



December 12, 2018

Missing and Murdered: Confronting the Silent Crisis in Indian Country

Committee on Indian Affairs, United States House of Representatives,
One Hundred Fifteenth Congress, Second Session

HEARING CONTENTS:

Witnesses

Charles Addington
Director
Bureau of Indian Affairs, Office of Justice Services
[View Testimony](#)

Robert Johnson
Assistant Director of the Criminal Investigative Division
Federal Bureau of Investigations
[View Testimony](#)

Gerald LaPorte
Director
Office of Investigative and Forensic Sciences, National Institute of Justice
[View Testimony](#)

Amber Crotty
Delegate
Navajo Nation Council
[View Testimony](#)

Patricia Alexander
Co-Chair
VAW Taskforce, Central Council of Tlingit & Haida Indian Tribes of Alaska
[View Testimony](#)

** Please Note: External links included in this compilation were functional at the time of its creation but are not maintained thereafter.*

*This hearing compilation was prepared by the Homeland Security Digital Library,
Naval Postgraduate School, Center for Homeland Defense and Security.*



Kimberly Loring-Heavy Runner
Missoula, MT
[View Testimony](#)

Available Webcast(s)*:

[Full Committee Hearing](#)

Compiled From*:

<https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=109101>

** Please Note: External links included in this compilation were functional at the time of its creation but are not maintained thereafter.*

*This hearing compilation was prepared by the Homeland Security Digital Library,
Naval Postgraduate School, Center for Homeland Defense and Security.*

**TESTIMONY
OF
CHARLES ADDINGTON
DIRECTOR – OFFICE OF JUSTICE SERVICES,
BUREAU OF INDIAN AFFAIRS
BEFORE
THE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
HEARING ON “MISSING AND MURDERED: CONFRONTING THE SILENT
CRISIS IN INDIAN COUNTRY”**

DECEMBER 12, 2018

Good afternoon, Chairman Hoeven, Vice Chairman Udall, and members of the Committee. My name is Charles Addington and I am the Director of the Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) at the Department of the Interior (Department). Thank you for the opportunity to provide a statement before this Committee on the crisis of missing persons and murder victims in Indian Country.

More than half of Native American women have been sexually assaulted, including over a third who have been raped during their lifetime – a rate of rape nearly 2.5 times higher than for white women, according to a 2016 National Institute of Justice study¹. With indigenous women and girls facing alarming levels of violence across the country, more can be done to support meaningful efforts to address the high rates of violence in Indian Country.

Although the Violence Against Women Act (VAWA) and the Tribal Law and Order Act (TLOA) have helped bring attention to this high rate of violence and have begun to address gaps in law enforcement for tribes and federal authorities, there remain gaps in data that exacerbate the crisis of missing and murdered indigenous women. These challenges are present across multiple sectors, but are particularly problematic in the context of criminal justice, in which Federal, state, tribal, and local governments share responsibilities. It is important to continue

¹ National Institute of Justice, *Violence Against American Indian and Alaska Native Women and Men*.

efforts to build accurate data and provide Congress, the public, and, most importantly, the tribes, with the information needed to identify and analyze the criminal justice needs in Indian Country.

These data gaps impact how law enforcement officials handle or follow up on these cases, predominantly due to underreporting, racial misclassification, potential gender or racial bias and a lack of law enforcement resources required to follow through and close out cases appropriately.

In 2017, the Urban Indian Health Institute surveyed 71 cities across the U.S. to collect data on murdered and missing indigenous women and girls in urban settings. The Institute's survey and analysis of the collected data culminated in their 2018 report, *Missing and Murdered Indigenous Women and Girls*, which highlights some of the challenges of data collection with respect to American Indian and Alaska Native populations in urban populations.

For Indian Country, BIA collects monthly crime statistics from Tribal and BIA law enforcement programs and submits the information to the Federal Bureau of Investigation (FBI) each quarter. The information collected is specific to the data required for the FBI Uniform Crime Report (UCR), which currently does not track missing persons or domestic violence statistics.

In light of these significant data collection challenges facing missing and murdered indigenous persons, BIA has partnered with DOJ's Missing and Unidentified Persons System (NamUs), a program of the National Institute of Justice to create new data fields in their system to specifically capture tribal affiliation data. The new fields are expected to be operational after January 1, 2019. This will assist law enforcement agencies across jurisdictions with tracking and investigating missing persons throughout the country.

Going forward, better inter-agency coordination and cooperation is needed to improve the

integrity of the data collected. While it is widely believed that there may be a correlation between opioid and other narcotics abuse, human trafficking, and domestic violence and missing and murdered indigenous women, without sufficient data, it is difficult to draw solid conclusions. Federal agencies must develop concrete solutions to improve agency data collection to ensure these crimes are being tracked and investigated appropriately so that any trends can be properly identified and addressed. For example, adding these types of incidents to the data collected by DOJ and BIA and making the data submissions mandatory from all law enforcement agencies would be a great start to addressing the data collection problem.

BIA has also began efforts to raise awareness and provide training to Indian Country law enforcement personnel. In January 2018, the BIA Indian Police Academy began discussions with the National Criminal Justice Training Center (NCJTC) on collaborating to create joint training programs for cold case investigations, long-term missing investigations, and child abduction investigations for use throughout Indian Country.

To specifically address the missing persons aspect of this issue, earlier this year the BIA-Indian Police Academy launched human trafficking courses in the Indian Country Police Officer Training Program; the Basic Police Officer Bridge Training Program; and the Indian Country Criminal Investigator Training Program (a joint FBI, BIA, and Tribal attended program).

In February 2018, the NCJTC and BIA-Indian Police Academy identified dates and locations for three pilot training programs on Advanced Cold Case Long Term Missing Investigations in Montana and North Dakota. The three training programs were held at Blackfeet, Montana and New Town, North Dakota. A total of 117 personnel were trained in these programs.

The BIA-Indian Police Academy is also scheduled to participate in the assessment of an NCJTC project to create a web/mobile-capable investigative guide for tribal first responders on

endangered missing and abducted persons.

As identified above, BIA OJS has taken numerous steps this year to create a number of solutions to address the crisis of missing persons and murder victims in Indian Country. We look forward to working with our other federal and tribal partners to collaborate on sound solutions to protect and serve our Native men, women, and children.

Again, thank you for the opportunity to provide a statement and my written testimony will be provided for the record. I am happy to answer any questions the Committee may have.



Department of Justice

STATEMENT OF
ROBERT JOHNSON
ASSISTANT DIRECTOR
CRIMINAL INVESTIGATIVE DIVISION
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

FOR A HEARING ON
MISSING AND MURDERED: CONFRONTING THE SILENT CRISIS IN
INDIAN COUNTRY

PRESENTED
DECEMBER 12, 2018

Statement of Robert Johnson
Assistant Director, Criminal Investigative Division
Federal Bureau of Investigation
U.S. Department of Justice
Before the Committee on Indian Affairs
United States Senate
December 12, 2018

Good afternoon Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. I appreciate the opportunity to appear before you today to discuss the FBI's ongoing efforts to support our partners in Federal, state, local and Tribal law enforcement in resolving missing person cases.

The FBI and its dedicated Special Agent and Victim Specialists of the FBI's Indian Country Program work hard to partner with Tribal communities across the United States to deliver quality law enforcement service. We remain fully committed to our unique role in Indian Country and to our partnerships with other Federal, state, local, and Tribal law enforcement agencies.

There are 573 federally recognized Indian Tribes in the United States and approximately 326 Indian reservations with over one million Native American residents on or near reservation lands. The FBI shares federal law enforcement responsibility with the Bureau of Indian Affairs, Office of Justice Services (BIA-OJS) on more than 200 of those Indian reservations not in PL-280 areas, and has federal criminal jurisdiction over acts directly related to Indian gaming regardless of jurisdiction status.

The FBI's Indian Country Program includes over 140 Special Agents (SA) and 40 Victim Specialists (VS) in 36 Field Offices. Indeed, 33 percent of the FBI's Victim Specialists and 50 percent of the FBI's Child and Adolescent Forensic Interviewers (CACIs) work directly with victims and families in Indian Country.

Our highest priorities in Indian Country focus on the most serious crimes of violence, including murder, child sexual and physical abuse, sexual abuse of adults, and violent assault. FBI investigations in these priority categories comprise over 75 percent of all FBI investigations in Indian Country. In addition, crime related to gangs and drugs is increasing in Indian country, and the FBI investigates allegations of financial corruption. The FBI in Indian Country simultaneously addresses many different aspects of crime and remains fully committed and engaged with our Tribal partners

The FBI often responds to crime scenes within Indian Country after receiving notification from our Tribal and BIA-OJS partners. They work hand in hand to process the crime scene, collect evidence, ensure victim safety, conduct interviews and locate suspects. The cooperation between the FBI, BIA-OJS and Tribal law enforcement is paramount to solving crime and protecting Tribal communities.

