



March 14, 2019

# Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women: Exploring Solutions to End the Cycle of Violence

Subcommittee for Indigenous Peoples of the United States, Committee on  
Natural Resources, United States House, One Hundred Sixteenth  
Congress, First Session

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Professor of Women, Gender, and Sexuality Studies  
School of Public Affairs and Administration and School of Law, University of  
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State Representative  
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Mary Kathryn Nagle  
Legal Counsel  
National Indigenous Women's Resource Center (NIWRC)  
[View Testimony](#)

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Tami Jerue  
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Alaska Native Women's Resource Center (ANWRC)  
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**OPENING STATEMENT**

Good morning to you all, and a warm welcome to all our witnesses here today.

Today, we will be confronting a deeply troubling and disturbing situation affecting Indian Country nationwide – the hidden crisis of Missing and Murdered Indigenous Women.

A 2016, National Institute of Justice report noted that 1.5 million American Indian and Alaska Native women experience violence in their lifetime.

On reservations, American Indian and Alaska Native women experience murder rates 10 times the national average.

Additionally, an independent report found at least 5,712 cases of missing or murdered Indigenous women were reported in 2016.

In reality, these numbers are much larger, because Indigenous women are often unrepresented in national and local data.

A lack of comprehensive data to quantify the number of missing and murdered women in Indian Country is just one factor contributing to this crisis.

The witnesses we have here today will attest to many other factors that exacerbate this situation, including:

- extreme jurisdictional challenges in our criminal justice system leading to confusion, delays and lack of prosecution, and
- Inadequate resources for tribal justice systems.

Before we begin, I would like to share with you all just a few of the heartbreaking cases that have brought new attention to this situation in Indian country, and that highlight some of the failures of our current system.

Ashley Loring HeavyRunner was last seen in June 2017 on the Blackfeet reservation in Montana. Her family and friends spent a year searching for her on their own.

In February 2018, *nine months* after Ashley went missing, the Federal Bureau of Investigations finally joined the search. To this day, even with the help of the FBI, Ashley remains missing.

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In 2013, Mackenzie Howard, a 13-year-old villager from Kake, Alaska, went missing after a memorial ceremony. After her body was found behind a local church, it took eleven hours – ***ELEVEN HOURS*** – for State Troopers to finally arrive, during which time the village men guarded Mackenzie’s body and the crime scene throughout the night.

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In 2016, Ashlyne Mike, an 11-year-old Navajo girl, was found dead after being tricked into accepting a ride home from a stranger while playing after school on the Navajo Reservation.

Because of jurisdictional issues, an official Amber Alert for Ashlyne wasn't issued until *12 hours* after her disappearance. According to a study on child abductions by the Washington state Attorney General's Office, 76 percent of kidnapped children are killed within the first three hours.

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In 2017, Savanna Greywind, a 22-year-old member of the Spirit Lake Tribe, went missing in Fargo, North Dakota.

Savanna was eight months pregnant. Her brutal attack and murder were perpetrated by a neighbor, and her body was found 8 days later by a kayaker near the Red River, north of Fargo.

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I know these stories are hard to hear, but we must face this problem in order to address it.

We must improve data systems related to murdered and missing Indigenous women to truly identify the scope this problem.

We must prioritize intergovernmental communication to reduce lag time in responding to these atrocities.

And we must change law enforcement protocols to improve proactivity in combatting violence against indigenous women.

We must take action so that history doesn't keep repeating itself.

Today we'll hear invaluable testimony from experts who are fighting on the front lines of this battle on what is working, what is not, and what we can do here in Congress to end this cycle of violence.

I now would like to recognize the Ranking Member, Mr. Cook, for his opening statement.

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Subcommittee for Indigenous Peoples of the United States**  
**“Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women: Exploring**  
**Solutions to End the Cycle of Violence”**  
**Thursday, March 14, 2019**  
**10:00am – 1324 Longworth House Office Building**

**Written Testimony of Professor Sarah Deer**  
**University of Kansas**

The Honorable Chairman Raúl M. Grijalva, Ranking Member Rob Bishop, Chairman Ruben Gallego, Ranking Member Paul Cook, and Members of the Committee,

Hensci! Mvccv nettv ce homv hueret cem kerkuecetv vm pohateckat, mvto cekicis. Svcvfvckes.<sup>1</sup>

I would like to express my deep appreciation and thanks for inviting me to testify before this Subcommittee on Missing and Murdered Indigenous Women (MMIW). I am a citizen of the Muscogee (Creek) Nation and currently hold the position of Professor at the University of Kansas and serve as the Chief Justice of the Prairie Island Indian Community Court of Appeals. Today I am testifying in my personal capacity.

My testimony today will focus on our knowledge in terms of the high numbers of MMIW based on open source reporting (media reports and family accounts). I will offer some theories about the causes of this high rate of MMIW. Finally, I will suggest how this committee, and Congress generally, can improve law enforcement’s response to this crisis.

**STATISTICS: WHAT WE KNOW**

First, it is critical to understand that this crisis has deep roots in the historical mistreatment of Native people throughout the history of the United States. Native women and girls have been disappearing since 1492, when Europeans kidnapped Native people for shipment back to Europe. Targeted killing of Native women is also not a recent phenomenon. This history of oppression makes it difficult to achieve buy-in from marginalized communities who have been victims of oppression at the hands of the federal government for centuries.

When crafting solutions, we have to be ready to accept that there will be no “quick fix” to this problem. This crisis has been several hundred years in the making and will require sustained, multi-year, multi-faceted efforts to understand and address the problem.

Currently, there is no formal government-funded national database that carefully and deliberately tracks cases of MMIW. Fortunately, a Native-owned and -operated non-profit organization known as the

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<sup>1</sup> Translation from the Mvskoke language: “Hello! I thank you for inviting me to stand before you to testify today. I am pleased with this invitation.”

Sovereign Bodies Institute (SBI) has been working tirelessly since 2015 to gather as much data as possible using open source reporting and input from family members of MMIW. I share this data with the permission of the Sovereign Bodies Institute (SBI):

Because this database has largely been built by hand, the data likely only represents a fraction of the true numbers.

The SBI database currently tracks the following types of MMIW cases:

- Missing
- Murdered (both solved and unsolved)
- Suspicious deaths
- Deaths in custody (jail/prison/hospital)
- Jane Does (unidentified human remains thought to be Native women)

Currently, the database has over 1870 MMIW names in the United States. Most of the database is recent; approximately 75% of the names of MMIW are cases from the year 2000 or later.

- Demographics: The average age is 26, but over one-third are 18 years old and under.
- Over 436 different tribal nations are represented in the database
- Categories: Within the database, approximately 50% are murder cases, 40% are unsolved missing cases, and the status of 10% are unknown.
- Foster Care: The database tracks Native girls who go missing or are killed while in foster care. Of those girls, over 75% of them were experiencing abuse in their foster home
- Mothers as Victims: The database reveals that over 85% of the MMIW are mothers. This means countless numbers of youth are growing up without a mother.
- Vulnerability: 29 of the 1870 entries of MMIW have another MMIW in their family.
- Police Violence: There are nearly 40 cases of deaths caused by police brutality or deaths in custody in the database.

## **REASONS FOR HIGH RATES OF MMIW**

While there is no single cause (no primary risk factor), that one can point to as the reason for high rates of MMIW, experts suggest several explanations for the disparity.

These explanations include:

- jurisdictional barriers
- indifference from government officials
- the lack of cross-jurisdictional communication and planning
- failure to adequately fund tribal justice systems, and
- the problem of sex traffickers and other predators targeting Native women specifically.

## **A. Jurisdiction**

Native women and girls are vulnerable to violent crime because of the complicated jurisdictional scheme that applies to Indian country. Whether a Native person is taken against their will from the reservation, is being held against her will on the reservation or is the victim of a homicide on the reservation, tribal officials will usually be the first responders. However, tribal criminal jurisdiction is significantly and unacceptably curtailed, particularly when the offender or suspected offender is non-Indian.<sup>2</sup>

A variety of legal jurisdictional questions instantly arise when a tribal member goes missing. Did they live on the reservation? Did they disappear from the reservation? Did they disappear off the reservation? What agency has jurisdiction? Does the tribe have concurrent jurisdiction? One common scenario, for example, is that a woman fails to show up for an important event, like a family reunion or a funeral. Family members report her missing to the police, but there is no way to know for sure if she went missing from the reservation or from a nearby city or town.

In addition, when adult individuals disappear, there is often a delayed response from law enforcement because, of course, adults have the legal right to go where they wish. Some jurisdictions require that 24 hours or 72 hours pass before a missing person investigation can be initiated. We may need to revisit that assumption, particularly where Native women are involved.

There is less certainty that a crime has even been committed and the law enforcement response is muted in many jurisdictions, but in Indian country this response often non-existent.

