

# RECOMMENDATIONS TO REDUCE THE OVERREPRESENTATION OF ALASKA NATIVE PEOPLE IN THE CRIMINAL JUSTICE SYSTEM



For the House Tribal  
Affairs Committee  
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# INTRODUCING RICK

## **Rick A. Haskins– Garcia**

Director of Law, Policy,  
& Tribal Justice  
AKNWRC



Rick A. Haskins-Garcia, Esq., serves as the Director of Law and Policy for the Alaska Native Women's Resource Center (AKNWRC) and as a Tribal Judge for the Chickaloon Native Village. Rick was born in West Germany and raised in Fort Lauderdale, Florida.

Rick moved to Alaska in 2018 and has dedicated himself to serving Alaska Tribes by providing training and technical assistance to Alaska tribal courts and justice systems. Prior to joining AKNWRC, Rick served as a Tribal Justice Facilitator with the Alaska Native Justice Center (ANJC) and as the Tribal Justice Director and Associate General Counsel for the Association of Village Council Presidents (AVCP) in Bethel, Alaska. Rick also had the honor of serving as the District Court Magistrate Judge for the Alaska Court System's 4th Judicial District, based in Aniak and Hooper Bay.

Rick graduated cum laude from the Southern Illinois School of Law in 2009 and received his bachelor's degree in Political Science cum laude from Florida Atlantic University in 2004. Rick has been a licensed Attorney for over fourteen years and is licensed in the state courts of Florida and Alaska and in the United States District Court for the Southern District of Florida.

# ABOUT THE AKNWRC



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## ABOUT AKNWRC

Since 2015, the Alaska Native Women's Resource Center has been dedicated to strengthening local, tribal government's responses through community organizing efforts advocating for the safety of women and children in their communities and homes, especially against domestic and sexual abuse and violence.

AKNWRC board members are Alaska Native women raised in Alaska Native Villages and have over 141 years of combined experience governments, nonprofit management, domestic violence and sexual assault advocacy, and other social service experience.

## OUR MISSION

The Alaska Native Women's Resource Center envisions our Tribal women, communities and families free from violence, healing the trauma and utilizing the wisdom of our ancestors to create effective community/Tribal responses to domestic violence, dating violence, stalking, trafficking, sexual assault, and related injustices.



# AKNWRC PARTNER SHIPS

## AKNWRC Partnerships....

- The Emmonak's Women Shelter
- The Yu'pik Women's Coalition
- Healing Native Hearts Coalition
- The Alaska Federation of Natives
- University of Alaska Fairbanks
- RurAL Cap
- Alaska Native Justice Center
- The National Indigenous Women's Resource Center
- The Indian Law Resource Center
- The National Congress of American Indians
- Minnesota Indian Women's Sexual Assault Coalition
- Pouhana O Nā Wāhine
- The Alaska Network on Domestic Violence and Sexual Assault
- The Council on Domestic Violence and Sexual Assault



# ALASKA TRIBAL COURTS AND JUSTICE SYSTEMS



# ALASKA'S TRIBAL COURTS AND JUSTICE SYSTEMS

As sovereign nations, Alaska Tribes have inherent sovereign power to:

1. Form governments and establish tribal courts;
2. Make and enforce laws in their own forums (own systems);
3. Manage tribal resources and lands;
4. Determine tribal membership and citizenship requirements;
5. Enter into agreements with other governments;
6. Exercise civil and criminal jurisdiction; and
7. Maintain and practice traditional ways of life, protect sacred sites, preserve languages, and determine how tribal knowledge is shared and used

## Exclusive versus Concurrent jurisdiction

### Exclusive Jurisdiction:

- Tribal membership and Enrollment
- Tribal elections and governance
- Tribal domestic relations
- ICWA placement and foster care decisions
- Exclusion and banishment