The Tribal Law and Order Act of 2010 (TLOA) requires that the Attorney General submit an annual report to Congress detailing investigative efforts by the FBI and dispositions of

matters received by United States Attorney's Offices (USAOs) with Indian country responsibility. The majority of criminal offenses committed, investigated, and prosecuted in Tribal communities are adjudicated in Tribal justice systems. In much of Indian country, Tribal law enforcement and Tribal justice systems hold criminals accountable, protect victims, provide youth prevention and intervention programs, and confront precursors to crime such as alcohol and substance abuse. These efforts are often in partnership with federal agencies or accomplished with support from federal programs and federal funding opportunities.

Specifically, the FBI's statistics for Calendar Year (CY) 2017 show a total of 2,210 closed investigations – a 12.5 percent increase in total closed investigations compared to the previous year. Of those, approximately 68 percent – or 1,511 out of 2,210 – of Indian country criminal investigations opened by the FBI were referred for prosecution.

Importantly, of the nearly 700 Indian country investigations the FBI closed administratively without referral for prosecution, the primary reason for closing (approximately 21 percent) was that the case did not meet statutory definitions of a crime or USAO prosecution guidelines. In addition, analysis of CY 2017 data indicates that 15 percent of investigations closed administratively were closed due to unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigations. Another reason for non-referral (20 percent) was that the deaths under investigation were determined to be the result of accident, suicide, or natural causes (i.e., non-homicides). In short, though not a first responder, the FBI remains committed to resolving crime in Indian Country and works closely with our partners to ensure cases are adjudicated fully through the court system.

With regard to crimes against Native American women in Indian Country, the status of the victim and subject as Indian or non-Indian is generally initially based on information reported to law enforcement. Tribal police, BIA, and FBI subsequently receive documentation from tribal government authorities to confirm the tribal membership status of individuals.

At the end of 2017, individuals entered into the National Crime Information Center (NCIC) as "Indian" made up 1.8 percent of active missing person records. The racial category of "Indian" is formally classified in the NCIC as "American Indian" and is defined as a person having origins in any of the original peoples of the Americas and maintaining cultural identification through tribal affiliations or community recognition. The determination of whether a person is listed as "Indian" would be decided by the entering agency, which could be Federal, state, local or Tribal. Importantly, at the end of 2017, Native American ("Indian") females accounted for 0.7 percent of the active missing person cases – 633 in all. The FBI's Missing Person and Unidentified Person statistics are updated annually and available publicly on-line.

Due to the high volume of violent crimes within Indian Country to include death investigations, our partnerships with the Bureau of Indian Affairs, Office of Justice Services (BIA-OJS), 17 Safe Trails Task Forces (STTF), and tribal law enforcement are critical. Our partners provide invaluable assistance and intelligence related to the location of the crime scenes, identification of suspects/victims, and location of suspects.

The 17 FBI STTFs are a significant force multiplier focusing on violent crime to include death investigations with approximately 90 full time Task Force Officers spread across Indian

Country. STTF full time officers are made up of state, local, and tribal police officers. This important program has expanded in the last year and the FBI plans to add new STTFs in FY 2019 to combat the levels of violent crimes and narcotic trafficking in Indian Country.

The FBI also partners with local and Tribal police to assist when requested in missing persons cases. FBI Agents and STTFs provide assistance and, when foul play is believed to have occurred, an FBI case is opened and an investigation undertaken. The FBI and the STTFs continue to work closely with the respective Tribal Police Department, BIA-OJS, and surrounding state and local departments.

Further, the FBI remains committed to expanding access to the National Instant Criminal Background Check System (NICS) to our Tribal partners. Earlier this year, the Department of Justice announced a significant expansion of the Tribal Access Program (TAP), a program providing federally recognized Tribes an additional method to access and exchange data with the national crime information databases maintained by the FBI Criminal Justice Information Services (CJIS) Division for both civil and criminal purposes. In this way, TAP supports tribal governments in their efforts to access, utilize, and report critical criminal justice information, including NICS relevant data, to the FBI in order to protect tribal communities from violent crime.

Under TAP, Tribes have already entered information directly into the federal databases, resulting in nearly 600 sex offender registrations and over 550 sex offender check-ins, nearly 250 instances of data entry that would prohibit someone from being able to purchase a firearm, over 700 orders of protection entered and nearly 5,000 finger-print based record checks of individuals seeking employment in positions with contact with or control over children or tribal housing placements. To date, TAP has been deployed to 47 federally recognized tribes with over 200 tribal criminal justice and tribal civil agencies.

The FBI's CJIS Uniform Crime Reporting (UCR) Program also coordinates with BIA-OJS to increase the number of Tribes that report crime statistics. This has been accomplished primarily through liaison efforts and presentations to increase awareness at Tribal law enforcement conferences. This increases the number of Tribes that are eligible to receive funding under the DOJ Justice Assistance Grants (JAG) program. Since Tribal jurisdiction UCR data is publicly accessible, it increases available information about the incident of Indian country crime and assists Tribal government leaders to make effective decisions about strategies to fight crime and efficient allocation of tribal law enforcement resources.

The FBI remains committed to preparing our Agents in Indian Country with the knowledge and skills required to address the important cases they will investigate. All FBI Agents attend and graduate from the FBI Academy with the skills to investigate any crime over which the FBI has jurisdiction. All FBI Agents assigned to Indian Country are given additional training to ensure they are prepared to effectively investigate crimes that occur within Indian Country.

Our Indian Country Crimes Unit (ICCU) provides a comprehensive training program to include intermediate and advanced classes on various topics related to the investigation of crimes in Indian Country. Many of these trainings are open to Tribal law enforcement officers, Safe

Trails Task Force Officers and BIA-OJS officers and agents. The mission of ICCU is to support Indian Country Agents in the field and to develop and implement strategies to address the most egregious crimes committed in Indian Country. The FBI has partnered with DOJ's National Indian Country Training Initiative (NICTI) to develop and deliver courses for Federal agents, Tribal law enforcement officers and Federal and Tribal prosecutors. Just in the last several years, the partnership has hosted over 15 courses specific to Indian Country crime.

Beginning in 2016, FBI ICCU and BIA-OJS partnered to pilot a two week intensive training course for FBI and BIA Agents, which is now offered on a regular basis at BIA's training facility in Artesia, New Mexico. Each class accommodates 24 students which include FBI Agents, Tribal Criminal Investigators, and BIA-OJS Criminal Investigators. The course provides detailed investigative tools and procedures specific to Indian Country.

In summary, the FBI remains fully committed to working with its partners at all levels on the issues raised in this hearing today, including missing persons and murder victims. It is imperative that we work together to make certain that all missing persons are entered into the appropriate databases, that cases are being fully investigated, and that persons responsible for criminal activity in Indian country are brought to justice. We look forward to continuing this important work and appreciate the support of this committee. Thank you for the opportunity to appear before you today. I am now happy to answer any questions.



Department of Justice

STATEMENT OF

**GERALD M. LAPORTE, M.S.F.S.
DIRECTOR
OFFICE OF INVESTIGATIVE AND FORENSIC SCIENCES
NATIONAL INSTITUTE OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
U.S. DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

AT A HEARING ENTITLED

**MISSING AND MURDERED:
CONFRONTING THE SILENT CRISIS IN INDIAN COUNTRY**

DECEMBER 12, 2018

Statement of

Gerald M. LaPorte, M.S.F.S.

Director

Office of Investigative and Forensic Sciences

National Institute of Justice

Office of Justice Programs

U.S. Department of Justice

Before the

United States Senate

Committee on Indian Affairs

December 12, 2018

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, thank you for this opportunity to discuss the ongoing commitment by the U.S. Department of Justice to work alongside our Tribal partners to help gather data and provide a resource for investigations into cases involving missing persons. My name is Gerry LaPorte, and I am the Director of the Office of Investigative and Forensic Sciences (OIFS) at the National Institute of Justice (NIJ) in the Department of Justice's Office of Justice Programs (OJP).

Within NIJ, OIFS is the Federal Government's lead agency for forensic science. OIFS's mission is to improve the quality and practice of forensic science through research and development, testing and evaluation, technology, information exchange, and the development of resources for the criminal justice community. NIJ's programs also support the Department of Justice's three forensic science priorities: (1) improve capacity; (2) increase coordination and collaboration with state, local, and Tribal entities; and (3) advance the reliability and sensitivity of forensic science testing. We provide objective and independent knowledge and tools to inform the decision-making of the criminal justice community as it works to reduce crime and advance justice, particularly at the state, local, and Tribal levels. We work with other Department of Justice components and also alongside other Federal agencies, like the Bureau of Indian Affairs.