Due to jurisdictional questions, it may be difficult for the family to determine if the tribe, the state (especially in a Public Law 280 state) or the federal government has primary jurisdiction for a missing person.

## **B. Indifference from officials**

Unfortunately, many families of MMIW have reported receiving poor treatment from some law enforcement agencies who fail to prioritize the reports of missing Native women.

The United States Senate Committee on Indian Affairs' oversight hearing on "Missing and Murdered: Confronting the Silent Crisis in Indian Country", on December 12, 2018 received testimony from a distinguished panel.<sup>3</sup>

The Oversight Hearing heard from Ms. Kimberly Loring-Heavy Runner. When Ashley Loring-Heavy Runner went missing on the Blackfeet reservation, her family reported the crime only to find that there wasn't much interest in the case. Her sister, Kimberly said, "No one took it seriously... They just said:

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<sup>2</sup> Tribal nations lack criminal jurisdiction over non-Indians in most cases pursuant to *Oliphant v Suquamish Indian Tribe*, 435 U.S. 191 (1978).

<sup>3</sup> Available at: <https://www.indian.senate.gov/hearing/oversight-hearing-missing-and-murdered-confronting-silent-crisis-indian-country>

‘She’s of age, she can leave when she wants to.’ When we talk to other families whose girls went missing, they say that’s what they got from law enforcement, too. It’s not a proper response.”<sup>4</sup>

Another example is a Crow woman who went missing in Montana in 2016. When her mother reported her missing to the police, officers initially said that there was little they could do because the missing woman was an adult. Her mother said, “It seemed like they weren’t helping at all because she jumped into the wrong crowd.”<sup>5</sup> While the FBI is now investigating the disappearance, there are worries that valuable time was lost because of the initial failure to take action.

### **C. Failure to adequately fund tribal justice systems**

It is not new news to this Committee that tribal justice systems are chronically underfunded, making it difficult to have necessary staffing, training, and resources to adequately address high crime rates on Indian reservations. Tribal nations need to be funded at sufficient levels so that they can respond immediately to a report of a missing woman or girl.

In December 2018, the United States Commission on Civil Rights (USCCR) released a report entitled *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*.<sup>6</sup> The Commission concludes that, [f]ederal funding for Native American programs across the government remains grossly inadequate to meet the most basic needs the federal government is obligated to provide.”

Despite numerous reports, commissions, and hearings about the failures to fund tribal nations properly since the initial USCCR report was released in 2003, there has been little progress toward change.

Additional funding is needed throughout the justice system, but the number of police officers alone indicates the scope of the funding problem uncovered by the USCCR. “[Bureau of Indian Affairs] analysis found that an additional \$337 million in funding was needed in 2016 to bring Indian Country law enforcement staffing levels up to par with those of county government law enforcement nationwide (currently Indian Country has 1.91 police officers per 1,000 residents).”<sup>7</sup>

According to the report, “[The Government Accountability Office] found that because overall funding has not increased and is therefore scarce, some tribes might need to choose between meeting the [Tribal Law and Order Act] requirements [to exercise enhanced sentencing authority] and shortchanging other programs, or completely forgoing their new felony sentencing powers. The result is relinquishing authority to the federal government, while knowing that the federal criminal justice system is inefficient for Native Americans and, at times, even considered illegitimate by tribal communities.”<sup>8</sup>

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<sup>4</sup> Kate Hodal, *A Young Woman Vanishes: The Police Can’t Help. Her Desperate Family Won’t Give Up*, THE GUARDIAN, (February 25, 2019), <https://www.theguardian.com/us-news/2019/feb/25/a-young-woman-vanishes-the-police-cant-help-her-desperate-family-wont-give-up>

<sup>5</sup> Sharon Cohen & Mary Hudetz, *Haunting Stories Beyond Missing Posters of Native Women*, ASSOCIATED PRESS, September 4, 2008.

<sup>6</sup> U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (2018), <https://www.usccr.gov/pubs/2018/12-20-Broken-Promises.pdf>.

<sup>7</sup> *Id.* at 48 (2018).

<sup>8</sup> *Id.* at 43 (2018) (emphasis added) (footnotes omitted).

The report also cites to a 2011 U.S. Government Accountability Office Report on Indian Country Criminal Justice<sup>9</sup> concluding that the Departments of the Interior and Justice should strengthen coordination to support tribal courts. The GAO report documents the challenges tribal courts face given their level of support.

Tribes subject to Public Law 280 are particularly struggling with the development of robust criminal justice systems because of chronic underfunding. In September 2015, the Bureau of Indian Affairs (BIA) provided a report to Congress entitled *The Budgetary Cost Estimates of Tribal Courts in Public Law 83-280 States*.<sup>10</sup> The Bureau of Indian Affairs stated that while it was only funding 6.14 percent of the estimated tribal court budget needs for non-P.L. 280 tribes, it was only funding 1.22 percent of the budgetary needs (\$4.2 million) for P.L. 280 tribal courts. The BIA called for an additional \$16.9 million for P.L. 280-tribal courts. They concede this amount is neither "robust or perhaps even adequate", but is at least in parity to the dismal 6.14 percent non-P.L. 280-tribes receive.<sup>11</sup>

#### **D. Predatory targeting of Native women and girls**

While most women victims of homicide in the United States are killed by someone they know, there is sufficient evidence that there are predators who target Native women and girls for trafficking, and sufficient evidence that some serial killers have targeted Native women and girls. There is also some indication that certain types of predators are aware the Native women and girls are particularly vulnerable because of the complicated jurisdictional questions that arise when they go missing.

In 2010, law enforcement officers in Alaska determined that Alaska Native girls and women who travel to Anchorage are often targeted by sex-trafficking rings, in part because of their marketability in the sex trade.<sup>12</sup> FBI agent Jolene Goeden explained, "Native girls are targeted in part because they're considered "versatile," meaning they can be advertised on the Internet as Hawaiian or Asian."<sup>13</sup> An Anchorage-based sex trafficker named Troy Williams was finally convicted after years of targeting Alaska Native teenage girls who were struggling with rough childhoods, poverty, and addiction. He trapped his victims in the sex trade through brute force, including sadistic beatings, icy baths, and sleep deprivation.<sup>14</sup>

In Canada, an investigation by reporters for the *Globe and Mail* newspaper concluded that Indigenous women in Canada are 7 times more likely than a non-Indigenous woman to die at the hands of a serial

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<sup>9</sup> U.S. Government Accountability Office, *Indian Country Criminal Justice: Departments of the Interior and Justice Should Strengthen Coordination to Support Tribal Courts*, (Feb. 2011), <https://www.gao.gov/products/GAO-11-252>.

<sup>10</sup> Bureau of Indian Affairs report

<sup>11</sup> Bureau of Indian Affairs September 2015 report

<sup>12</sup> Alex DeMarban, *FBI, APD: Sex-Trafficking Rings Target Rural Girls New to Anchorage*, ANCHORAGE DAILY NEWS (July 7, 2016), <https://www.adn.com/alaska-news/article/fbi-apd-sex-trafficking-rings-target-rural-girls-new-anchorage/2016/07/07/>

<sup>13</sup> DeMarban, id.

<sup>14</sup> Julia O'Malley, *Accused Sex Trafficker Targeted and Terrorized Alaska Native Teens, Prosecutor Says*, ANCHORAGE DAILY NEWS (February 16, 2017), <https://www.adn.com/alaska-news/crime-courts/2017/02/15/accused-sex-trafficker-targeted-then-terrorized-alaska-native-teens-prosecutor-says/>

killer.<sup>15</sup> The President of the Native Women’s Association of Canada said that “vulnerable indigenous women are being “targeted” in urban centres by killers confident they will get away with it.”<sup>16</sup>

Because tribal nations lack criminal jurisdiction over non-Indians, legal-savvy predators are attracted to Indian lands because there is less likelihood of being caught and prosecuted. This has allowed some predators to wreak havoc for generations. Earlier this year, a pedophile named Stanley Patrick Weber was finally charged and convicted of sexually abusing children on Indian reservations for over two decades. Weber was a pediatrician and worked for the Indian Health Service right out of residency in the 1980s. Despite numerous concerns about his behavior, he was transferred from reservation to reservation rather than removing him from practice and was only stopped last year.

There is some evidence to support the contention that drug traffickers and sexual predators are sharing information on lax enforcement of laws with respect to Indian country and native people. The 2011 GAO report is alarming.

"[A]n official from a South Dakota tribe that we visited told us that the tribe has experienced problems with MS-13 and Mexican Mafia gangs who commit illegal activities such as distribution or sale of illegal drugs on the reservation because, as the official explained, they presume that federal prosecutors may be more inclined to focus their resources on higher-volume drug cases...

[A] Mexican drug trafficker devised a business plan to sell methamphetamine at several Indian reservations in Nebraska, Wyoming, and South Dakota that first began with developing relationships with American Indian women on these reservations...