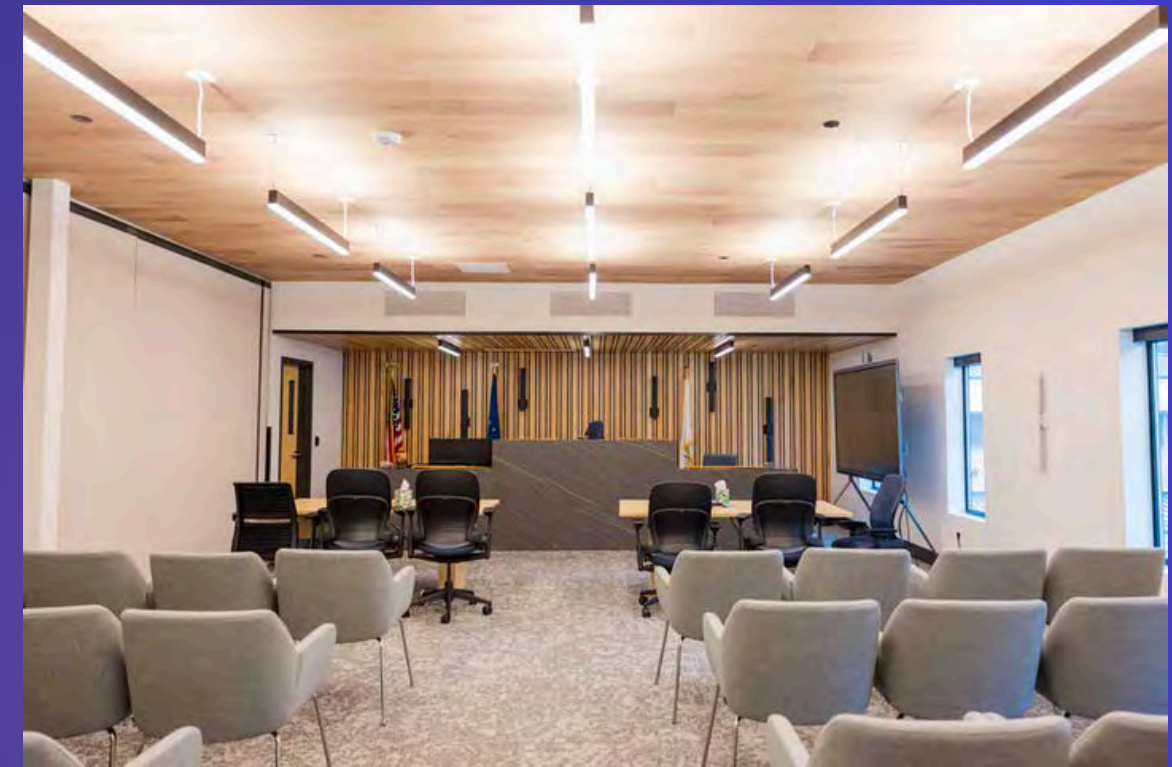
### Concurrent Jurisdiction:

- Civil disputes involving Tribal members
- Domestic violence and protection orders
- CINA/Child welfare proceedings
- Criminal matters

# TRIBAL COURTS

## Tribal courts are organized based on the needs of the community...

- Tribal communities have a choice on how to respond to violence, behaviors, and holding offenders accountable
- Tribal courts are organized based on the needs of the community. Tribes have the authority to decide how to organize their government's response. For instance,
  - NV of Anvik – Tribal council acts as their Tribal court
  - CCTHITA – utilizes a Tribal court to head and decide cases
  - OVK – utilizing traditional peacemaking circles



# LIMITATIONS ON TRIBAL AUTHORITY

## Limitations:

- Congressional plenary power
- Treaties
- Indian Civil Rights Act of 1968
- Criminal jurisdiction limitations (Oliphant vs. Suquamish)

Whatever is not expressly prohibited, remains within Tribal authority.