Much has been said about the levels of crime and violence in Indian country and the Alaska Native villages and the numbers of missing persons and murder victims within the American Indian and Alaska Native (AI/AN) communities. The NIJ-supported study, "Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey," released in 2016, provides staggering estimates of sexual violence, physical violence by intimate partners, stalking, and psychological aggression by intimate partners. It also provides estimates of interracial and intraracial victimization and briefly examines the impact of violence on the victims. This study was important because it provided the first set of estimates from a national large-scale survey of victimization among self-identified AI/AN women and men on psychological aggression, coercive control and entrapment, physical violence, stalking, and sexual violence, using detailed behaviorally specific questions.

This research provides the most comprehensive, reliable, and valid estimates on the victimization experiences of AI/AN women and men. It found that more than four in five AI/AN adults (83 percent) have experienced some form of violence in their lifetime. That's almost 3 million people who have experienced stalking, sexual violence, or psychological aggression or physical violence by intimate partners.

As part of the Reauthorization of the Violence Against Women Act (VAWA) of 2005 (and as amended in 2013), NIJ is mandated, in consultation with the Justice Department's Office on Violence Against Women (OVW), to conduct analysis and research on violence against Indian women (VAIW) living in Indian country and in Alaska Native villages. Consonant with those provisions, NIJ has developed a comprehensive research program consisting of multiple projects that are being accomplished over an extended period of time. The primary goal of the program is to document the prevalence and nature of violence against Native women living on sovereign tribal lands. The research program also is designed to evaluate the effectiveness of federal, state, Tribal, and local responses to violence against AI/AN women and propose recommendations to improve the effectiveness of such responses.

Ultimately, this program of research is expected to improve our understanding of the programmatic, service, and policy needs of victims, and help educate and inform practitioners, policymakers, and the public about the threat to the safety, health, and well-being of Native women. This effort will hopefully be a big step toward reducing the incidence of violent crimes against Native women and ensuring perpetrators of these violent crimes are held accountable.

The epidemic of sexual violence in Indian country is compounded by another, silent crisis: an unknown number of Native Americans have simply vanished, leaving no trace of their whereabouts or of the crimes to which they may have fallen victim. Fortunately, not every missing person is a victim of a violent crime, and while others have gone missing for deliberate reasons, we remain focused on those who have gone missing unintentionally.

Every night across the nation, tens of thousands of families sit down to their dinner tables and face an empty chair that should be occupied by a loved one. Those affected by the disappearance of a family member face an agonizing wait for answers, sometimes for decades. The sense of loss when a loved one disappears is magnified by feelings of helplessness and isolation as these families puzzle through a process that offers few guideposts.

It was in response to this "national silent mass disaster" that NIJ developed the National Missing and Unidentified Persons System (NamUs) to help identify unidentified remains, locate missing persons, and bring resolution to victims' families. NamUs is a national, centralized, web-based information clearinghouse and resource center for missing, unidentified, and unclaimed person cases. NamUs combines technology, forensic services, and investigative technical assistance from a seasoned staff of subject matter experts to support and assist stakeholders with cases from across the country.

Since the system was launched in 2007, more than 45,000 cases have been reported to NamUs and over 16,000 missing person cases and over 3,500 unidentified person cases reported to NamUs have been resolved. Many of these resolutions were made possible by storing, sharing, and comparing case information in a centralized, online system that is accessible to all.

It is important to note that cases are only published in NamUs after rigorous vetting with the appropriate local, state, federal, or Tribal law enforcement agency in order to secure the privacy and protection of persons reported missing and to ensure quality control over the missing person data. For instance, some missing person reports involve individuals who do not wish for their location to be known to family or associates due to circumstances involving domestic violence and other safety issues.

NIJ's NamUs provides law enforcement officials, medical examiners and coroners, allied forensic professionals, and families with lost loved ones the tools and support they need to investigate and solve some of the most complex cold cases. NamUs is a permission-based system, meaning it offers both a publicly viewable area and a restricted criminal justice-sensitive environment designed to protect privileged information while enlisting the support of the general public. With diverse users in all 50 states and across many Tribes and U.S. territories, NamUs is a collaborative system that bridges the communication gap among stakeholders in different geographical regions, enabling better information sharing and providing technical assistance and investigative case support critical to resolving these cases.

For clarity, I must note some distinctions between the data entered into NamUs and the data entered into the FBI's National Crime Information Center (NCIC). With the exception of states like New York, Michigan, and Tennessee that have passed mandatory reporting laws, NamUs is a voluntary program that has traditionally been used by criminal justice agencies to investigate long-term missing and unidentified person cases or cases where all investigative leads have been exhausted. Since the majority of missing persons reported to NCIC are mandated by law and many are recovered quickly, most are never entered into NamUs. However, NamUs poses no restrictions on the amount of time a person must be missing prior to entry into the database or for access to investigative or forensic services.

We realized that AI/AN cases were underrepresented in NamUs, so over the last two years NIJ and NamUs staff have made significant and targeted efforts to increase awareness. We have launched an outreach campaign to Tribal law enforcement, leadership, and community members to ensure the communities are aware of the technology and technical assistance, which is available free to all Tribal nations. Also, a recent technology upgrade, NamUs 2.0, contains enhancements that allow all criminal justice users to better collect, search, analyze, and manage case information.

NamUs has helped resolve 279 cases and currently has 324 active AI/AN missing persons cases, but it remains seriously underutilized by this community of stakeholders. The number of missing persons cases is believed to be far more. NIJ continues its outreach and technical assistance activities nationwide.

There are also 102 active unidentified remains cases being supported, 61 of which have been deemed either homicides or deaths of undetermined causes. NIJ is committed to working with the Tribal nations directly to enhance technology and provide training, better support and technical assistance, and investigative and forensic services. By bringing information, people, and forensic science together, NamUs can help resolve cases. We know the loss, trauma, and need for answers span generations. NamUs even received DNA from the grandchild of a man

who went missing in 1902. The oldest missing persons case resolved by NamUs was from 1934 and the oldest unidentified persons case was from 1957.

In FY 2018 OJP, along with our partners at the Justice Department's other grant-making offices – the Office of Community Oriented Policing Services (COPS Office) and OVW – awarded 225 grants totaling more than \$113 million to 125 separate Tribes under our Coordinated Tribal Assistance Solicitation (CTAS). Since FY 2010, the Justice Department has awarded more than 2,000 grants for applications submitted through CTAS, totaling more than \$940 million to hundreds of AI/AN communities. Through CTAS, applicants apply for multiple tribal grant programs under one solicitation, which allows Tribes to plan comprehensively and strategically allocate resources.

With CTAS, Tribes can search grant opportunities by purpose area – whether it's serving sexual assault survivors, implementing a coordinated community response to violence against Native women, helping Tribal youth, or any of the other general purpose areas, including a new one this year that focuses on addressing violence and a re-tooled emphasis on victim services.

In FY 2018, for the first time, OJP received a three percent set-aside (totaling \$133 million) of the Crime Victims Fund specifically allocated to meet the needs of AI/AN victims. We expect to finish awarding these grants by mid-April 2019, and once awarded, they will substantially expand the number of Tribes providing victim services.

These awards will support child and elder victims, domestic violence and sexual assault survivors, victims of human trafficking, families of homicide victims, and people who have been victimized as a result of the opioid crisis. The FY 2019 President's Budget request proposes a comparable percentage of set-aside funds to help solidify the long-term sustainability of Tribal victim assistance programs.

OJP, along with the COPS Office, also supports the Tribal Access Program (TAP), which enables Tribal officials to enter protection orders in federal databases and register sex offenders with the National Sex Offender Registry. TAP can be a key element in ensuring the safety of certain victims. It also allows Tribes to access critical data from FBI databases. Nearly 50 tribes are currently part of the program, and an additional 25 tribes have been selected to participate in this fiscal year.

At annual government-to-government consultations with tribes held by OVW, tribal leaders have testified about the need for robust responses to the disappearance, trafficking, and murder of Native women and youth. In response, OVW has funded training and technical assistance for interdisciplinary teams from tribal communities on identifying cases of sex trafficking and ensuring that victims receive needed services. In FY 2018, OVW renewed funding for Tribal Special Assistant United States Attorneys, cross-deputized tribal prosecutors who are able to bring violence-against-women cases in both tribal and federal courts, including prosecuting habitual domestic violence offenders before their crimes result in murder. OVW also provides funding and other support to tribes exploring and implementing special domestic violence criminal jurisdiction under the 2013 reauthorization of VAWA to help ensure prosecution of certain non-Indian domestic violence offenders. Finally, through the Trilateral

Working Group on Violence Against Indigenous Women and Girls, OVW and other DOJ components are fostering cross-border collaboration with Canada and Mexico to combat the disappearance and murder of Native women and youth.

