can and do receive jail time, but prosecutors will often recommend that they also go through the treatment program for an opportunity to have jail time deferred or reduced.

Domestic violence offenders don't typically get life sentences — sooner or later, they get out of jail. If they then go right back to terrorizing the people they should be protecting, what good will it have done? The goal of the Batterers Treatment Program is to recognize that such behavior is often rooted in trauma, and to address that trauma so that the perpetrator and his or her family can have peace.

"If we're going to address these issues on a systemic level, we've also got to put energy and dollars into programs that are going to help minimize the likelihood that this individual is going to continue to wreak havoc,"



Mary Crowe comforts Susanna Brady, whose daughter Danielle died after being shot in October 2020. Holly Kays photo

said Shelli Buckner of the EBCI Tribal Prosecutor's Office.

Overall, the Batterers Treatment Program has been successful, White said, though there have been some repeat offenders.

"I think it depends on how you define success, too," said Buckner. "We've had folks who've reoffended but have acted out against property as opposed to against people. I think that, while threatening, it may be considered progress."

Punching a wall is bad, but it's better than punching a person.

On a sunny, unseasonably warm day in May, Ashley Martin stands to the side as community members filter over the bridge and down the riverside path at the Oconaluftee Islands Park. It's May 5, a day designated as a National Day of Awareness of Missing and Murdered Indigenous Women to honor the birthday of Northern Cheyenne citizen Hanna Harris, murdered in 2013. Martin has been working nonstop for the past week to complete the artistically designed maze of photos and mirrors that now adorns the grassy lawn.

Freestanding, full-length mirrors bear red-painted messages — "More than half of indigenous women experience sexual violence," "Murder is the third leading cause of death for indigenous women," "Am I next?" — juxtaposed against full-size prints of portraits, by tribal member Dylan Rose, depicting Cherokee women dressed in traditional clothing, standing strong.

One of the mirrors is smashed yet remains an integral part of the display. "I am not broken," it says.

"You see young, hard-working women who just had the life sucked out of them by these men that just have no respect for themselves," said Rose, tearing up as he thinks about the impact of violence on the women in his life. "So they just take the anger and hate, and their own insecurities out on our women."

Martin said she organized the display to bring awareness to a pressing issue that, for

most Americans, is bottom of mind.

"We're just not thought of," she said. "Not just Native women. Trans people, men, boys."

More and more, Native people are speaking up, using their voices to advocate for an end to a crisis that's largely invisible to suburban America. A new podcast hosted by three EBCI women, *We Are Resilient: A MMIW True Crime Podcast*, has turned out 32

"We're just not thought of. Not just Native women. Trans people, men, boys."

— Ashley Martin

episodes since it launched in October 2021, telling the stories of missing and murdered indigenous women across the nation. Cherokee's third annual MMIW March, held April 30, drew about 200 people, and an upcoming art exhibition through Western Carolina University's Cherokee Center will seek to bring voice to the crisis through sculptures and photographs. The Cherokee Police Department has placed a renewed focus on resolving cold cases like Pheasant's.

Advocacy goes all the way to Washington, D.C., where Queen, Colfer and their colleagues at the NIWRC are working to implement their six-point action plan to address the MMIW crisis. The plan includes restoring tribes' full legal authority to protect indigenous women; implementing Savanna's Act and the Not Invisible Act — and adopting additional legislation in consultation with tribal nations — to remove systemic barriers to families affected by the crisis; requiring every federal department to develop MMIW action plans in consultation with tribal nations; enacting legislation and policy to protect tribal lands from extraction industries and corporate interests; supporting the Native Hawaiian Resource Center on

Domestic Violence; and ensuring adequate resources for indigenous women's advocacy and services.

"There are so many issues that are really specific to Indian Country, and it's important that service providers are able to understand their victims, especially on a cultural level," said Colfer.

While the federal government is responsible for many of the factors that birthed the MMIW crisis, Sneed is wary about relying on them to solve it. The current relationship between tribes and the federal government evolved from a paradigm of the government as guardian and tribes as dependents.

"This is a heavy lift," Sneed said, "but we've got to be able to break away from that paternalistic form of government and move more toward empowerment that's tied to a traditional set of values."

Taylor believes that there are people in the community today who know how Marie Pheasant died, just like he believes that there were people who knew what happened to Maggie Bowman but decided not to speak up.

"Our culture takes advantage of our own people sometimes, because they won't speak up and tell what's happened," he said. "We can't blame it all on the federal government. We need to step up as a community."