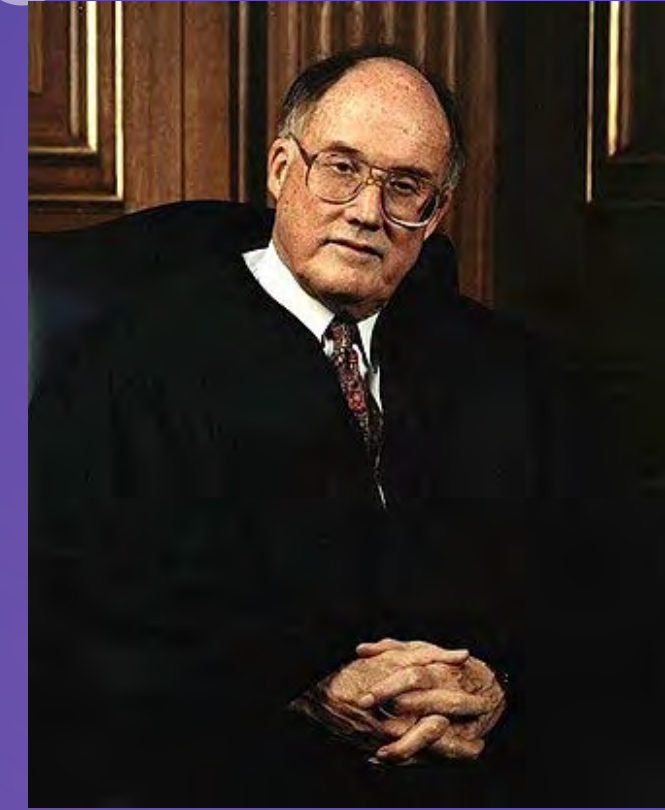
# THE OLIPHANT DECISION

1978 U.S. Supreme Court decision that found Indian Tribes do not have criminal adjudicatory jurisdiction over non-natives

- *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978)

After *Oliphant*:

- Infrequent prosecutions by federal and state authorities within jurisdiction
- High rates of violent crimes committed by non-Indian offenders with no accountability
- In Alaska, the State has not been able to provide consistent public safety services off the road system



*"...Indians do not have criminal jurisdiction over non-Indians absent affirmative delegation of such power by Congress"*

# ALASKA TRIBAL COURTS

Currently, Alaska Tribal Courts hear a wide variety of case types, including:

- Child protection
  - Domestic Violence
  - Assault/Disorderly conduct
  - Vandalism
  - Civil matters
  - Marriages, divorces
  - Adoptions
  - Name changes
- 
- Several Alaska Tribes are currently integrating criminal courts into their justice systems!



# RECOMMENDATIONS FROM STUDY

## RECOMMENDATIONS FOR ACTION

### 1. Expand Restorative Justice Programs

The restorative justice approach differs from the standard Western-style model of justice. Restorative justice considers the impact of the crime and seeks ways of restitution that include the victim, offender, and community. Alaska has a history of pioneering alternative courtroom models and was one of the first places in the country to offer mental health court as an alternative to incarceration (Alaska Court System 2016). There are several types of courts that offer alternatives, including Tribal courts, which generally take a restorative justice approach, focusing on healing and peacemaking; therapeutic courts, including drug & DUI courts, family courts, mental health courts, veterans courts, and State/Tribal healing to wellness courts (Alaska Court System, n.d.). Tribal Courts were cited for positively addressing intergenerational trauma, allowing people to stay within the community, and increasing Tribal sovereignty, cultural alignment, and community-driven problem-solving.

#### Recommended Actions:

- Expand state support for Tribal Courts and therapeutic courts, including staffing and infrastructure
- Expand the case purview of Tribal Courts to include additional types of offenses
- Increase use of diversion programs for low-level and misdemeanor offenses
- Support Elder-led restorative justice practices, including Talking Circles and community accountability models
- Improve coordination between state courts, law enforcement, and Tribal justice systems

#### Specific Actions:

- The State of Alaska and Tribes should work together to increase Tribal Court capacity to hear cases, especially in areas where Tribal Courts are not as extensive.
- The Legislature can (a) authorize data- and case-sharing agreements with Tribal courts, (b) have state judges and prosecutors refer eligible Alaska Native defendants to Tribal courts or diversion agreements when feasible, and (c) fund technical assistance that aligns Tribal restorative processes with due process and victim rights protections.
- Direct DOC, the Department of Public Safety (DPS), and the court system to pilot joint state-tribal restorative justice pathways in at least three hub communities with clear eligibility criteria and outcome tracking (recidivism, victim satisfaction, cultural connection).
- Provide state match funds so Tribal courts can apply under DOJ's Coordinated Tribal Assistance Solicitation (CTAS) grants.