As the Committee is well aware, the majority of American Indians and Alaska Natives in our country do not live on Tribal lands. Many of them, in fact, live in urban areas, where they face a different set of challenges from those we see in Indian country. One of those challenges is a disproportionate vulnerability to sex trafficking. Victims of trafficking likely also contribute to the missing Indian person numbers discussed at this hearing. Indian women and girls are sometimes moved off reservations and forced into trafficking activities in the city. In addition to the horrific trauma that this kind of exploitation causes, it also means that they are often dragged into the criminal justice system by virtue of being arrested.

OJP's Office for Victims of Crime has made three awards to urban organizations to address this urgent problem under a program called Project Beacon. Grantees in Albuquerque, Seattle, and Chicago are developing community partnerships to meet the needs of American Indian victims. The grants support a range of services, from emergency shelter and housing to crisis counseling and treatment. These victims have, in many cases, been violently displaced, uprooted and separated from their families and support networks. Our goal through these grants is to return them to safety, return them to their families, and to help them begin the process of recovery and healing.

As noted, OJP works closely with other DOJ components. The Department's Office of Tribal Justice and the network of Tribal Liaisons in the United States Attorneys' offices and specialists throughout the country collaborate with tribes to improve law enforcement functions and reduce crime. These offices each have a tribal liaison to link efforts between the Department and tribal leadership. The Executive Office for U.S. Attorneys also trains federal, state, local, and Tribal attorneys and law enforcement staff on law enforcement issues in Indian country.

As the Department continues to enhance its public safety efforts in Indian country, we remain committed to working with our Tribal partners to improve the tools they need to protect citizens, safeguard communities, and solve crimes that, in too many cases, have left loved ones without the answers that they need and deserve. We will continue to work hard on their behalf. Thank you, and I look forward to addressing your questions.



**Testimony for Honorable Amber Kanazbah Crotty
23rd Navajo Nation Council Delegate
Before the U.S. Senate Committee on Indian Affairs Oversight Hearing
“Missing and Murdered: Confronting the Silent Crisis in Indian Country.”**

December 12, 2018

Introduction. Chairman Hoeven, Ranking Member Udall, Members of the Committee, thank you for this opportunity to testify on behalf of the Navajo Nation to address missing and murdered people in Indian Country. I am Navajo Nation Council Delegate Amber Kanazbah Crotty and I thank you for your commitment to prioritize public safety for Indian Country as it pertains to missing and murdered indigenous people. We recognize and appreciate your tireless efforts working on behalf of Tribes and would like to take this opportunity to thank this Committee for holding this hearing.

The Navajo Nation urgently appeals to this Committee to intervene to stop the increasing alarming rates of missing or murdered tribal members throughout Indian Country. Our Tribe continues to observe first-hand the disastrous outcome from the lack of resources that exist for states to maintain databases on indigenous missing persons or the failure across jurisdictions to effectively communicate to coordinate efforts to reduce the loss of Native American lives.

Background. The Navajo Nation is the largest land-based Tribe in the United States that spans over 27,427 square-miles across three states (Arizona, New Mexico, and Utah) with over 350,000 enrolled members. The Nation is comprised of 110 Chapters, also known as communities or local governments within the Navajo Nation. In New Mexico, there are an additional 80,000 enrolled members that reside in dependent Navajo communities, allotments, and border towns. Today, the Nation suffers from unemployment rates at about 42 percent and the median annual household income is approximately \$20,000.¹ Across the Navajo Nation, 61-percent of homes do not have electricity, 22-percent of households have telephones, and only 15-percent of households have computers.² Further complicating access to victim services, only 24-percent of residents over the age of 18 have access to a vehicle and the closest available victim services are generally hours away. Annual reporting to the FBI indicates violent crime rates have fallen by 48-percent over the past 25 years, and this same data indicates that violent crime is on the rise on the Nation. From 2010-2016, over 44.1-percent of calls to the Navajo Department of Public Safety (NDPS) involved violence, and alcohol underlies almost all of this violent crime.

The Navajo Nation is currently far from having sufficient public safety resources to adequately respond to reported crimes. Significantly, there are fewer than 200 Navajo police officers and 30 Criminal Investigators for the entire Navajo reservation. Given the on-reservation population, there are 0.85 officers per every 1,000 individuals, which is less than 1/3 of the national average of 3 officers per every 1,000 individuals. The Navajo Nation Police Department’s most recent annual crime reports illustrate the increase of violent crimes on the Nation—particularly homicides. Navajo Criminal Investigations responds to approximately 30–50 homicides per year within the Nation’s boundaries, which represents a homicide rate well above the national average (20–33 homicides per 100,000 people compared to 6-13 per 100,000 nationally). Based on the most recent census data, the homicide rate on the Navajo Nation is

¹ <https://navajobusiness.com/fastFacts/Overview.htm>

² <https://transition.fcc.gov/cgb/rural/presentations/ONSAT2OverviewofNNHeadStartTechnologyPlan.pdf>

four times the national average. The Navajo Police Department averaged 226,450 total calls for service over the past four years:

Navajo Police Department—Annual Reported Calls for Service				
Offense	2017	2016	2015	2014
Homicide	32	24	20	3
Rape	264	319	294	316
Robbery	40	26	23	22
Aggravated Assault	417	417	492	152
Burglary	893	738	728	895
Larceny	904	896	690	1,036
Motor Vehicle Theft	1,270	1,077	730	744
Arson	352	349	292	338
Assaults	472	417	442	464
Weapons	701	687	661	773
Sex Offenses	2,023	1,705	1,499	1,754
Child Abuse	917	1,092	1,167	1,058
Domestic Violence	5,351	5,119	4,628	4,658
Total	13,636	12,866	11,666	12,213
Grand Total of Calls for Service	234,137	218,810	213,692	239,161

These alarming statistics help illustrate why the Federal Bureau of Investigation (FBI) reported that Navajo Nation has one of the most violent crimes in Indian Country with 2,524 violent crimes; 2,311 aggravated assaults; and 160 rapes reported to law enforcement in 2017.³ Thus, violent crimes and crimes against women such as rape is comparable to major metropolitan areas such as Detroit and San Diego, proportionate to population.⁴

Violence Against Navajo Women. Gender-biased violence on the Navajo Nation is a multi-generational and culturally pervasive phenomenon. Similarly to our national counterparts, the true rates of violence against women are not accurately reflected in data since many victims of domestic violence (DV) or dating violence fail to report their abuser due to fear for their safety (i.e. retaliation), shame over their situation, or involvement of alcohol or drugs at the time of the incident. Administration of targeted victim services for DV, dating violence, and sexual assault has likely led to increased reporting of DV and sex offenses in recent years. Women who have been victimized are starting to trust that they will be supported, heard, and believed due to program implementation like Amá Dóó Átchíní Bighan, Inc. (ADABI) on the Nation. For example, ADABI has had positive impacts on our community in the Chinle Agency over the past years. In this community, reporting of sexual assault incidents have increased by 75 percent from 3 total reports during 2010-2012, to 12 total reports during 2014-2015. We believe this increase is a result of the efforts of ADABI to increase community awareness, build knowledge and skills among community partners about how to effectively respond to domestic violence and sexual assault.

³ <https://ucr.fbi.gov/crime-in-the-u.s/2017/crime-in-the-u.s.-2017/tables/table-11/table-11-state-cuts/arizona.xls>

⁴ Laurel Morales, “Navajo Nation, Feds Take on Overwhelming Violent Crimes” Fronteras: The Changing America Desk (March 01, 2013). Accessed at: <http://kjzz.org/content/6821/navajo-nation-feds-take-overwhelming-violent-crime>

Poverty, low educational attainment, addiction, unresolved trauma, and the emergence of gang culture, all contribute to the perpetuation of the culture of violence against women and girls within the Navajo Nation. Notably, if more victims are now coming forward, then violent crime rates are even worse than currently reported. This information is extremely concerning because it illustrates the battle that the Navajo Nation is currently engaging in to combat domestic violence and violent crimes across the reservation, but also demonstrates a need to ensure protections for children and law enforcement, as well.

Missing and Murdered Navajo Nation Members. Generally, victim services on the Navajo Nation consist of a “patchwork” of extremely limited support services that cannot meet the high demand for services. The Navajo Nation currently does not have the ability to provide comprehensive victim services to all victims of crime, as its sole funding source is strictly limited to services for intimate-partner violence. Consequently, the few existing services are almost exclusively for victims of domestic violence (DV), dating violence, and sexual assault. There are no on-reservation services for victims of violent crimes, crimes against children, etc. In reality, many simply go without support. Overall, initial crisis intervention and safety planning is performed by an array of critically under-resourced service providers whom are limited in scope and availability of resources. To further complicate matters, victims face significant barriers to access, including: extremely limited phone and internet access; Navajo-to-English language barriers; long-distance travel; and lack of transportation.⁵

Provided below are only a couple incidents of missing and murdered enrolled members of the Navajo Nation. Although the ages of each individual, geographical location, and date the persons were reported missing vastly differs in each case. The significant shortcomings in each case remains the same: law enforcements’ delayed response and jurisdictional complications.