According to a special agent involved in the case, the drug trafficker established drug trafficking operations to exploit jurisdictional loopholes believing that he could operate with impunity."<sup>17</sup>

## RECOMMENDATIONS

There are currently several legislative proposals in Congress to address this crisis. I know that my fellow witnesses will provide more detail and insight into what these bills provide and how they can be improved. For my part, I am providing a list of more general recommendations that are centered on empowering the families of the MMIW so that these missing and murdered Native women can receive the justice they deserve. In general, I recommend that all Congressional efforts take direction from Native people themselves. While federal task forces and federal reports are an important part of accountability, perhaps the most important benchmark for accountability for this issue is to ensure that families and survivors are treated as the experts they are.

1. Make accurate national data collection on the MMIW crisis a priority.

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<sup>15</sup> Kathryn Blaze Baum & Matthew McClearn, *Prime Target: How Serial Killers Prey on Indigenous Women*, THE GLOBE AND MAIL (November 22, 2015), <https://www.theglobeandmail.com/news/national/prime-targets-serial-killers-and-indigenous-women/article27435090/>

<sup>16</sup> Baum & McClearn, id.

<sup>17</sup> U.S. Government Accountability Office, *Indian Country Criminal Justice: Departments of the Interior and Justice Should Strengthen Coordination to Support Tribal Courts*, 15 (Feb. 2011), <https://www.gao.gov/products/GAO-11-252>.

2. Restore criminal jurisdiction so that tribal governments can prosecute non-Indians who murder, kidnap, or traffic in Native people. Currently these crimes *cannot* be prosecuted by the tribal nation if committed by a non-Indian. The Supreme Court's *Oliphant* decision requires a legislative fix. Tribal law enforcement and prosecutors should not be prohibited from protecting the people they serve.
3. Provide funding to tribally-lead local and regional efforts to address the MMIW crisis through the Gathering of Native Americans (GONA) curriculum. The GONA curriculum is already endorsed by the Department of Health and Human Services.<sup>18</sup> The GONA model is an indigenous-centric model that encourages and solicits tribal leadership to develop solutions to difficult problems.
4. Improve the efficacy of the federal NamUs (National Missing and Unidentified Persons System) by encouraging better response times for entering data.
5. Develop at least two dedicated funding streams – one for tribal nations who wish to develop a plan for addressing MMIW within their jurisdiction and a second dedicated funding stream for non-profit organizations that intend to study and support MMIW, particularly non-profits with survivors and family members on the board of directors.
6. Any new MMIW funding for federal agencies must require the development of protocol guidelines for responding to MMIW. Federal agencies should only receive funding for the development of these guidelines if they have a plan for meaningful consultation with tribal leaders and families of MMIW.
7. Require action by all US Attorneys to develop protocols and collaborative efforts with tribal nations for MMIW issues. This should apply even include US Attorneys without tribal lands in their districts, because MMIW cases often arise off reservation, especially in cities. Tribal members travel just as widely as other Americans, but they are not always well served by local police departments far from their ancestral homelands.
8. Require federal law enforcement agencies, including the FBI, to start accurately logging race/tribal affiliation in their database of missing persons.
9. Require federal law enforcement agencies to share information about MMIW with tribal nations. On the basis of comity and respect, if a Native person goes missing outside of tribal jurisdiction, then tribal nations (as sovereigns), are entitled to know if their citizens are missing. This is also an important investigative step in learning more about MMIW.
10. Require federal law enforcement agencies to track the number of MMIW reported in their jurisdiction to be published in the required annual Tribal Law and Order Act report.

## CONCLUSION

Thank you for allowing to testify today. I am hopeful that new attention on a very old problem will finally begin to stem the crisis of MMIW. As a nation, I believe we are better than this. Please support the families of MMIW to find their loved ones and bring them home.

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<sup>18</sup> Substance Abuse and Mental Health Services Administration, *Gathering of Native Americans Fact Sheet*, (2016)

**Natural Resources Sub Committee on Indigenous People**  
**"Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women:  
Exploring Solutions to End the Cycle of Violence."**  
**Representative Ruth Buffalo Testimony**  
**March 14, 2019**

Dosha, Mazda nuxxbaagao, Mr. Chairman and members of the committee. My name is Ruth Buffalo, I am a citizen of the Mandan, Hidatsa, and Arikara Nation of northwest North Dakota and I represent District 27 in south Fargo; I am a newly elected member of the House of Representatives in the North Dakota State legislature. I am a public health professional and educator.

I have introduced four legislative bills in the 66<sup>th</sup> state legislative assembly that aim to address the epidemic of Missing and Murdered Indigenous People and Human Trafficking. I have also introduced a study resolution to further examine the issue of missing and murdered indigenous people and human trafficking and a resolution urging congress to pass Savanna's Act. This legislation has passed through the North Dakota House and now awaits action in the North Dakota Senate.

It's important to note that the legislation introduced in North Dakota is non-gender specific, as we wanted to include people of all genders.

One of these bills seeks law enforcement training, and the other, as amended, would create a state repository on missing people including indigenous populations. The other two bills would provide human trafficking prevention and awareness training to hotel establishments and schools.

HB 1311 would provide training for state's attorneys and law enforcement officers and officials regarding missing and murdered indigenous people. The training would be provided by the North Dakota Human Trafficking Commission which is comprised of key stakeholders from tribal, state and federal agencies, organizations and government.

HB 1313 would create a state repository for missing persons including indigenous populations; this bill comes with a fiscal note of \$75,000 to update the software of the Criminal Justice Information System within the Attorney General's office. This bill would address the need for accuracy in data collection of missing and murdered indigenous people. According to the Urban Indian Health Institute's report on Missing and Murdered Indigenous Women & Girls, 71% of American Indians/Alaska Native live in urban and non-reservation areas<sup>1</sup>. The issue of Missing and Murdered Indigenous Women and Girls is a nationwide crisis, worsened by the fact that it

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<sup>1</sup> Lucchesi, A., & Echo-Hawk, A. (2018, November 14). *Missing and Murdered Indigenous Women & Girls* (Rep.). Retrieved <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>

is also a nationwide *data* crisis. The National Crime Information Center reports that, in 2016, there were 5,712 reports of missing American Indian and Alaska Native women and girls, with only 116 cases logged in the US Department of Justice federal missing persons database.

According to the Sovereign Bodies Institute, as related Missing & Murdered Indigenous Women & Girls in South Dakota, North Dakota, & Montana. There are 296 documented MMIWG cases in these three states combined, from 1972 to present. Of these cases, 30 are active missing persons cases, 192 are murders, and 74 have unknown status (reported missing and unable to confirm if found safe or deceased). There are likely many more cases that we have not yet documented. 157 of these cases occurred on reservations, 15 in rural areas, 105 in urban centers, and 19 cases have unknown location types.

I wish I had more data to share with you, but the fact that I don't is part of the reason why I'm here.

As a resident of Fargo, North Dakota, I found myself on the front lines of the search for Savanna Lafontaine-Greywind in August of 2017. Elder women from the Turtle Mountain Band of Chippewa asked me to lead the search the following day. In our culture, when someone asks you to do something, you don't say no, especially if a woman is making the request. I found myself leading the search efforts on August 27<sup>th</sup>, 2018. This day also happened to be my birthday. Later that same day, kayakers found Savanna's body in the Red River. From that day forward, our eyes were opened to the very real threat before us, and we formed a local taskforce in the Fargo Moorhead area dedicated to preventing such tragedies from ever happening again. There cannot be – there must not be – any more stolen sisters. Not only was our local community affected by the murder of Savanna; the entire nation was shaken. From time to time, I can still hear one of my friends calling Savanna's name during the search as we combed the shoreline of the Red River.

My experiences as a volunteer searcher led me to wanting to seek solutions. I thought of how Savanna was an enrolled member of a federally recognized tribe but grew up in Fargo. From the start of the search, I'd wanted federal agencies to become involved. After all, she was a member of a federally recognized tribe. The realities of the situation dictated that we must work with local authorities when incidents occurred outside of the exterior boundaries of an Indian reservation.

I later attended the trials of Savanna Lafontaine-Greywind's murderers. It wasn't until then, I learned of what exactly William Hoehn told the police the day Savanna went missing. He told them, "She always leaves, her parents were just up here last week looking for her."

The police later stated they did not anticipate looking for a body nor a baby, instead they checked all modes of transportation, the bus and train stations. Could Hoehn's comment have swayed the police? Are the stereotypes of our indigenous people perpetuated into implicit bias?

The epidemic of our Missing and Murdered Indigenous People has left many of our communities throughout North Dakota and country on high alert. From the horrendous crime committed in the murder of Savanna Lafontaine-Greywind, a young Indigenous mother who was eight months pregnant, to our indigenous men who go missing.