“As an Inuk human being, I would be deathly afraid to be sitting in a tribal court where there's all these Elders that are going to pass judgment on me. That'll straighten me up really quick in a hurry.”

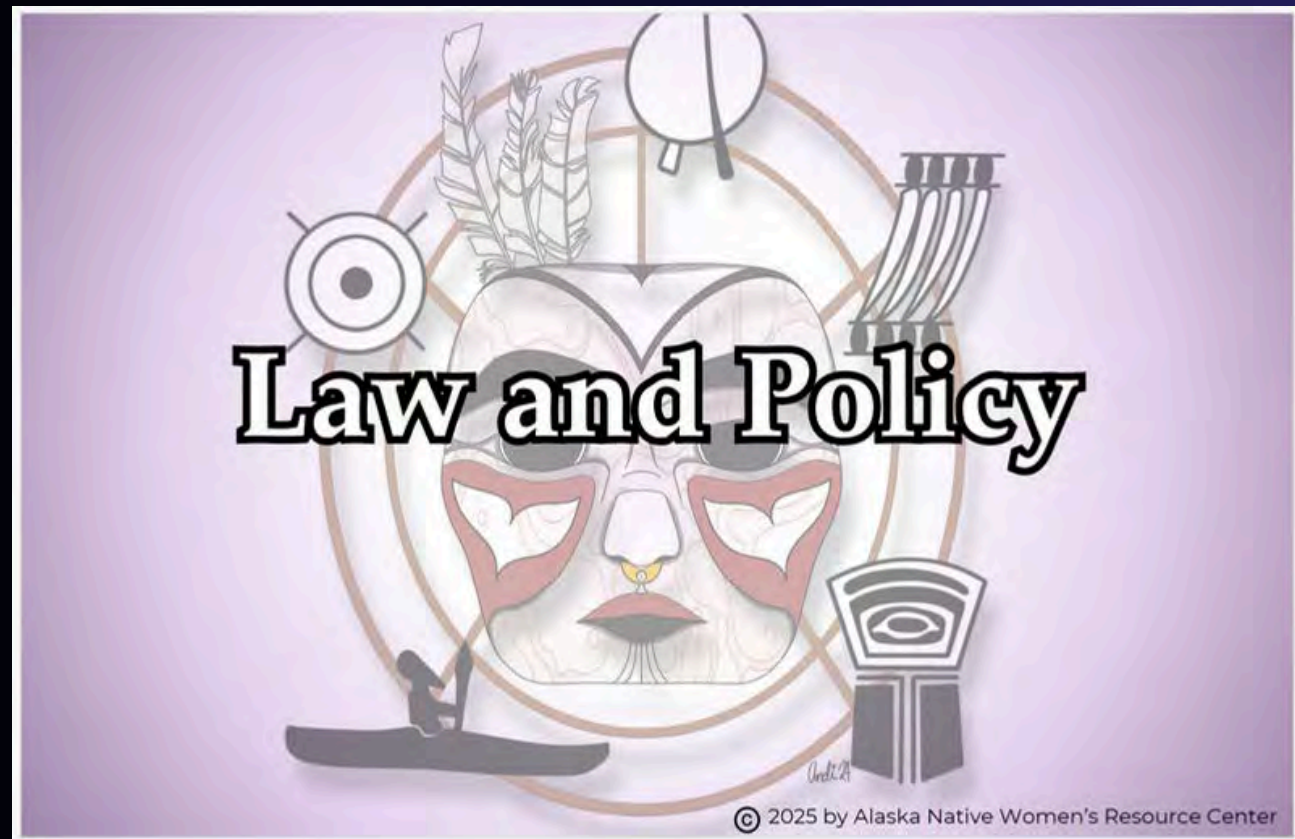
-UAF Interview Participant on Preventing the Disproportionate Incarceration and Recidivism of Alaska Native People Report