- **11-year-old Ashlynn Mike** was kidnapped with her 9-year-old brother in Shiprock, New Mexico in May 2016. After a couple found Ashlynn’s 9-year-old brother scared and walking on the side of the road, he was taken to the Navajo Nation Police Department in Shiprock where they proceeded to coordinate with local law enforcement. Hours later, when the Farmington Police Department was notified of the missing child, it was clear no information had been shared. Eight hours after Ashlynn went missing, an AMBER Alert mass notification was finally issued at 2:30 A.M.
- **26-year-old Amber Webster**, a married mother-of-three, was murdered in Florence, Kentucky on December 2018. Amber was employed as a construction worker that had traveled out of state to provide income to her family on the Navajo Nation. 32-year-old Jesse James brutally stabbed her to death while staying at the same hotel as her. The two had no prior interactions with one another prior to the incident.
- **26-year-old Kaczinski Ariel Begay** went missing in July 2017 on the eastern edge of the Navajo Nation reservation in Arizona. Ariel was picked up from her residence by her boyfriend and never came back home. Efforts were been made by law enforcement and a search ensued on the Navajo Nation, New Mexico, and Arizona. However, sadly, her remains were found in October 2017 in Querino Canyon, Arizona. Her case remains unsolved today.
- **23-year-old Ryan Shey Hoskie, 42-year-old Teri Benally, and 32-year old Fredrick Watson** were three transgender Navajo Nation members who were found beaten to death in Albuquerque, New Mexico in January 2005, July 2009, and June 2009 respectively. All three

⁵ Note: Native victims are often unwilling to travel off-reservation for services for a variety of reasons, including long distances from family and jobs, lack of culturally appropriate training/programs, and language barriers.

victims' bodies were found in the Southeastern-side town within a block of one another laying in the street or allies. The details of each of their deaths remain unknown and no suspects were detained for their slayings.

- **63-year-old Marena Holiday**, mother of three and grandmother, was murdered in Comb Ridge, Utah on December 2015. Marena was killed within the boundaries of the Navajo Nation after she was beaten then shot in the head by a neighbor. In disposing of the body, the perpetrator tied a rope around Holiday's ankles to the back of his truck and dragged her body to hide under a tree. She was found the next day and the perpetrator was later indicted by a federal grand jury for first-degree murder and sentenced to just 22 years in prison.

Jurisdictional Complexities Complications in determining criminal jurisdiction on tribal land is a primary issue in determining who has legal authority between tribal police, state law enforcement, and federal agents. Ashlynn Mike's case is a primary example of jurisdictional complications and a delayed response time in rendering an AMBER Alert for a missing persons' notification through tribal-state-federal responses.⁶ Additionally, in cases where Native Americans represent only 1.6 percent of the state's population, geographical complexities are magnetized since many reservations are located in extremely rural locations within state boundaries.

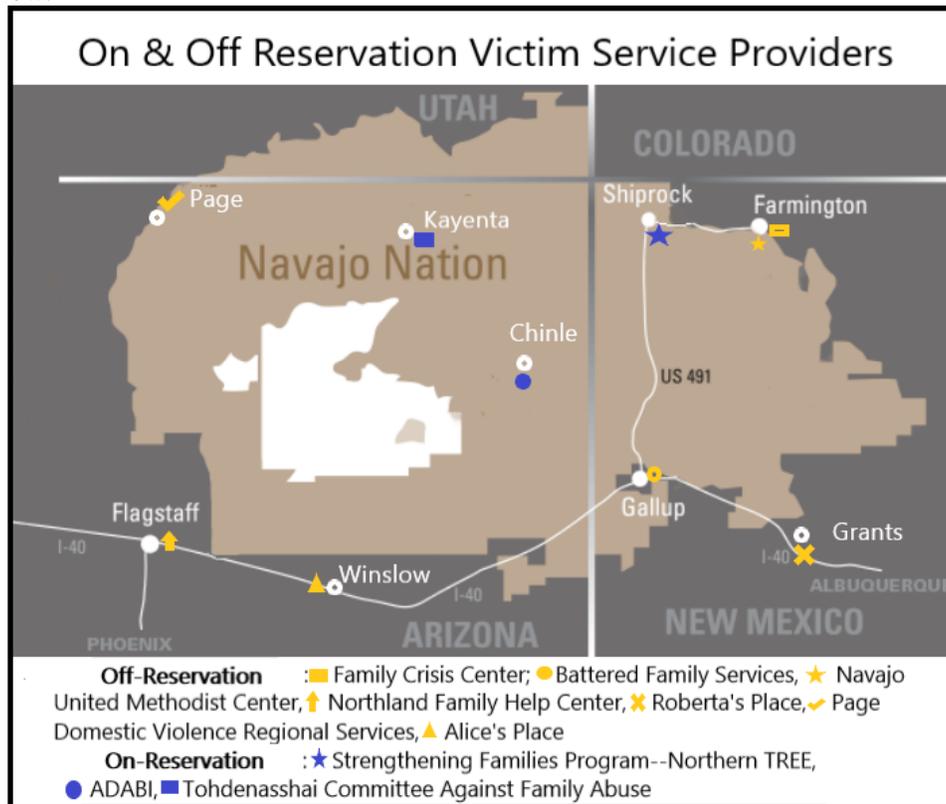
Due to the Nation's expansive geographical distances across three separate states and limited police force, it takes Navajo law enforcement hours to respond to criminal activity because it can exceed the capacity and resources of current law enforcement. This includes a vital problem of the Navajo Nation to facilitate active relationships with law enforcement between federal, state, local municipalities to effectively share information exists as a persistent issue. Currently, there is no mode of communication that exists between the Nation and law enforcement outside of the reservation boundaries, which leads to a continued loss of lives by way of jurisdictional miscommunication.

These same jurisdictional complications result in law enforcement officials at the local and state level to not enforcing restraining or protection orders issued through the Nation's courts as valid orders of protection outside the boundaries of the reservation. These circumstances leave victims feeling ignored and with the false impression that the police and court system do not care about them, as well as contributes to the now prevailing culture of impunity among criminal offenders. The establishment of a State-Tribal Intergovernmental Task Force and/or Intergovernmental Agreement (IGA) for cross-jurisdictional coordination is vital to reduce wasted time and communication amongst law enforcement. The Navajo Nation also estimates that the one-time funding allocation of \$5 million for upgrading and integrating all public safety partners to facilitate communication systems across jurisdictional boundaries for faster response times in locating missing persons.

Lack of Victim Advocates and Supportive Family Services. All available victim services on the Nation are specifically for domestic/dating violence and sexual assault. The Navajo Nation currently does not have the ability to provide comprehensive victim services to all victims of crime, as its sole funding source is strictly limited to services for intimate-partner violence. Currently, non-Indians generally have to go off reservation to receive victim services. Due to limited internal resources, the Navajo Nation must rely on third-party service providers to "fill the gaps" to provide additional on-reservation services, including emergency shelter and advocates. The available on-reservation victim services are administered by three providers: 1) Navajo Nation Division of Social Services' Strengthening Families Program (SFP); 2) Amá Dóó Áłhíni Bígħan, Inc. (ADABI) in Chinle; 3) and Tohdenasshai Committee Against Family

⁶ Note: In child abduction cases, 76-percent of those kidnapped are killed within 3 hours of abduction denoting the need for expedient state-tribal collaboration on searches and issuance of information to save lives.

Abuse in Kayenta, which are both non-profit organizations. More information on these programs is provided below:



Collectively, **ADABI and Tohdenasshai Committee Against Family Abuse** provide two short-term, emergency shelters and one “safe home” on the Navajo Nation for victims of domestic/dating violence, and sexual assault. In total, there are less than 30 available beds and the “safe home” has a maximum 5-7 night stay in a motel. These non-profit service providers receive referrals from the ER, law enforcement, Navajo Social Services, and other local service providers. They are critical partners who provide transportation, safety planning, court support, and help filing protection orders. For example, ADABI received and responded to 648 requests for service in 2017, which accounts for 8.5 percent of the total number of DV calls to 911 on the Nation. In 2017, ADABI advocates logged 241 transportation hours in 2017, which equates to six weeks of non-stop driving for a service provider.

Navajo Nation Division of Social Services ensures social services are available to needy families living on or near the reservation to reduce and alleviate hardships to ensure self-sufficiency.⁷ Out of the eight programs that the Division offers to meet this purpose, the *Strengthening Families Program (SFP)*⁸ is the only Navajo-administered victim-service provider on the reservation. It provides culturally holistic advocacy, supporting services, prevention education and safe shelters.⁹ However, this program has budgetary limitations that has resulted in the inability for the Nation to provide victim advocates to children and families that are negatively impacted by domestic violence and missing and murdered people. In May 2018, SFP opened a 24/7 residential emergency shelter in Shiprock, NM called the Northern T.R.E.E (Teaching Responsibilities, Empowerment and Equality) House. This is the only emergency shelter directly administered by the Navajo Nation. The shelter has been at capacity since its

⁷ <http://www.nndss.navajo-nsn.gov/Home.aspx>

⁸ Established in October 2016.