Recommendations:

North Dakota and many other states who have introduced MMIW legislation have an opportunity to enhance response times and save lives. Our focus is prevention and justice. Through data collection we will show the need for additional resources for law enforcement agencies, etc. Everyone deserves a safe community. I believe through the passage of MMIW legislation and comprehensive laws we are sending a strong message to predators which will further deter tragic outcomes, and move towards keeping our people safer.

The language of MMIW/P needs to be included in the scope of work for the Office on Violence Against Women (OVW) and the Office for Victims of Crime (OVC). DV/SA/Stalking/Dating Violence/Human Trafficking are currently within the scope of services. Not having MMIW included in their scope of work makes even addressing the issue difficult, even as it is connected with existing work.

It's important to look at the pleadings in criminal cases in prevention of further MMIW cases.

Ensuring all local city, county, state and tribal agencies are working together is a must.

As a public health professional and researcher, I know data tells a story. Without data, there is no clear evidence that a problem even exists. Therefore, it is essential for accurate data reporting and swift action be taken by authorities when people go missing. The dearth of accurate reporting data in the countless cases of Missing and Murdered Indigenous People, in essence, pours fuel onto an already blazing fire. Hundreds of communities hold stories of truth from generation to generation. Our communities know which relatives have yet to return to their families. We must help them tell those stories, by giving them the tools and resources to do so, and eventually, bring the lost ones home.



**Natural Resources Committee**

**Subcommittee for Indigenous Peoples of the United States**

**“Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women (MMIW):  
Exploring Solutions to End the Cycle of Violence”**

**March 14, 2019**

**Written Testimony of  
Mary Kathryn Nagle, National Indigenous Women’s Resource Center**

Dear Chairman Gallego,

Thank you for the opportunity to testify on the crisis that our women and children currently face.

I am honored to represent the National Indigenous Women’s Resource Center (NIWRC). The NIWRC is a Native nonprofit organization that was created specifically to serve as the National Indian Resource Center (NIRC) Addressing Domestic Violence and Safety for Indian Women. The NIWRC is dedicated to reclaiming the sovereignty of Tribal Nations and safeguarding Native women and their children. Through public awareness and resource development, training and technical assistance, policy development, and research activities, the NIWRC provides leadership across the Nation to show that offenders can and should be held accountable and that Native women and their children are entitled to: 1) safety from violence within their homes and in their community; 2) justice both on and off tribal lands; and 3) access to services designed by and for Native women based on their tribal beliefs and practices.

As a citizen of the Cherokee Nation, I understand the unique relationship between sovereignty and safety for Native women. And as an attorney representing the NIWRC, I have filed numerous briefs in federal courts, including the United States Supreme Court, addressing the connection between sovereignty and safety for Native women.

As this Subcommittee is aware, there are countless examples of missing and murdered Native women and children where insufficient resources and lack of clarity on jurisdictional responsibilities have exacerbated efforts to locate those missing. On December 12, 2018, Kimberly Loring Heavy Runner appeared before the Senate Committee on Indian Affairs to share her sister’s story.<sup>1</sup> Her sister, Ashley Loring Heavy Runner, a 22-year-old Blackfeet woman, disappeared on June 12, 2017. Despite Heavy Runner’s family finding evidence tied to her disappearance, the family later learned that the evidence had not been processed, nor had the scene where the evidence was discovered been investigated. The family encountered obstacles when trying to obtain information or support from the Blackfeet Tribal Law Enforcement or the Bureau of Indian Affairs. And, it took nine months for the Federal Bureau of Investigation to become involved with the case. Information discovered in the early days after someone goes

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<sup>1</sup> *Oversight Hearing on “Missing and Murdered: Confronting the Silent Crisis in Indian Country” Before the S. Comm. on Indian Affairs, 115th Cong. (Dec. 12, 2018) (testimony of Kimberly Loring Heavy Runner), <https://www.indian.senate.gov/sites/default/files/Kimberly%20Loring%20Heavy%20Runner%20Final.pdf>.*



missing is critical to ensuring their safety, but in the case of Ms. Loring Heavy Runner, leads were dropped early on, and she has not been found.

In the case of Misty Upham, another member of the Blackfeet Nation who went missing on October 5, 2014, the local police department in Auburn, Washington, not only failed to assign a detective to the case until October 7, but failed to commence a search for Ms. Upham altogether.<sup>2</sup> Indeed, Upham's body was found on October 16—over a week after her disappearance was reported—not because of law enforcement efforts, but because of a search party organized by Upham's family. In this case, Misty Upham went missing on the Muckleshoot reservation, and her disappearance could have been investigated by the FBI, however, it was not. Instead, the case went largely uninvestigated by the local police department.

And recently, a 14-year-old girl from Northern Cheyenne, Henny Scott, was discovered nearly three weeks after she last spoke to her mother, Paula Castro, on December 7, 2018. The Bureau of Indian Affairs did not enter her into the missing person database until December 13<sup>3</sup>, and the Montana Department of Justice did not issue a Missing and Endangered Person Advisory for Scott until December 26. The body of Henny Scott was discovered on December 28 after a search party composed mostly of volunteers began searching for her. Scott's mother has expressed frustration with how her daughter's case was handled by BIA officials in Lame Deer when she was convinced her daughter was missing.<sup>4</sup>

There is not sufficient space to recount all of the stories of missing and murdered indigenous women (MMIW) in the United States in this written testimony. But the stories of Ashley, Misty, and Henny constitute an important reminder that this crisis is more than data. These are our sisters, mothers, nieces, and daughters. Their safety commands your utmost attention and concern. We commend you for holding this hearing, and we hope you will seriously consider legislation that effectively addresses this crisis.

## **THE ORGANIZING EFFORTS OF NIWRB TO ADDRESS THE CRISIS OF MISSING AND MURDERED INDIGENOUS WOMEN**

As a part of a national movement, the NIWRB has been heavily involved with raising awareness and organizing around the issue of MMIW. Many members of the NIWRB Board of Directors

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<sup>2</sup> Kristen Millares Young, *Misty Upham: the tragic death and unscripted life of Hollywood's rising star*, THE GUARDIAN (June 30, 2015, 7:00 AM), <https://www.theguardian.com/global/2015/jun/30/misty-upham-native-american-actress-tragic-death-inspiring-life>

<sup>3</sup> Mike Kordenbrock, *Family, community filled with questions after teen's death on Northern Cheyenne Reservation*, BILLINGS GAZETTE (Dec. 29, 2018), [https://billingsgazette.com/news/state-and-regional/crime-and-courts/family-community-filled-with-questions-after-teen-s-death-on/article\\_768c2bb9-189e-51f7-bdb3-4c274bc86ea7.html](https://billingsgazette.com/news/state-and-regional/crime-and-courts/family-community-filled-with-questions-after-teen-s-death-on/article_768c2bb9-189e-51f7-bdb3-4c274bc86ea7.html)

<sup>4</sup> Kayla Desroches, *Northern Cheyenne Hold Funeral For Henny Scott*, MONTANA PUBLIC RADIO (Jan. 7, 2019), <https://www.mtpr.org/post/northern-cheyenne-hold-funeral-henny-scott>.



and staff have organized and advocated to increase the safety of Native women since the 1990s. The relationship of NIWRC to this issue is based in this collective history.

In 2005, the movement for the safety of Native women led the struggle to include a separate title within the Violence Against Women Act (VAWA), or what is now codified as Title IX, “Safety for Native Women.” In creating Title IX, Congress made several findings, including that: homicide was the third-leading cause of death for Indian females aged 15-34 (during the period of 1979-1992), with 75% of those constituting homicides committed by family members or acquaintances. Further statistics by the U.S. Department of Justice (USDOJ) National Institute of Justice (NIJ) found that American Indian women face murder rates that are more than 10 times the national average.<sup>5</sup>

Additionally, in both the 2005 reauthorization of VAWA and the Tribal Law and Order Act (TLOA) of 2010, the National Congress of American Indians (NCAI) Task Force on Violence Against Women worked to include a mandate for the Attorney General to grant direct access to Indian Tribes to enter and obtain information from the National Criminal Information Center (NCIC) national files. The struggle to win direct access for Indian Tribes to NCIC files was and continues to be a priority because these files, such as the national protection order file, sex offender file, missing persons, and other files, are essential to the safety of Native women. The lack of direct NCIC access is a reflection of the barriers created by federal Indian law, and the fact that Native women remain separated from all other populations of women in the United States. As sovereign nations, Indian Tribes should have the full authority to protect their women and enter information into and obtain information from the NCIC. The disproportionate statistics among American Indian and Alaska Native (AI/AN) women combined with the on-going missing and murdered reports across Indian country, the lack of NCIC access for Tribes, and other related barriers to safety fuel our on-going work around this critical issue. While advances have been made over the years through the launch of the USDOJ Tribal Access Program (TAP), it is important to note that TAP is not currently available to all Tribes and lacks a permanent funding authorization.