Ending the crisis will rely as much on change at home as it will change in the halls of Congress, Sneed said. That starts with resurrecting the traditional culture and values too long suppressed or disrupted by government policy. Cherokee's is a matrilineal culture, marked by strong women who command the respect of their communities. But it's also a culture of strong men, and the community needs their strength to solve its problems.

"Our men were strong, and we need to re-identify with that part of our history and our identity," said Sneed. "We were protectors and we were fierce fighters, and I think that needs to be part of what we are teaching our young men too, is that we are strong as well, and we are protectors of our women and children."

As long as there are people on earth, there will be murder and there will be violence. But Indian Country leaders believe that the disproportionate impact of violence on Indian lands, particularly against women, is solvable — and they're hopeful that it's on its way to being solved.

"This crisis will no doubt end with our generation," Fawn Sharp, president of the National Congress of American Indians, declared during Haaland's May 5 virtual event.

It's a complex issue, and addressing it will require an all-hands-on-deck approach spanning all corners of geography and jurisdiction, Sneed said. But, he said, he can "absolutely agree" that within a generation, it is possible for MMIW to cease to be the crisis that it is today. Nothing gives him more hope than the grassroots efforts of people like Bolden, Martin, the *We Are Resilient* podcast hosts and everyone else working to expose and alleviate the crisis.

"To me that's where real change always comes from," said Sneed. "It's rarely that it's top-down. It's always grassroots, bottom-up, citizens raising their voice and raising awareness. I'm very proud of our people for doing that."

# Handled at home

## VAWA reauthorization expands tribe's ability to hold abusers accountable

By **HOLLY KAYS**  
STAFF WRITER

**O**n July 21, 2015, Cherokee resident John Michael Arkansas was convicted of violating a domestic violence protective order. He received a year of probation and \$1,600 in fines and restitution, with a 75-day sentence hanging over his head should he violate the terms.

The conviction — which in most contexts would be considered a run-of-the-mill criminal proceeding — was a groundbreaking achievement for the Eastern Band of Cherokee Indians.

Arkansas was the first non-enrolled person to be charged, tried and sentenced before the Cherokee Tribal Court, a milestone made possible through the 2013 renewal of the Violence Against Women Act. The federal law created a pathway for Native American tribes to gain jurisdiction over non-Indians who commit domestic violence against enrolled members on tribal land — a crime that is lamentably common and lamentably difficult to prosecute.

“It really enhances an Indian tribe’s sovereignty, because an Indian tribe should be able to defend itself, carry out its own affairs,” Cherokee Chief Justice Kirk Saunooke said of the tribe’s powers under VAWA.

Since 2015, the EBCI has pressed charges against non-Indians in 66 alleged incidents of domestic violence, convicting 34 of those cases in tribal court, with some cases still in progress. Domestic violence cases against non-Indians account for 10-20% of all domestic violence crimes charged in Cherokee each year, said Tribal Prosecutor Shelli Buckner, with 2017 and 2018 seeing the highest number so far. Those years also saw the highest overall number of domestic violence cases in Cherokee. Because the tribal court can sentence defendants to a maximum of only three years in prison per charge, with a cap of nine years spread across three charges, more serious cases still get sent to federal court.

“Domestic violence should be addressed vigorously,” said U.S. Attorney Don Gast. “I’ve heard it said and I’ve used this line before, too, that domestic violence is murder on the installment plan. It’s important to attempt to intervene and prosecute domestic violence cases even at the misdemeanor level before it becomes a homicide.”

### LOCAL PROSECUTION EASIER ON VICTIMS

Prior to VAWA, those misdemeanor cases were simply not resulting in the sentences that victims, law enforcement and the legal community hoped to see. Saunooke’s prede-

cessor Bill Boyum attributed that reality to overfull dockets forcing federal prosecutors to prioritize their efforts toward more egregious crimes, like murders and robberies.

“They [federal prosecutors] have things that are higher on ‘things to do’ than a Friday night slapping of somebody,” Boyum told *The Smoky Mountain News* in 2015. “It’s just a fact of life.”

Gast, who has been with the U.S. Attorney’s Office since 2001, said that’s not accurate, and that he’s never had to decline a case due to workload issues. In fact, he said, as a federal prosecutor, he has a smaller caseload than he did as an assistant district attorney working under state jurisdiction.

“We handle all those cases with utmost care, seriousness and respect,” he said.