⁹ <http://www.nndss.navajo-nsn.gov/DSSPrograms/StrengtheningFamiliesProgram/SFPHome.aspx>

opening with only four beds and staffed by five advocates where two advocates work at a time and they rotate split shifts to provide 24/7 services. While on duty, the two advocates must simultaneously answer calls to the 24/7 Crisis Line, intake new victims, and provide the full spectrum of support services, including responding to crisis calls both in the field and at the shelter, crisis intervention, safety planning, referrals, transportation, court support, and help filing temporary protection orders. Typically, one advocate will be transporting a victim, leaving only one advocate to run the shelter. If a crisis situation arises, no one is available to respond to the victim until the advocate providing transportation returns.

The Nation also employs 5 *Mobile Victim Witness Advocates (VWA)* who are responsible for assisting victims within the Navajo Nation with SFP-program services, including crisis intervention, safety planning, shelter placement, transportation (transport to shelter, counseling, court, SANE exams etc.), court support, referrals, home visits, and filing temporary protection orders. If there is a federal criminal case, VWAs may coordinate with Navajo Criminal Investigations, FBI, and U.S. Attorney's Offices. There is one VWA for each Region of the Navajo Reservation (see map below), meaning each advocate's coverage area is approximately 5,485 square miles.



Given current crime rates, population size, and land base, SFP estimates it would need a minimum of 4-6 VWAs per Region to provide adequate, comprehensive services across the Navajo Nation. Presently, each VWA's coverage area is more than 20 Chapters and advocates may travel hundreds of miles daily. On average, an advocate spends at least half a day with a victim for intervention and safety planning, while shelter transports take all day and average 400-miles roundtrip.

Mobile advocates' individual capacity to respond is further limited as there is only one tribal vehicle for

all five of the VWAs. VWAs currently share office space with staff in another Navajo department, which makes ensuring client confidentiality very difficult as the advocates gather information and conduct interviews. Because there are not enough VWAs or resources to respond to the overall need, VWAs must "triage" and prioritize their case load. In practice, this means that VWAs are sometimes not able to provide requested support within a reasonable period of time, if at all.¹⁰ Despite this overwhelmingly burdened system, out of 13,636 calls for service for violent offenses, SFP received and responded to 5,670 DV-related service calls, which demonstrates the Navajo government provided some form of direct victim services and support to at least 41.6 percent of victims of violent crime on the reservation.

In reality, many victim services are only available off-Reservation, including services for victims of violent crime, crimes against children, and human trafficking. The Navajo Nation currently subcontracts with multiple off-reservation service providers to provide additional victim services. Providing victim services off-reservation poses additional challenges, especially because many Native victims will not use off-reservation services for a variety of reasons, including long distances from family and jobs, lack of culturally appropriate programming, and language barriers. Ultimately, many crime victims on Navajo do not get the help or support they deserve and need.

¹⁰ Note: Further, the scope and available access to services of these providers varies depending on location and the daily capacity of mobile advocates and shelter services. Typically, any requests for mobile support services usually take many hours or even days before they get to the victim.

Historically, *victim advocate funding* has only temporarily been funded through grants. When the grants run out the advocate leaves and the victims are unable to build a stable point of contact, it diminishes the effectiveness of support services and sustainability of the program. Previously, the Nation requested a 3-year grant in the amount of \$14 million to implement a comprehensive victim advocate system, but only received \$2 million. This funding assists the Nation in being proactive in preventing domestic violence and providing housing and program options for families through educational and departmental programs offered to our citizens like the Home for Women and Children in Shiprock, New Mexico and the Gentle Ironhawk Shelter in Blanding, Utah purchased by the Navajo Nation.¹¹ The current estimate for victim services on Navajo Nation are currently \$4.6 million dollars per year.

Lastly, another unresolved issue exists to increase critical access and *supportive services to families with missing family members* and those whom are experiencing the after-effects of domestic violence or intimate partner abuse. There are no resources available for Native American families to gain access to in locating their missing family members and navigating through the complexities of the tribal-state-federal law enforcement systems and databases is problematic even at agencies.

Navajo Nation Courts, Prosecutors, and Public Defenders. Navajo Nation Courts domestic violence cases amount to 12 percent of the entire caseload on the Navajo Nation, which is a 4 percent increase since 2010. Only 14 prosecutors handle criminal court cases in eleven different judicial districts. From January 1, 2018 to December 7, 2018, the Navajo Nation prosecutors received 1,575 cases to review for domestic violence charges alone and filed 999 cases. This is an increase from the 2017 calendar during which prosecutors received 1,180 DV cases for review and filed 848.¹²

Based on this excessive criminal caseload in the Nation's courts, our Tribe has not implemented the Violence Against Women Act (VAWA) that would allow us to prosecute non-Indian offenders involved in domestic violence incidents within the boundaries of the reservation. The implementation of VAWA highlights a fundamental issue in tribal courts across the nation: the lack of funding and resources available in tribal public safety and court systems to adequately protect our citizens. For example, the estimate of additional caseload initiated through VAWA implementation would cost the Navajo Nation up to \$10 million/year. The increased costs of implementation would go towards hiring additional personnel, attorneys/judges, employee training, programmatic restructuring, facility upgrades, and technological updates for our outdated equipment. \$1.6 million is needed to expand prosecutorial resources and provide victim advocate services that are currently unavailable.

Database Development. Navajo Nation organizes police data through the Navajo Police Department Information Management Section. Current data study requests from outside law enforcement agencies are exceedingly difficult to provide because the Nation's current data tracking system is incompatible with the requested type of data search information. Additionally, due to the lack of available resources, the Nation's *paper* filing system is cumbersome to hand count and subject to human error. These issues directly contribute to the difficulties in identifying missing persons and updating information for public safety departments outside Navajo Nation's jurisdiction. The cost of updating our system into one Record Management Server would cost the Nation approximately \$5 million dollars. Further, supplementary funding to include 11 employees to conduct crime analysis within the Information Management Section of the Navajo Police Department plus support equipment costs would cost close to \$1 million. The

¹¹ <https://nativenewsonline.net/currents/navajo-nation-president-begaye-signs-closing-documents-to-purchase-gentle-ironhawk-domestic-violence-shelter/>

¹² *See Attachment A*—"Navajo Nation Reponse to Request for Additional Information Regarding Needs for the Office of the Prosecutor," dated November 13, 2018.

additional personnel would provide insight as to how law enforcement and investigations can be more proactive in addressing current crime trends within the Navajo Nation.

The National Crime Information Center, a crime database for law enforcement that includes missing persons; and the National Missing and Unidentified Persons System are two national databases that compile information of missing and murdered indigenous people. However, due to the inaccuracy of these systems, the collection of this data falls on the efforts of activist and advocacy groups. Currently, the United States does not have a reliable database or methodology of obtaining statistics on the number of missing and murdered indigenous people. Although the U.S. Department of Justice (DOJ) operates the public National Missing and Unidentified Persons System (NamUs) database, the data it receives is provided on a volunteer basis throughout inconsistent jurisdictions. NamUs is the closest platform that the federal government has established to collect and centralize data of Native Americans and Alaskan Natives, but remains inefficient and inaccurate due to the reporting and jurisdictional issues discussed above. Further, state databases that voluntarily track this information on a voluntary basis are inaccurate, as well. Six out of 10 state databases are not updated. This issue is further complicated by jurisdictional complications determining who is responsible for data collection and adequate identification of Native American heritage.

Tribal Access Program (TAP) Development. The U.S. Department of Justice (DOJ) launched the Tribal Access Program (TAP) pilot project for National Crime Information in August 2015 to provide Tribes with access to national crime information systems for both criminal and civil purposes. This allows Tribes to exchange data to protect their citizens through data exchange via the Criminal Justice Information Services (CJIS) system (federal component) and via state databases in which they are connected. Out of 55 Tribes that applied for funding through the DOJ for this program, DOJ selected the Navajo Nation to receive 2 kiosk systems in November 2017. Currently, the Navajo Nation has these two Tribal Access Program (TAP) kiosks installed on the reservation at: 1) Division of Social Services in Window Rock, AZ; and 2) Judicial building in Chinle, AZ. The possibility of expanding the number of databases to track this information on the Navajo Nation are taking place to add 5 to 7 more kiosks.