Our on-going efforts to address the critical issues regarding MMIW include leading events and activities locally, regionally, nationally and internationally. For example, the NIWRC has contributed by: coordinating Conversations With the Field (CWTF) discussions, organizing a hill briefing, hosting a reception on Capitol Hill, hosting educational screenings of *Wind River* with accompanying panel discussions, providing testimony at international advocacy forums, educating tribal leaders prior to each annual tribal consultation, participating in awareness activities/marches/vigils, creating webinars, creating a toolkit, organizing with grassroots organizations around the support of a National Day of Awareness for Missing and Murdered Native Women and Girls, and, last but not least, providing countless updates during various

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<sup>5</sup> Perrelli, T. (July 14, 2011). Statement of Associate Attorney General Perrelli before the Committee on Indian Affairs on Violence Against Native American Women [citing a National Institute of Justice-funded analysis of death certificates]. Washington, DC. Available from: [www.justice.gov/iso/opa/asg/speeches/2011/asg-speech-110714.html](http://www.justice.gov/iso/opa/asg/speeches/2011/asg-speech-110714.html).



NIWRC and partner conferences, including NCAI Violence Against Women Task Force meetings. The NIWRC has also contributed numerous articles in NIWRC's Restoration Magazine since 2008 concerning the issue of MMIW, and I have submitted one such article along with my written testimony. (**Please see attachment**, "*MMIW and the Need for Preventative Reform*"). The NIWRC's Restoration Magazine is an incredible resource on many issues related to ending domestic violence and sexual assault against Native women, as well as MMIW.

The CWTF concept was first developed in 2003 as a facilitation tool for organizing a national conversation of the movement including building a national platform of current and emerging issues of concern and recommendations to increase the safety of Native women. The CWTF engagements involved meetings with grassroots advocates, community members, tribal leaders, tribal coalitions and allies. In 2017, the NIWRC held a series of CWTF: *Understanding the Issue of Missing & Murdered Native Women and Organizing a Response* at NIWRC's Specialty Institute, the 2017 NCAI Mid-Year Convention, and at a Village Engagement Training in Kotzebue, AK. The CWTF discussions provided an overview about the issue of Missing and Murdered Native women, including ways to organize a response given that disappearances are often connected to not only domestic and sexual violence, but other forms of violence.

In 2017, the NIWRC collectively organized with the national movement for the safety of Native women to support a National Day of Awareness for Missing and Murdered Native Women and Girls for both 2017 and 2018, and the NIWRC is currently working on the effort for 2019. Past efforts included support from over 250 tribal, state, and national organizations. May 5, 2017, marked the first national day of awareness with tribal awareness and justice walks taking place across the United States. The NIWRC's 2018 efforts included a social media campaign, which reached millions online globally.

Additionally, in 2017, the NIWRC sponsored a MMIW hill briefing in partnership with the Indian Law Resource Center (ILRC) and the Alaska Native Women's Resource Center (AKNWRC), which focused on "*Moving Ahead to Increase the Safety of American Indian and Alaska Native Women, Efforts to Address Missing and Murdered Native Women and Girls.*" In addition to remarks offered by our panelists, the NIWRC shared statistics from the NIJ report, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey* and showed the NIJ video, *Violence Against American Indian and Alaska Native Women and Men*. The NIWRC further provided an overview of missing and murdered Native women along with the resolution, calling for May 5th as a National Day of Awareness for Missing and Murdered Native Women and Girls. The NIWRC's Board Chair, Cherrah Giles, provided closing remarks noting the importance of May 5th as a time to commemorate and honor Indian women who have gone missing or have been murdered.

In February 2018, the NIWRC and several partners successfully hosted a reception and an event: "*Understanding the Crisis of Missing and Murdered Native Women*" at the Capitol Visitor



Center in Washington, D.C. The event coincided with NCAI's Executive Council Winter Session and was partnered with NCAI, the National Indian Gaming Association, the ILRC, the StrongHearts Native Helpline, the AKNWRC, the Tunica-Biloxi Economic Development Corporation, the Tunica-Biloxi Tribe, the Cheyenne River Sioux Tribe, and the Shakopee Mdewakanton Sioux Community. We also hosted a briefing to discuss MMIW issues and followed the event with a screening of *Wind River*. The event was well attended by Hill staffers, tribal leaders, and advocates from across the country who are actively engaged in addressing the issue of violence against Native women.

Through our partnership with the Alaska Native Women's Resource Center and Healing Native Hearts Tribal Coalition, we have supported the development of public service announcements and a video documentary on *Missing and Murdered Indian women*, which have not yet been publicly distributed, but Tami Truett Jerue (Executive Director, AKNWRC) will share one of the PSAs with the Committee.

In September of 2018, the NIWRC hosted a vigil at the National Museum of the American Indian which Representative Gwen Moore, myself, Caroline LaPorte (NIWRC Senior Native Affairs Advisor), Juana Majel Dixon (NCAI Task Force on Violence Against Native Women Co-Chair), Carmen O'Leary (NIWRC Board Vice-Chairwoman and Executive Director of the Native Women's Society of the Great Plains) and Leanne Guy (NIWRC Board Secretary and Executive Director of the Southwest Indigenous Women's Coalition) spoke. Most impactful however, was when Florence Choyou shared the story of her daughter Monica who was murdered during a domestic violence incident in Keams Canyon on the Hopi Reservation. The event concluded with a candlelight vigil.

As was stated at the event held in September, the crisis of missing and murdered Native women in the context of gender-based violence is a result of legal barriers rooted in the federal legal framework. This on-going crisis has been raised by tribal leaders at every VAWA mandated government-to-government annual consultation since 2006. A strong national response is needed to respond to the countless reports of missing and murdered Native women and girls. Tribal nations and family members continue to witness daily reports of another sister, mother, daughter, granddaughter, relative, or community member lost to violence, which sends shock waves across all of Indian Country. The NIWRC, with continued grassroots advocacy efforts and in close collaboration with our partners, will continue to raise awareness and work towards systemic change to remove the legal barriers that prevent Tribal nations from prosecuting the violent perpetrators who murder and kidnap their Native women citizens. But we wish for a day when we do not have to.

**The NIWRC Tribal Community Response Toolkit for Action:  
An Overview to Assist Communities Prepare to Address MMIW**

The need for a response to the urgent crisis of MMIW in the United States is very clear. Until recently the issue of MMIW has not been included in most federally funded grant programs



impacting violence against women. Because NIWRC is primarily federally funded, most of our work in this area has been undertaken using non-federal funding or with our volunteer time. But, we understand the importance of responding at a tribal, state, national and international level to this crisis. The NIWRC also understands the lack of educational awareness and general lack of response from law enforcement agencies. The NIWRC's main office is located in Lake Deer, Montana, and our staff experienced the disappearance and losses of Henny Scott and Hannah Harris directly as members of that community. In addition, many NIWRC Board Members and staff have personally suffered the loss of family and community members.

At the time of these tragic losses, the NIWRC, using non-federal funds, took very basic steps to offer assistance to tribal communities to address the crisis of MMIW. The most direct support the NIWRC could provide at the time was a community response toolkit for action providing an overview, not a comprehensive guide, of issues to address if a woman went missing.

Based on the many difficult lessons from the disappearances and murders of women, the NIWRC summarized key points for Tribes and communities to consider. The toolkit encouraged communities to prepare protocols based on an understanding that domestic and sexual violence occurs on a spectrum of abusive behavior and can include abduction and murder. Tribes were further instructed to take immediate action, noting the quicker the response, the faster the victim may be located and help may be provided.

The Tribal Community Response Toolkit for Action included a basic overview of lessons responding to cases of MMIW. It encouraged communities to:

- Develop a response before a disappearance occurs;
- Contact law enforcement immediately as soon as a disappearance occurs;
- Document and track events—dates and times are essential;
- Issue an alert immediately—a press release, radio announcement, social media post;
- Organize community actions—a vigil, search, justice walk, or march to provide a positive anchor for family and community to support the woman who is missing.

The disappearance of every Native woman requires an immediate response. The hours and minutes following a disappearance are critical. In order to respond immediately to a disappearance, the NIWRC recommends that advocacy programs develop protocols. These protocols should provide guidance to programs about coordinating with law enforcement agencies. The NIWRC continues to organize on this issue and will provide additional materials to address the crisis of MMIW.

### **Policy Recommendations to Address Murdered and Missing Indigenous Women**

MMIW occurs for a variety of reasons, some of which are outside of the scope of gender-based violence. However, the NIWRC is dedicated to addressing gender-based violence in Indian country, and therefore it is in this capacity and through this lens that we are before you testifying.