Tribal and federal prosecutors and law enforcement have a positive relationship, all those interviewed for this story emphasized, and they all want to see justice for victims of crime. Dena J. King, now three months into her new job as U.S. attorney for the Western District of North Carolina, said that she too looks forward to strengthening that partnership — “especially when it comes to protecting Indian women and girls from the violence they face,” she said.

But both federal and tribal officials acknowl-

## VIOLENCE AGAINST WOMEN ACT

edge that there are benefits to prosecuting domestic violence crimes closer to home.

In many such cases, the victim is the crime’s only witness, meaning that she or he must participate in the case to secure a conviction. It’s always difficult to convince somebody who has suffered abuse at the hands of a romantic partner to make a formal complaint, complete interviews with law enforcement and attorneys, and possibly even testify in a courtroom. When that courtroom is an hour away in Asheville — or even just 20 minutes away in Sylva — populated by strangers unfamiliar with the Cherokee culture, it’s even harder.

“When you take them out of what they know is their tribal lands and where they feel safe, and stick them in another city, in another courtroom, with nobody they know, it did cause a lot of disconnect, and it still happens today sometimes,” said Cherokee Indian Police Department Chief Josh Taylor.

Victims often need more than just legal services as they navigate the emotional, professional and financial aftermath of an abusive relationship — the Cherokee court system can connect them with local services more efficiently than the federal court in Asheville.

“Asheville is only an hour away, but it’s still a long way to go for court hearings,” said Gast.

### TRIBAL PROSECUTION POWERS EXPAND

Tribal officials believe that the last seven years have proven that the Cherokee court can prosecute non-Indians fairly and effectively, and the question’s been building — why should domestic violence be the only crime for which the tribe may hold non-



Indians accountable?

“Give us more jurisdiction,” said Saunooke. “Let us handle this.”

When President Joe Biden signed a bipartisan omnibus bill that includes VAWA renewal legislation (see VAWA, page 10), Saunooke got his wish. The bill expands tribal jurisdiction over non-Indians to include assault of tribal justice personnel, child violence, dating violence, obstruction of justice, sexual violence, sex trafficking, stalking and violation of a protective order — in addition to domestic violence.

“The historic tribal provisions in this bill attest to years of powerful, collaborative efforts between survivors, tribal leaders and allies across Indian Country,” National Congress of American Indians President Fawn Sharp said in a statement. “We commend Congress’ momentous action to reauthorize the Violence Against Women Act and now, by exercising our inherent sovereignty and jurisdiction, Tribal Nations will continue to increase safety and justice for victims who had previously seen little of either.”

The expanded authority in VAWA covers crimes that commonly co-occur with domestic violence incidents, but, under the current structure must be split off as separate state or federal cases.

As an example of a domestic violence case resulting in additional charges, Saunooke pointed to the 2017 case of Howell Clinkscales, a non-enrolled man who, according to an affidavit filed by CIPD Investigator William Ferguson, was attacking his girlfriend, an enrolled member of the EBCI, when police arrived on the scene Feb. 8, 2017 — strangling her and punching her in the face and body. The victim allegedly told Ferguson that Clinkscales threatened to kill her, and on the same date he allegedly threatened to kill officers and investigators from the CIPD, responders from tribal EMS, and staff at the Cherokee Hospital emergency room, the affidavit states.

In federal court, Clinkscales faced five charges, related both to the assault of his girl-

friend and to the alleged assault and threats against law enforcement and first responders. He ultimately pleaded guilty to just one count — assault of an intimate partner by strangulation — and in Feb. 2018, was sentenced to three years in prison. However, court records indicate he was released early, because in March 2020 he was convicted of violating the terms of his release in October and November 2019. He was given two more years of supervised release as punishment, but mere months later, in August 2020, Clinkscales came before a judge for once more violating the terms of his release. This time, he received four months in jail.

### HELP THE VICTIM, HELP THE CASE

Ultimately, the EBCI’s justice and law enforcement leaders want the tribe to have jurisdiction over all crimes committed within its boundaries. It’s a sovereignty issue, and it’s also a victim’s rights issue. Due to the complexities of jurisdictional boundaries between state, federal and tribal court, it’s feasible that a single incident could result in cases filed in all three courts.

“It’s an inefficient system of justice in a way that is particularly hurtful to victims who’ve already been hurt,” said Tribal Prosecutor Shelli Buckner.

Testimony is not transferrable between jurisdictions, even if the set of facts for two cases are nearly identical. So split jurisdiction requires victims of domestic violence to tell an already-painful story multiple times, and to incur expenses by doing so due to missed work and fuel costs. Domestic violence victims are often in a poor position to foot the bill.