The upcoming expansion of the TAP program on the Navajo Nation presents an opportunity for congressional leaders to expand the program to develop a database to adequately track missing Navajo citizens and compile information to share across jurisdictional boundaries. The issue that arises in this instance is that Navajo Nation law enforcement has a responsibility of entering the voluminous amount of data of tribal court convictions. The inclusion of a database to track missing and murdered citizens would require a dedicated funding stream for our severely underfunded public safety program to operate and meet CJIS security requirements. Further, a DOJ tribal technical assistance program and annual update program is needed to educate on the already existing gaps in TAP.

Additional Service Gaps to Consider

Navajo Department of Medical Examiners. The Nation does not have an Office of the Medical Investigator (OMI). Deceased individuals have to be transported approximately 4 hours to a state facility for autopsy and, if there is no foul play involved in the case and the FBI pays for the autopsy, then there are only limited funds in which Navajo Criminal Investigations works with the families to get answers as to the nature of how their loved ones passed away. In order to establish an OMI within the Navajo Nation, the projection is \$4 million start up and thereafter have an annual operating budget of \$1.5 million. Contracting with the area state OMI offices is not feasible or practical.¹³

¹³ See Attachment B, Navajo Nation Legis. 0321-18 establishing Department of Medical Examiners enacted October 2018.

Federal Crime Data Analysis. The Navajo Nation can request services from the FBI to analyze the evidence of a federal crime at a crime lab. However, if the prosecution of the crime remains within the jurisdiction of the Navajo Nation, no funding exists to analyze the data. Further, the Nation does not have any crime labs to conduct the analysis. The Navajo Nation estimates that approximately \$1 million in additional funding for criminal data analysis is needed.

Another key aspect of a fully functional Navajo OMI would allow us to also sift through missing persons cases on our Nation that could potentially be of use to outside agencies who are searching for missing persons, and vice versa. For instance, NamUS allows participating agencies to utilize their program to go through data of missing persons and Jane/John Doe's, thus increasing the chances of finding missing loved ones who may be deceased.

Conclusion. The problem of missing and murdered people in Indian country continues to grow every year. Congress and the federal government, along with Indian tribes, need to address this now in order to curb the problem. In light of my testimony, we suggest the following:

1. Provide intergovernmental resources or establish State-Tribal tasks forces to increase communication between Tribes and states/local municipality law enforcement to determine jurisdictional reporting responsibilities.
2. Increase critical access and create effective federal systems that provide resources and information sharing for families who are in the process of locating their missing family members.
3. Increase access and funding for support services for the families of missing and murdered people and safe house shelters for domestic violence survivors.
4. Significantly increase funding for tribal courts to expand prosecutorial resources and provide victim advocate services that are currently unavailable.
5. Significantly increase funding for a dedicated funding stream for the Tribal Access Program (TAP) for Indian tribes to expand data sharing across jurisdictional boundaries to comprehensively operate and meet CJIS security requirements.

Thank you for providing me the opportunity to testify before the committee. *Ahéhee'* Thank you.

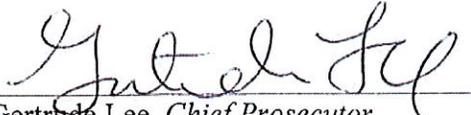
ATTACHMENT A



THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

TO: Honorable Edmund Yazzie, Chairperson
Honorable Raymond Smith, Jr., Vice Chairperson
Honorable Kee Allen Begay, Jr.
Honorable Herman M. Daniels
Honorable Otto Tso
LAW AND ORDER COMMITTEE, 23RD NAVAJO NATION COUNCIL

FROM: 
Gertrude Lee, *Chief Prosecutor*
Office of the Prosecutor, Navajo Nation Department of Justice

DATE: November 13, 2018

SUBJECT: Response to Request for Additional Information Regarding Needs the Office of the Prosecutor

THE NAVAJO NATION OFFICE OF THE PROSECUTOR (NNOTP):

OVERVIEW

The NNOTP has three major functions: (1) it manages and oversees the prosecution of adult criminal cases, (2) white collar crime investigation and prosecution, and (3) manages and oversees juvenile justice matters in the form of dependency (child abuse and/or neglect) matters, juvenile delinquency cases, and child in need of supervision (CHINS) matters for the twelve Judicial Districts across the Navajo Nation. This includes working with Navajo, state, and federal law enforcement agencies, the Department of Family Services (DFS), schools, and other groups/programs to ensure the successful investigation and prosecution of alleged violations of the Navajo Nation criminal law, adjudicating children who are beyond control (CHINS), and for successful adjudication of dependency cases.

According to the Navajo Nation Supreme Court Judicial Branch annual and quarterly reports¹, the number of cases pending in the District Courts is increasing:

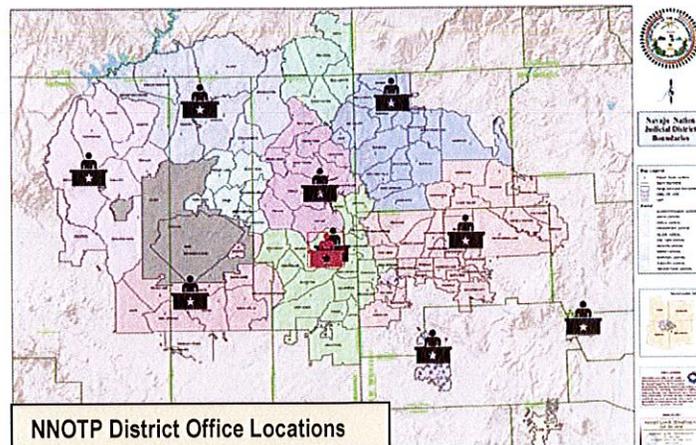
	FY 2016	FY2017	4 th Quarter FY2018
Adult Criminal	6801	7660	7882
Dependency	399	396	468
Delinquency	152	142	183
CHINS	63	172	66

¹ Navajo Nation Judicial Branch Quarterly and Annual Reports can be found at: <http://www.navajocourts.org/JBReports.htm>.

The NNOTP is responsible for initiating and managing the cases indicated in the above dockets. With a marked increase in all case types but CHINS, the need for additional staff and associated operating costs is critical.

The NNOTP has ten (10) offices spread throughout the reservation with at least one legal staff member in each district to manage all case filings for the District Office.

Three of the Prosecutor Districts manage the case filings for more than one Judicial District: Shiprock also manages Aneth, Chinle also manages Dził Yijiin, and Tó'hajiilee also manages Alamo.



NNOTP NEEDS:

A. SUBSTANTIAL INCREASE IN STAFF & FUNDING – LEGAL/SUPPORT STAFF & OPERATING COSTS

The Office of the Prosecutor has been understaffed for years. In researching the distribution of staff in neighboring state prosecutor offices, it is clear that the Navajo Nation Office of the Prosecutor is **severely** understaffed, especially with reference to administrative support staff.

According to the 2010 census, the Navajo Nation has a population of 173,667. The Nation also has over 300,000 enrolled members. The total number staff members employed with the NNOTP is thirty-nine (39). In comparison to the Navajo Nation, two neighboring counties in New Mexico, McKinley County (population 71,492) and San Juan County (population 130,044), have a combined District Attorney staff of one hundred three (103). Additionally, the NM Children Youth and Families' Department employs four (4) Children's Court Attorneys and support staff for child abuse and/or neglect matters in San Juan County and McKinley County.

This makes the total staff of these two counties roughly **one hundred seven (107)**. Again, the total staff of the Office of the Prosecutor, including the Chief Prosecutor, is **thirty-nine (39)**. For the convenience of the Committee, I have included with this memo copies of the employee listing of both of the New Mexico District Attorney Offices in McKinley County and San Juan County. This information is publicly available at <http://www.sunshineportalnm.com/>.