To that point, the NIWRC considers its policy reform advocacy surrounding the response to missing and murdered Indian women in connection with the five other crimes identified in VAWA Title IX - – domestic violence, dating violence, sexual assault, stalking and sex trafficking. Native women experience a continuum of violence, with MMIW at the extreme end of the continuum. It is not an issue that can be addressed in isolation, but rather needs to be seen as one manifestation of the violence that threatens Native women and girls throughout their lifetimes. In doing so, the policy recommendations that we put forward relate heavily to reforms that are needed in the context of gender-based violence. In the context of gender-based violence, the NIWRC's response to MMIW centers on five things: jurisdiction to handle cases at the local tribal level; the resources for victim services which would provide meaningful interventions for survivors of gender-based violence; improving access to federal criminal databases; establishing a standard protocol in consultation with Tribes to respond to MMIW cases; and improving data collection.

It is necessary to state first that Tribes need additional dedicated resources to support the development of local, tribal responses to MMIW cases. If Tribes have the resources and authority to respond to these crimes before they escalate in seriousness and lethality, at least some, if not many, potential MMIW cases would have a meaningful intervention prior to fatal escalation.

The NIWRC supports the following to address the injustices of missing and murdered Indian women:

1. Focus on prevention by addressing underlying infrastructure concerns as represented by tribal leaders, advocates and survivors. Namely, address the current housing and shelter deficiency that exist in tribal communities and develop an understanding of the issue of MMIW as it pertains to children who age out of foster care;
2. We maintain that a local tribal response is the best response. Therefore, where MMIW cases have a gender-based violence component, it is necessary to consider adopting legislation that would strengthen the local tribal response. Thus, we again propose that Congress enact legislation to strengthen tribal sovereignty by addressing the remaining jurisdictional gaps with respect to the Special Domestic Violence Criminal Jurisdiction (SDVCJ) provisions in the Violence Against Women Act (VAWA) by adopting provisions in VAWA 2019 that are similar to those in the Native Youth and Tribal Officer Protection Act and in the Justice for Native Survivors Act. Congress should also enact legislation to address the issue of implementation for Tribes who have Restrictive Claims Settlement Acts (such as Maine and Alaska);
3. Expand and create a dedicated funding stream to support permanent authorization for the Department of Justice's Tribal Access Program (TAP) to ensure that all Tribes have access to federal Criminal Justice Information Service systems;



4. Recognize the need for tribal, federal, and state responses to cases of missing and murdered Native women and girls, including development of local and inter-jurisdictional protocols and establish standardized protocols based on best practices, in consultation with tribal governments as mandated by VAWA, and improve data collection without hampering funding for tribal governments and tribal programs;
5. Establishing permanent funding for victim services in tribal communities is key. Set aside resources for local, tribal responses to MMIW, such as a permanent tribal Victims of Crime Act (VOCA) set aside for tribal victim assistance and compensation programs;
6. Address the unique jurisdictional challenges of Alaska Tribes and support a pilot project for Alaska Tribes to exercise SDVCJ over non-Native perpetrators committing acts of domestic and sexual violence; and
7. Address the long-standing resource disparity Indian Tribes face when funding their tribal victim advocacy and tribal justice services.

**Policy Recommendations to Address Murdered and Missing Indigenous Women:  
Expand the USDOJ, Tribal Access Program and Access to NCIC**

One of the largest obstacles to addressing the crisis of Murdered and Missing Indigenous Women have been the barriers Indian Tribes face in accessing national crime databases (**Please see attachment, “MMIW and the Need for Preventative Reform”**).

VAWA 2005 and the Tribal Law & Order Act of 2010 both included provisions directing the Attorney General to permit Indian Tribes to enter information into and obtain information from federal criminal information databases. Indian Tribes have raised this issue for years. In response to these concerns, in 2015, the USDOJ announced the Tribal Access Program for National Crime Information, which provides eligible Indian Tribes with access to the Criminal Justice Information Services systems.

Under TAP, Tribes have successfully begun entering information directly into the federal databases, resulting in nearly 600 sex offender registrations and over 550 sex offender check-ins, nearly 300 instances of data entry that would prohibit someone from being able to purchase a firearm, over 1000 orders of protection entered or modified, and over 4,200 finger-print based record checks for civil purposes that include employment, tribal housing placement and personnel/volunteers who have regular contact with or control over Indian children. These are the sorts of achievements that prevent the escalation from domestic violence to homicide, and serve to assist law enforcement in the apprehension of a suspect before he commits yet another crime that could result in the murder or kidnapping of a Native woman.

As of September 2018, TAP has been deployed to 47 Tribal Nations. With 573 federally recognized Indian Tribes in the United States, 47 is simply not enough.



A dedicated funding stream should be created for expanding the TAP program and making it available to all interested Tribes who meet the requirements. All Indian Tribes should have the ability to access federal databases not only for the purpose of obtaining criminal history information for criminal or civil law purposes, but also for entering protection orders and other relevant information, including NICS disqualifying events, into the databases.

### **Conclusion**

Missing and Murdered Indigenous Women and Girls is a crisis that threatens the very foundations of our tribal governments and Native people. It is a complicated issue that is born out of problems we did not create. We are being asked to solve issues that stem from hundreds of years of colonization and genocide, and so the changes that we are recommending today are incremental and do not replace the full restoration of inherent tribal authority to govern our people. Tribal sovereignty and safety for Native women are wholly intertwined, and we wish to close by reminding Congress of their obligation to increase and support that sovereignty. Thank you for the opportunity to testify on the crisis that our tribal governments face in protecting our women and children.

Testimony of Tamra Truett Jerue, Executive Director  
Alaska Native Women's Resource Center  
Natural Resources Subcommittee for Indigenous Peoples of the United States  
"Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women (MMIW):  
Exploring Solutions to End the Cycle of Violence"

March 14, 2019

Thank you Chairman Grijalva, (Natural Resources), Chairman Gallego (subcommittee), Ranking member Bishop, Vice-Chair Haaland, Good Morning, Adet'

My name is Tami Truett Jerue, Se'ezra I am an enrolled citizen of the Anvik Tribe, Deg it' tan Athabascan from interior Alaska. I am the Executive Director of the Alaska Native Women's Resource Center. I am the mother to 4 children, the grandmother of 5 grandchildren and the Auntie to many. Thank you for inviting me to speak today about our organization's work on this topic, our experience with Alaska Native women's rights, including on the ground efforts to address Missing and Murdered Indigenous Women (MMIW). I believe that it is critical that we work together to change laws, policies, and social norms and that the federal government create additional funding opportunities to address this issue, specifically to eradicate the disproportionate number of missing and murdered indigenous women and men.

As you well know, federal Indian law has created jurisdictional issues that leave Alaska Native villages and tribal nations across the country vulnerable to violent individuals who abduct and/or murder individuals. In Alaska in particular, the jurisdictional maze leaves us far too much without any protections in the way of law enforcement or properly trained police to address the most violent crimes. Alaska Native victims' access to justice and victim services requires many layers to get the help they need, often leaving crimes unsolved, which emboldens criminals, and abusers are left unaccountable. The Supreme Court case in the *Native Village of Venetie*, along with the Alaska Native Claims Settlement Act (ANCSA) have created a challenging situation for Alaska Native tribes to address village safety issues, especially as it relates to the accountability of abusers and criminal defendants and the ability to receive timely law enforcement response and related sorely needed victim services.

We know of too many stories and experiences of Alaska Native women and girls that have faced victimization just because they are indigenous women. Too many of our relatives have suffered abuse and death because of a government system that fails in their legal trust and moral responsibility to assist Indigenous nations in safeguarding the lives of our women and children. We have few options when seeking help such as safe shelter, sexual assault services, law enforcement, medical and mental health services, or any type of help dealing with the aftermath of victimization. The following are some of the explanations of the challenges we face, and I offer some ideas for solutions.

While violence against Native women occurs at higher rates than any other population in the United States, it is at its worst in Alaska. A full 50% of Alaska Native women will have experienced physical or sexual violence in their lifetime.<sup>1</sup>

We have no closure with many of our women who die unexpectedly and unnaturally. The manner of death, while it is too often considered “suspicious” and often with visible injuries, the death is classified as accidental, suicidal, or undetermined. In the village of Klawock, police suspected “foul play” in the unnatural death of Francile Ella Turpin (37) on January 14, 2018, a year later, we have no resolution.<sup>2</sup> Why is it that our women and families do not get the closure regarding cause of death that the general population take for granted? One reason could be that 40 percent of our communities have no law enforcement, or even any 911 services to speak of, so who do they call? The first responders are often volunteer medics whose first inclination is to address the injury. The possibility that there could be a crime committed is not even contemplated and the scene can easily be contaminated before a semi-qualified individual can preserve the scene. Other potential first responders are tribal leaders, and our volunteer women advocates go to attempt to preserve any potential crime. Joel Jackson, President of the Organized Village of Kake has had to respond to the crime scenes, including murders, because he is the closest that the village of 800+ has to a police officer --he was a former policeman as a young man.