# AKNWRC ASSISTANCE AND RESOURCES



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AKNWRC's Law and Policy Team (LAP) works to ensure that the AKNWRC's policy work, systems engagement, and resource development is culturally, historically, and legally relevant and supports governmental, nonprofit, and community responses to the immediate crisis needs of Native women victimized by violence. Our work supports the social justice change work inherent in ending violence against Native women by advocating for safety for women and children especially domestic violence and/or sexual assault and many of the behaviors that are attributed to interpersonal violence and how it affects our villages and families.

The AKNWRC provides technical assistance, policy development and system engagement, training, materials, and resource information and guidance with evaluation/research regarding violence against American Indian, and Alaska Native women. Our mission is to uphold the sovereignty of Indian nations so we can restore safety for Native women and their children.

What we offer:

- Advocacy and education on Alaska Native and Tribal priorities on the Tribal, State, Federal, and International stages and platforms
- Training and technical assistance to Tribes, Tribal Courts and Justice Systems, and Public Safety Officials and Law Enforcement Officers
- Resource identification and development
- Model forms and agreements
- Federal consultation information and testimony development support
- Alaska-specific model laws and codes
- Assistance with drafting and enforcement of Tribal domestic violence protective orders within existing state and Tribal systems

**Connect with us!**

Scan the QR code to sign up for our mailing list!

🌐 (907) 328-3990

📧 info@aknwrc.org

📧 <https://www.aknwrc.org>



# AKNWRC ASSISTANCE AND RESOURCES



AKNWRC's Training and Technical Assistance Team works to meet Tribes where they are at in their programming.

We believe our Tribes have the answers to help their citizens and build their own responses. We offer training to build staff capacity led by Tribal and community needs. Each request responds to the Tribe's programming goals. We lead training throughout the state on advocate and programmatic needs as requested. This can be done through web meetings, webinars, or on-site. Programmatic support is available one-on-one to each Tribe that requests it. It can be done by phone, email, web meetings, or on-site as requested by the Tribe.


## What we offer:


- Survivor Advocacy Services
- Systems Change and Advocacy
- Documentation and Information Management
- Outreach and Awareness
- Culturally Specific Services
- Program and Organization Capacity Building
- Trauma-Informed Practices


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# AKNWRC ASSISTANCE AND RESOURCES



AKNWRC's Planning and Sustainability Team provides highly specialized and comprehensive technical assistance for administrators and other organizational leadership that are involved in the day-to-day management of grant-funded tribes or non-profit organizations. We assist by providing capacity-building training and support in planning, project development, financial and grant management, data collection, programmatic reporting, needs assessments, and personnel management.

Although we provide training and technical assistance on all grants and funding agencies, we specialize in the following:

- Health & Human Services (FVPSA)
- Department of Justice (OVC, BJA, OVW)
- Bureau of Indian Affairs

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# AKNWRC ASSISTANCE AND RESOURCES



Alaska continues to have one of the highest rates of Missing and Murdered Indigenous Women, an alarming and devastating fact that our communities and families continue to face.

AKNWRC partners with other organizations to address this crisis from a healing perspective within the Native community. Those partners include the Alaska Native Heritage Center, the Alaska Native Justice Center, Native Movement, Data for Indigenous Justice, and the Missing and Murdered Indigenous Women, Girls, and two-spirited relatives Alaska workgroup.

AKNWRC hosts a MMIW toolkit that is also linked on our website:


<https://www.aknwrc.org/resources/mmiw-resources/>





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# CONTACT INFORMATION



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Thank you 