“Let’s say that a survivor has left his or her abuser and gone from a two-income household to one income, so they’re already facing some additional financial hardship,” said Buckner. “And then we’re going to put demands on them that are going to require them to suffer even more financial hardship. It shouldn’t be neces-





sary to get justice for somebody.”

Even if charges are filed in only one jurisdiction, the victim may still be required to show up at a flurry of appointments — medical exams, meetings with social workers, debriefing with police officer — to move the case forward.

Tribal departments are collaborating to address that challenge with an effort to create a “one stop shop” for crime victims — a Family Justice Center providing a single location with all the services necessary for the victim to move forward with the case, and with their lives. The project, tribal officials hope, will result not only in convenience for crime victims, but also in improved conviction rates due to fewer victims dropping out of the legal process.

“When they are forced to go different places, at any one of those stops they could fall off, because it is hard to tell that story and have to tell it over and over,” EBCI Legal Assistance Program Manager Bonnie Claxton said while discussing the concept with Tribal Council March 3.

The Family Justice Center concept would bring all the professionals that victims are currently forced to seek out at separate locations and often on separate days to a single location, making the most of the victim’s time and emotional capital.

“A lot of the people who face domestic violence, they have more mental abuse than they

do physical abuse, so they feel like they’re doing the wrong thing anyway,” said Taylor. “They’re dependent on that person’s income usually. So, the cards are stacked against them from day one. We’re trying to make the process better, where we can make it more easy and safer for them to actually make changes in their life and get help.”

Many times, said Taylor, victims are wary of uniformed officers.

“Not everybody wants to talk to the police officers,” he said. “So, if you build up a good team of people that they trust and know close to their home, where they don’t have to go 50 million different places, it makes it easier for them not to back out or be scared.”

Streamlining that process is more important now than ever, with a global pandemic exacerbating domestic violence issues even as it complicates conventional forms of justice delivery, such as jury trials. In 2019, the tribe convicted 22 domestic violence defendants, both enrolled and non-enrolled. In 2020, despite pandemic-induced court closures, that number increased to 30. In 2021 convictions had almost doubled from 2019, rising to 42.

“I think it (the pandemic) is going to cause there to be a more consistent increase in domestic violence, because there will just be more opportunity in that people are around each other more in their homes,” Buckner said. “Time will tell, and I hope that I’m wrong.”

# Tribe swears in police chief, adds new positions

news  
By HOLLY KAYS  
STAFF WRITER

Less than three months after being named interim chief of police, Carla Neadeau has been sworn in as the first female chief of the Cherokee Indian Police Department.

"It requires strong leadership to have a department and a police force that understands their role," Principal Chief Richard Sneed told Tribal Council following the swearing-in Thursday, Sept. 1. "They understand that it's a huge responsibility to be in law enforcement. They have the ability to take life, to take liberty, and it requires strong leadership but it also requires even-keeled leadership."

Sneed said he's been pleased with the work Neadeau has done since being named the interim police chief, thus appointing her to the permanent position. Associate Judge Barbara "Sunshine" Parker administered the oath of office at the beginning of Tribal Council's regular meeting Sept. 1.

Neadeau was appointed to the interim role in June following the unexpected resignation of her predecessor Josh Taylor. Taylor departed June 27 after only 11 months on the job, citing the need to spend more time with his family.

Neadeau has been with the CIPD since 2009, serving as a supervisor for three years and a manager for eight years. She holds a master's degree in business administration and is three classes away from earning her second master's degree, this time in criminal law.

"I just want to thank everybody for giving me the chance to do this and lead our department," she told Tribal Council. "Our department wouldn't be where we are today if it wasn't for our officers. I can't take all the credit for that. I give my credit to my officers because they've been outstanding. Thank

you and just be patient with me because I'm still in the learning process, and I'll tell you right now I don't know everything, but I'm sure to go back and find out an answer for you if I don't have it."

Following the swearing-in, the tribe's elected officials took the opportunity to express their faith that Neadeau would serve the office well.

"She's done an outstanding job," said Vice Chief Alan "B" Ensley. "Her and the former chief of police, he started us in the right direction and she's picked up in the direction he put us on and has done an excellent job."

"You're a big asset to the tribe," said Snowbird/Cherokee County Rep. Bucky Brown. "I know you have already made your mark in Snowbird. I also want to say, executive, what a good decision this was."