Occasionally, our communities do see a resolution, but it could take years. The case of Sophie Sergie is an example of one such case that took 25 years to solve. Ms. Sergie traveled to Fairbanks from her Yup'ik village in western Alaska, to visit a friend at the University of Alaska. She was found in the dormitory bathtub, dead, having been sexually assaulted, stabbed multiple times and shot in the back of her head. The cold case team used Genetic genealogy testing, which uses family genetic history to find suspects. The DNA was linked to a student who was attending the University at the time in the 1990's and is now a nurse working in Maine.<sup>3</sup> Unfortunately, this case is an exception, and not the rule as we have too many unsolved cases. We are working on video PSAs and a short documentary specifically on the issue of missing and murdered Alaska Native women.

As for the murder epidemic, the Violence Policy Center reports that Alaska is ranked first among states with the highest homicide rates of women by men and is the most violent state, with Anchorage as the most violent city within the Union. The Seattle-based Urban Indian Health Institute reports that Alaska is among the top ten states with the highest number of missing and murdered Native Americans and Alaska Natives with 52 active cases.<sup>4</sup>

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<sup>1</sup> *A Roadmap for Making Native America Safer: Report to the President and Congress of the United States* (November 2013), available at <http://www.aisc.ucla.edu/iloc/report/>.

<sup>2</sup> <https://www.ktva.com/story/37289178/klawock-police-say-foul-play-suspected-in-womans-death>

<sup>3</sup> <https://www.adn.com/alaska-news/crime-courts/2019/02/16/25-years-after-a-woman-was-found-dead-in-a-uaf-bathtub-alaska-state-troopers-make-an-arrest/>

<sup>4</sup> Report available at <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>

Sadly, Alaska is a violent state. According to the Violent Death Reporting System between 2003 and 2008, Alaska Natives and American Indians make up 29.1 % of the Homicide victims in Alaska, with the 20-29 age group seeing the largest number of murders—22.1%. In addition, during that time period Alaska Native and American Indian Women represented 38% of the overall deaths, with a firearm being the #1 cause killing our women—29%. In addition, the perpetrator in the murders of Alaska Natives and American Indian women, were generally not domestic violence or intimate partner related. The majority of the deaths were non-DV related, or 86.1%.<sup>5</sup>

How do we track the missing and murdered? We don't. NamUs is about the only database that tracks MMIW and does contain valuable information, but it is a volunteer system and it does not currently talk to the FBI CJIS's Missing persons file, which is the system that law enforcement is most familiar with. Anyone can have access to NamUs--literally. All they have to do is set up an account and enter the information they want to enter about a missing person. The NamUs staff take that information and confirm with Law Enforcement before it can go out publicly. There are less missing Native persons in NamUs than there are in FBI CJIS's missing persons file, likely because Law enforcement doesn't use it in the same way. NamUs is completely voluntary and was originally set up to try to match remains found with people who were missing. FBI CJIS's database is also voluntary except for entry of missing persons under age 18 which is mandatory, and then some states have mandatory missing person reports to CJIS by their state law, but it is way less than half. A Tribe and everyone have access to initiate cases in NamUs, however, the net effect of going that route is unknown. In addition, there is a component in which genetic material is requested in NamUs. While this request is voluntary, it makes most Native Americans shy away from the process.

As for the DNA collection, anyone can provide a family reference sample to NamUs, a law enforcement officer, or agent of a criminal justice agency for testing at the University of North Texas Health Science Center, Center for Human Identification, where NamUs is housed. Upon completion of the testing, the DNA profile is sent directly from the lab and uploaded to CODIS; no DNA samples are housed in the NamUs system. While NamUs says that the family reference sample can only be run against the unidentified decedent database and cannot ever be run against the convicted offenders or the forensic profiles. Apparently, at any time a family would like their DNA removed from CODIS they can send a written request to NamUs/UNT and the lab will request that the profile be removed from CODIS. Again, while this is the current policy, we do not have the assurances that our DNA won't be used in ways not approved.

According to the National Institute of Justice, the NamUs team was in Alaska October 2018, to do outreach with several law enforcement agencies, the Alaska medical examiner, Department of Public Safety, and others. During those discussions it was raised that there is a backlog in digitizing ~1200 missing persons cases. Apparently, there is only one person currently working

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<sup>5</sup> *Alaska Violent Death Reporting System 2003-2008 (August 2011)*, State of Alaska, Department of Health and Social Services, available at <http://dhss.alaska.gov/dph/Epi/injury/Documents/akvdrs/assets/AKVDRS.pdf>

the backlog (Search and Rescue Program Coordinator, Missing Persons Clearinghouse Manager, Alaska State Troopers). That is not to say those cases are not being worked, just that they are not digitized thus unknown how many of those 1200 cases are American Indian and Alaska Natives.

As for missing persons, Alaska has the highest number of any state in the union and these are not per capita numbers. As of January 2019, out of the 347 missing Alaska Native and American people's in the NamUs system 74 of those were from Alaska—the most of any state. Overall, 92% have been missing for less than a year, and the majority of cases are male—about 1/3 to 2/3 respectfully. See attached. Why does it take so long to work our cases compared to other populations? That is a question that deserves an answer.

The United States has made progress in addressing Violence Against Women. In 2013, during the Congressional debates to reauthorize the Violence Against Women Act, United Nations human rights officials came together and released a public statement calling on the United States to act promptly to pass key reforms to the Violence Against Women Act that bolster indigenous tribes; that the continued jurisdictional gaps, especially those in Alaska, are an ongoing human rights crisis. <sup>6</sup> Sadly, Alaska was mostly left out of these improvements because of its tribal land status that make tribal jurisdiction challenging. Unlike other areas of the United States that share jurisdiction between the United States government and Indian tribes, in the state of Alaska, Indian tribes share jurisdiction with the state government. Because of federal and state laws, policies and allocation of resources, including the Department of Interior's prior policy not to fund tribes in Public Law 280 states, tribal responses have been throttled leaving the investigation and prosecution of crimes, including violence against women and children to the state. Alaska, like the federal government, has failed in providing for public safety in Alaska Native villages as according the Tribal Law and Order Commission Report, about 40% of our communities' lack law enforcement. <sup>7</sup>

The United States has a federal trust responsibility to the first people of the U.S. In several cases discussing the trust responsibility, the Supreme Court has used language suggesting that it entails legal duties, moral obligations, and the fulfillment of understandings and expectations that have arisen over the entire course of the relationship between the United States and the federally recognized tribes. However, since Alaska entered the Union, the State has been ceded the federal jurisdiction among tribes and as a result left us without access to resources. The US has failed this responsibility in their protection of American Indian and Alaska Native communities. Many of our communities are lawless as a result of the federal and state governments not living up to their responsibilities.

While there is tremendous diversity among all tribes, it is worth noting that many of the 229 tribes in Alaska experience extreme conditions that differ significantly from tribes outside

**Commented [PSJ1]:** For future reference, it would be helpful for us to find out how much AK tribes were receiving in federal funding pre 1998 / Ada Deer decision to add Alaska tribes on the federal recognized Indians list. If we knew, we could say that this is most definitely why AK tribes have not had the chance to develop tribal responses to crimes.

<sup>6</sup> <http://www.unwomen.org/en/news/stories/2013/6/it-is-time-for-action-to-end-violence-against-women-a-speech-by-lakshmi-puri>

<sup>7</sup> Supra fn 1.

Alaska. Most of the Alaska Native villages are located in remote areas that are often inaccessible by road and have no local law enforcement presence. The Tribal Law and Order Commission found that “Alaska Department of Public Safety (ADPS) officers have primary responsibility for law enforcement in rural Alaska, but ADPS provides for only 1.0-1.4 field officers per million acres.”<sup>8</sup> Without a strong law enforcement presence, crime regularly occurs with impunity. Victims live in small, close-knit communities where access to basic criminal and civil justice services is non-existent and health care is often provided remotely through telemedicine technology. Providing comprehensive services and justice to victims in these circumstances presents unique challenges. In many of these communities, tribal members receive services in informal ways, if at all. Domestic violence victims, for example, may be offered shelter in a home that is a known “safe house” in the village. Many victims of sexual assault never receive forensic medical services. Furthermore, Alaska tribal governments are unique among indigenous American tribes in their lack of access to the same type of government revenues available to nearly every other sovereign entity in the country.

As previously mentioned, Alaska’s track record demonstrates a lack of engagement and follow through with tribal governments that creates one of the most dangerous situations for Native women in the nation. Local control to local solutions with resources is critical to improving the situation for our Alaska Native brothers and sisters.