Following the swearing-in, Neadeau remained in the Council chambers to present a resolution seeking 16 positions for the police and corrections departments, 10 of which will be patrol officers. The hires will allow Neadeau to add two patrol officers to each shift and better cover for officers out on sick or vacation leave, heightening law enforcement presence in the community.

Additionally, a new detective will join the tribe's child victim unit to investigate crimes against children.

"They're covered up and every day we're getting more and more child cases that need to be investigated," Neadeau said.

The new positions also include a victim advocate — a position required by a victims rights law Tribal Council passed in April — and an assistant chief of police. The tribe's corrections program will hire a compliance officer and two maintenance technicians, allowing for 24/7 coverage of maintenance issues.

Snowbird/Cherokee Council Rep. Adam Wachacha wanted to know if the 10 new



Carla Neadeau takes the oath of office to become the first female to serve as chief of the Cherokee Indian Police Department. Holly Kays photo

patrol officers would be sufficient to increase coverage on the outlying townships he represents, and Neadeau was candid with her answer.

"No," she said, adding that she's aware those communities need more coverage and is working to gather the information needed to create a staffing plan.

"That's one of my things on my agenda to do," she said.

Yellowhill Rep. David Wolfe wanted to know the price tag on the new hires, citing requests from his community that, like Neadeau's, include the total cost of execution.

"They don't mind us spending money on these new safety positions, but they want to make sure we get a bang for our buck out of the officers that are in that position and the structure for the community's safety," he said.

Neadeau said she did not have that number with her but that she would contact Wolfe with the answer. The total cost of filling the positions will vary depending on the amount of experience new employees bring to the job.

Tribal Council passed the resolution unanimously, and it now awaits signature from Principal Chief Richard Sneed.

## Cherokee to expand prosecution authority

Starting Oct. 1, tribe will prosecute non-members for sexual and child violence

By HOLLY KAYS  
STAFF WRITER

A unanimous vote from the Cherokee Tribal Council puts the Eastern Band of Cherokee Indians on track to start prosecuting a range of offenses by non-Indians that it had previously been powerless to punish, beginning Oct. 1.

"This proposed ordinance would allow the tribe to expand its criminal jurisdiction over crimes committed by non-Indians on tribal trust lands, and the Justice Committee has met several times to go over how to incorporate this authority that comes from the 2022 VAWA Act into our tribal law," said EBCI Assistant Attorney General Hannah Smith. "We feel like we've utilized every bit of authority that law has allowed the tribe to exercise over non-Indians."

Starting in October, the EBCI will be able to hold perpetrators accountable for crimes involving assault of tribal justice personnel, child violence, dating violence, obstruction of justice, sexual violence, sex trafficking, stalking and violation of a protective order — in addition to domestic violence.

In March, federal lawmakers passed a reauthorization of the Violence Against Women Act, known as VAWA, that drastically increased the tribe's prosecutorial powers over the previous version. Those increased powers go into effect Oct. 1, and the ordinance Tribal Council adopted last week paves the way for the EBCI to start exercising its new authority as soon as the federal law takes effect.

When it comes to crimes committed by non-Indians on tribal land, tribes have been between a rock and a hard place for decades. The 1978 U.S. Supreme Court decision in *Oliphant vs Suquamish Indian Tribe* determined that tribes do not have the right to charge, prosecute and punish non-Indians for crimes committed on tribal land, meaning that such crimes must be charged in state or federal court.

For a variety of reasons, including communication challenges between jurisdictions, issues with victim participation and differing priorities in handling cases, that situation

has been less than ideal for Native American tribes. Often, multiple charges can result from a single domestic violence incident, and depending on the situation and the people involved, that single incident can result in cases in three different court systems — tribal, state and federal.

The 2013 VAWA renewal legislation offered a narrow exception to the ban on tribal prosecution of non-Indians, recognizing that victims of domestic violence are often those who suffer the most when non-enrolled abusers cannot be held accountable at the tribal level. The law allowed tribes to prosecute non-Indians for domestic violence crimes, and in 2015 the EBCI began exercising that new authority.

"It's a great thing for the tribe," Bill Boyum, then chief justice of Tribal Court, said at the time. "It's the first step toward full territorial jurisdiction, which every sovereign has to have to really be a government."

Tribal leaders maintain that the domestic violence exclusion isn't enough. Ultimately, they desire full authority to handle criminal behavior on their land, but the 2022 VAWA renewal represented a welcome expansion of the limited authority granted in 2013.