According to the 2013 Tribal Law and Order Act Commission Report, Alaska Native women are over-represented in the domestic violence victim population by 250%; they comprise 19% of the state population but are 47% of reported rape victims. And among other Indian Tribes, Alaska Native women suffer the highest rates of domestic and sexual violence in the country. Tribal governments are also unable to prosecute crimes of sexual assault, trafficking, and stalking. A 2016 study from the National Institute for Justice (NIJ), found that approximately 56% of Native women experience sexual violence within their lifetime, with 1 in 7 experiencing it in the past year.<sup>9</sup> Nearly 1 in 2 report being stalked.<sup>10</sup> Contrary to the general population where rape, sexual assault, and intimate partner violence are usually intra-racial, Native women are more likely to be raped or assaulted by someone of a different race. 96% of Native women and 89% of male victims in the NIJ study reported being victimized by a non-Indian.<sup>11</sup> Native victims of sexual violence are three times as likely to have experienced sexual violence by an interracial perpetrator as non-Hispanic White victims.<sup>12</sup> Similarly, Native stalking victims are nearly 4 times as likely to be stalked by someone of a different race, with 89% of female stalking victims and 90% of male stalking victims reporting inter-racial victimization.<sup>13</sup> The higher rate of inter-racial violence would not necessarily be significant if it were not for the jurisdictional

<sup>8</sup> *A Roadmap for Making Native America Safer: Report to the President and Congress of the United States* (November 2013), available at <http://www.aisc.ucla.edu/iloc/report/>.

<sup>9</sup> Andre B. Rosay, Nat’l Inst. of Justice, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey*, U.S. Dep’t of Justice 11 (2016), available at <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

<sup>10</sup> *Id.*, at

<sup>11</sup> *Id.*, at 18.

<sup>12</sup> *Id.*, at 29.

<sup>13</sup> *Id.*, at 32.

complexities unique to Indian country and the limitations imposed by federal law on tribal authority to hold non-Indians accountable for crimes they commit on tribal lands.

Historically, Alaska tribes have been treated differently than lower 48 tribes, often making fundamentals of tribal court jurisdiction challenging to understand or ascertain resulting in recognized disparities which resulted in the FY17 appropriations for an Alaska Native Tribal Resource Center on Domestic Violence (see attached article “A Tribal Perspective on VAWA 2018” from Restoration-V15.3- October 2018 NIWRC). With the passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, the only remaining reservation in the state is the Annette Island Reserve in Southeast Alaska.<sup>14</sup> Rather than recognize sovereign tribal lands, ANCSA tasked the for-profit corporations to manage more than 40 million acres of fee land. ANCSA divided the state into 12 regional corporations and over 200 village corporations that would identify with their regional corporation. Many of these villages had corresponding tribal village governments, but with the passage of ANCSA, no meaningful land base. As a result, unlike most court systems that have defined territorial jurisdiction and personal jurisdiction, Alaska Tribal courts generally exercise jurisdiction through tribal citizenship, and not through a geographic space defined as “Indian country” because of ANCSA and in part due to a United States Supreme Court case.

As a result of the United States Supreme Court’s unfavorable decision in *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998), most of the tribes’ traditional territory is not considered “Indian country.” Without the ability to tax, without Indian gaming, and without consistent and predictable tribal court and law enforcement appropriations, Alaska tribes lack the revenue typically available to other tribal governments to fund and sustain essential governmental programs. All Alaska tribes are in a similar position and must find innovative ways to raise government revenue and to leverage other resources to sustain their tribal courts and public safety programs. As a result of this resource dilemma, available grants for developing and maintaining programs are incredibly important for Alaska tribes.

Making matters worse, in 2003, Alaska’s own Senator Ted Stevens singled out Alaska Tribes for exceptionally harsh financial restrictions through legislative riders. The riders eliminated funds to tribal courts and tribal law enforcement programs in Alaska Native villages and specifically excluded certain Southeast Alaska communities from receiving any Department of Justice funding. Although Congress recently eliminated these restrictions, the limitations set back Alaska tribes even further while they were in place. Without adequate resources, tribal court and law enforcement services have been difficult to maintain.

As required by a provision included in VAWA 2005, DOJ holds an annual consultation with tribal governments on violence against women. For several years tribal leaders have raised concerns at the annual consultation about the inadequate response to cases of missing or murdered Native women. DOJ summarized tribal leader testimony on this issue in 2016:

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<sup>14</sup> 25 U.S.C. 495 (1891).  
AKNWRC Testimony  
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“At the 2016 consultation, many tribal leaders testified that the disappearance and deaths of American Indian and Alaska Native (AI/AN) women are not taken seriously enough, and that increased awareness and a stronger law enforcement response are critical to saving Native women’s lives. They noted that missing AI/AN women may have been trafficked, and they also provided examples of abusers who murdered their partners after engaging in a pattern of escalating violence for which they were not held accountable. Tribal leaders also raised concerns that cases involving Native victims are often mislabeled as runaways or suicides, and that cold cases are not given sufficient priority. Recommendations included the creation of a national working group to address these issues and an alert system to help locate victims soon after they disappear, as well as the development of an Indian country-wide protocol for missing Native women, children, and men.”<sup>15</sup>

**Policy or funding recommendations for the federal government to address this issue:**

Continue to fund organizations like the Alaska Native Women’s Resource Center. We are putting together a Community Engagement plan to address when a person goes missing or dies by an unnatural death. This plan will address the services, public statements, legal issues and resources, the governmental role, and other resources. We will have grass roots monthly public calls to ensure that we are understanding the issues and how the plans will work within various community models. We cannot wait for the State or Federal governments to act.

**We recommend the following:**

1. We call on the United States for a jurisdictional fix to the Alaska Native Indian country issue, and regular and consistent tribal justice funding.
2. A bi-partisan group of co-sponsors in the Senate, has introduced “Savanna’s Act,” S. 227, which includes several provisions aimed at improving the response to cases of missing and murdered women in tribal communities. While this bill is encouraging in that it has several provisions that will improve the tracking and recognition of the problem, the current version may potentially leave out more than ½ of the tribes sharing concurrent state jurisdiction in PL 280 states who have no involvement with the United States Attorney Office. We need the House to have a similar bill introduced.
3. However, Savannah’s Act places the responsibility for collecting data on law enforcement. As previously mentioned nearly 40% of our communities’ lack any law enforcement, thus we would be left out. We need to make sure that there is more

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<sup>15</sup> U.S. Department of Justice, Office on Violence Against Women, “2017 Update on the Status of Tribal Consultation Recommendations,” (2017).

inclusion for all American Indians and Alaska Native communities to be included and considered. A plan needs to include all 573 tribes in the nation.

4. Providing sufficient federal support to non-profit, non-governmental indigenous women's organizations to provide effective and culturally appropriate services to indigenous women survivors of domestic and sexual violence, including but not limited to the provision of shelter, rape crisis and transitional housing. When Indigenous women do not have adequate and safe housing they are placed at risk.
5. Provide dramatically increased funding resources for broader community training on domestic/dating violence, sexual assault, stalking, sex trafficking, and trauma and best practices for prevention.
6. Provide increased support for dramatically increased funding resources for tribal courts and tribal law enforcement in Alaska.
7. Provide increased victim services to the families and community members of the disappeared or murdered Native women, such as counseling for the children of the disappeared, burial assistance, and community walks, healing and other tribal-specific ceremonies. The House needs a bill similar to the SURVIVE Act as that would address this issue.
8. Fully implement the VAWA 2005 program of research and specifically provide Indian tribes information regarding the disappearance and murder of Native women. We need a baseline study for Alaska as our situation may be different than what the National Institute of Justice reported in their Violence Against American Indians and Alaska Native Women and Men.
9. Upon enactment of Savanna's Act, provide targeted funding for tribal governments like Tlingit & Haida, perhaps on a pilot program basis, to ensure full participation in and coordination of efforts across federal departments to conduct research and collect data to better improve tribal government responses to the disappearance or murder of Native women and girls.
10. Support tribal amendments in H.R. 1585, VAWA Reauthorization including a pilot project in section 903 — similar to the one created in VAWA 2013—wherein Alaska Tribes can work with each other and with the Department of Justice through an Inter-Tribal Working Group for Alaska Tribes to develop their responses and exercise SDVCJ (as well as any additional tribal criminal jurisdiction provisions proposed in the VAWA 2019 reauthorization). As VAWA reauthorization moves forward, we encourage you to work closely with the Alaska delegation and the Alaska Native Women's Resource Center to address the needs of Alaska Native victims.

There is a unique opportunity to recognize these issues and make corrections to the laws.

In Deg it' tan Athabascan, as with other language groups in Alaska, we had no words or description for violence within a family home. We had traditional forms of justice that kept our community in check and women valued as the life giver of the family. We had community justice, which we are now returning to.

The Alaska Native Women's Resource Center receives federal funds through the Office on Violence Against Women, U.S. Department of Justice and the Family Violence Prevention and Services Office, U.S. Department of Health and Human Services. With such funding, we are providing meaningful village engagement sessions with Alaska Native tribes, to help with identifying the resources within each tribe to address violence against women in their own voices, language and teachings. We have 7 distinct language groups in Alaska. We create a unique theme to each engagement session and work with the tribe towards restoring balance in their community.

Restoring and enhancing local, tribal governmental capacity to respond to violence against women provides for greater local control, safety, accountability, and transparency. We will have safer communities and a pathway for long lasting justice.

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