	Population (2010 census)	Total staff (2019)	Personnel Funds (2019)	Operating Budget (2019)
Navajo Nation	173,667	39	\$1,934,740 (OTP) \$787,602 (OTP)	\$146,703 (OTP) \$85,863 (JJ)
	TOTAL: 173,667	TOTAL: 39	TOTAL: \$2,722,342	TOTAL: \$232,566
McKinley County, NM	71,492	36	\$1,725,233	\$4,638,900.00
San Juan County, NM	130,044	67 +4	\$2,956,490	\$2,585,000.00
	TOTAL: 201,536	TOTAL: 107	TOTAL: \$4,681,723	TOTAL: \$7,223,900

DIFFERENCE

Personnel: -\$1,959,381

Operating: -\$6,991,334

TOTAL: -\$8,950,715

In comparison to McKinley County and San Juan County, the entire Navajo Nation Office of the Prosecutor has a staff *and* budget that is only **one-third (1/3)** the size of these two neighboring counties. These counties already have a large land base within the Navajo Nation over which they have no jurisdiction. Additionally, the District Attorneys of New Mexico file criminal cases but do not file civil child abuse and neglect actions, unlike the Navajo Nation Office of the Prosecutor which is tasked with filing on both types of cases. The staff of the two neighboring counties also include multiple positions for victim advocates, investigators, legal clerks, legal secretaries, IT assistants, and other support staff. The legal staff is a hierarchy with the following legal positions: District Attorney, Chief Deputy District Attorney, Deputy District Attorney, Senior Trial Attorney, Trial Attorney, and Associate Trial Attorney. The list of staff for the San Juan and McKinley County District Attorney offices also shows that their total staff is about one-third (1/3) legal staff and two-thirds (2/3) support staff. The Navajo Nation Office of the Prosecutor staff, including vacant positions, is as follows:

Legal staff (attorneys/tribal advocates)	20
Administrative Service Officer	1
Senior Network Specialist	1
Legal secretaries	13
Records Clerk	2
Office Specialist	1
Investigator	1

At present, the Office of the Prosecutor has no victim advocates to address the needs of victims of crimes, only two records clerks to help process the reports and court filings that come into the district offices, and only one IT staff member to address the many IT issues that occur in each of the prosecutor district offices. Deputy Chief Prosecutor Jaime High and I looked at our present staffing needs and we believe an increase of positions as follows would substantially help and support the needs of the Office of the Prosecutor.

<u>CURRENT POSITIONS</u>		<u>FUTURE POSITIONS</u>	
Attorneys	8		10
Prosecutors	8		9
JPOs	4		5
ASO	1		2
Legal Secretaries	13		19
Intake clerk	0		6
Victim advocates	0		6
Investigators	1		4
IT	0		2
	Total: 35		63

While this initial increase in staff from thirty-five (35) to sixty-three (63) total positions would not bring us near a total staff of one-hundred four (104), it would significantly improve the ability of the NNOTP to address crimes of violence, address the misappropriation of Navajo monies, assist victims of crime, and help the Office ensure the health, safety, and welfare of the Navajo Nation's children.

With an increase in staff come the associated operating costs. In comparison to neighboring jurisdictions, the Office of the Prosecutor's total operating budget for FY2019 is **\$232,566**, compared to San Juan/McKinley County's total operating budget of **\$7,223,900**. This means the operating budget of two state county prosecutors' offices is **31 times greater** than the NNOTP. At present, the Office of the Prosecutor's operating budget is so limited that the NNOTP has had to grapple with the following:

- While all District Offices should have at least one (1) tribal vehicle assigned, only five (5) districts have an assigned tribal vehicle: Shiprock, Window Rock, Dilkon, Chinle, and Tuba City. This leaves Kayenta, Crownpoint, Tohajilee/Alamo, and Ramah with no vehicles for official travel.
- The employees of the NNOTP are required to travel to attend court hearings, attend continuing legal education training, and training related to the Office's duties. We have inadequate funding for per-diem with regard to such travel.
- Though all of the districts are law offices with a need for ready access to paper, ink, and copiers, only four (4) districts have commercial copiers.
- The funding for internal office meetings has been cut back greatly. The Office of the Prosecutor needs to have quarterly staff meetings to ensure all District needs are being addressed and to provide constant training in the work of the NNOTP legal staff and support staff to ensure continued improvement and growth. The NNOTP has been able to make large strides in organization and performance because it has been able to meet on a regular basis to discuss goals, provide training, and increase communication. The current funding will only allow for one staff meeting for FY2019.
- The NNOTP budget for "advertisements" is insufficient compared with previous budget years. Such newspaper advertisements are necessary in Child Abuse and Neglect (dependency) matters when a parent or guardian cannot be located for personal service. The NNOTP is required by the Court to publish notices in newspapers to meet the

requirement for service by publication. Such notices range in cost anywhere from \$500 to \$2000, and the fees grow every year.

- At present there is an inadequate budget to cover attorney licensing fees and the cost for continuing legal education. Paying annual dues and CLE costs is an incentive for attorney recruitment. Unfortunately, we cannot use this as a recruitment tool because the NNOTP does not have the budget to pay CLE costs.

B. COMPETITIVE SALARIES & HOUSING TO RECRUIT & RETAIN STAFF

While the NNOTP has been successful in the past two years (2016-2018) recruiting staff to fill vacant positions, it has encountered several barriers to recruitment and retention.

1. Employee housing is a critical need with regard to recruitment and retention of staff. The interior areas of the reservation are very difficult to recruit for because housing is scarce and difficult to obtain. The NNOTP has found it particularly difficult to recruit staff in: Tuba City, Kayenta, Chinle, and Crownpoint due to lack of housing and long commutes. Several of the current legal staff have commutes ranging from 45 minutes to over an hour long. At least three legal staff members have included this as a reason for considering employment elsewhere.
2. There is a great need for salary adjustments and consideration for bonus pay for both support staff positions (legal secretary / office specialist / records clerks) and legal staff positions.

With regard to support staff positions, the NNOTP has found it difficult to recruit support staff positions in areas near border towns because of competing job opportunities. For example, the Shiprock District Office has a vacant legal secretary position which has had to be advertised several times. In one round of advertisement, the NNOTP made two offers of employment to two very qualified individuals. Both ultimately rejected the NNOTP's offer of employment because the Navajo Nation could not match the pay offered by the State of New Mexico. Both individuals received salary offers that were \$5 or more per hour than what the Navajo Nation could offer, even after requesting an above entry level salary from the Department of Personnel Management.

With regard to legal staff positions, the NNOTP has been able to recruit employees for legal positions but the primary issues we face are: (1) the lack of funding for step increases; (2) the Bonus Committee's denial of bonuses for legal and investigative staff; (3) lack of competitive salaries to recruit experienced tribal advocates; and (4) tribal advocate failure rate for the Navajo Nation Bar Exam.

As indicated above, the legal staff are responsible for many duties and are required to do their best to meet the enormous needs of their respective communities with few resources and while balancing extremely large caseloads. Additionally, once the legal staff have completed their training, they are in charge of entire district offices including the supervision of the support staff. While other legal programs in the Navajo Nation have positions for Senior Attorneys or Principal Attorneys, the NNOTP does not have the same hierarchy of legal positions and commensurate pay for additional duties.

For purposes of comparison, the Navajo Nation Department of Justice has the following legal positions with entry level salary as follows:

Classification Title	Pay Grade and Step A Salary	
Attorney General	AS76	\$133,307.20
Deputy Attorney General	AC75	\$118,705.60
Assistant Attorney General	AS74	\$112,257.60
Principal Attorney	AS72	\$94,411.20
Senior Attorney	AS70	\$79,892.80
Attorney	AS68	\$67,225.60
Attorney Candidate	AS67	\$61,630.40
Principal Tribal Court Advocate	AR68	\$58,488.00
Senior Trial Court Advocate	AR66	\$49,192.00

The NNOTP has the following legal positions with an entry level salary as follows:

Classification Title	Pay Grade and Step A Salary	
Chief Prosecutor	AS74	\$112,257.60
Deputy Chief Prosecutor	AS72	\$94,411.20
Attorney	AS68	\$67,225.60
Senior Prosecutor (Tribal Advocate)	AR67	\$53,643.20
Prosecutor (Tribal Advocate)	AR65	\$45,385.60
Juvenile Presenting Officer (Tribal Advocate)	AR64	\$41,641.60

The work of a Prosecutor's office is constant and specialized with each legal staff member not only attending to their duties as a trial practitioner (often they are in court every day) but also the daily business of supervising the administrative operations of the district offices, of reviewing the constant influx of reports from law enforcement and DFS, and attending to the concerns of citizens and victims of crimes. In order to recruit and retain legal staff, the NNOTP needs to be in a position to offer competitive salaries commensurate with the work required of the legal staff. Thus, the NNOTP would like to add additional positions for "Assistant Chief Prosecutor" and Senior Attorney and reassess all current pay grades.

Having the ability to offer competitive salaries is becoming critical because trained and now experienced legal staff are being targeted by other programs for recruitment. For example, a former staff member, an attorney, was hired by the NNOTP in March 2017. In October 2018 the attorney submitted his resignation after being offered a position as a staff attorney for the Navajo Nation Judicial Branch. Unfortunately, the NNOTP could not retain the attorney because the salary offered by the Judicial branch was nearly \$22,000 more than his salary with the NNOTP. There was no way the NNOTP could compete with such an offer or afford to match it. In October 2018 another attorney staff member was targeted for recruitment by the McKinley County District Attorney's Office. The attorney was offered \$10,000 more than his salary with the NNOTP.

Without a significant investment to make legal and support staff positions in the NNOTP more marketable and competitive, the NNOTP will only serve as a training ground and pipeline for

other programs and states. Rather than recruiting staff who will invest in, grow, and keep their employment with the NNOTP long-term, the NNOTP will be a mere stopping point for those waiting to be recruited and compensated at much greater levels than the NNOTP can afford.

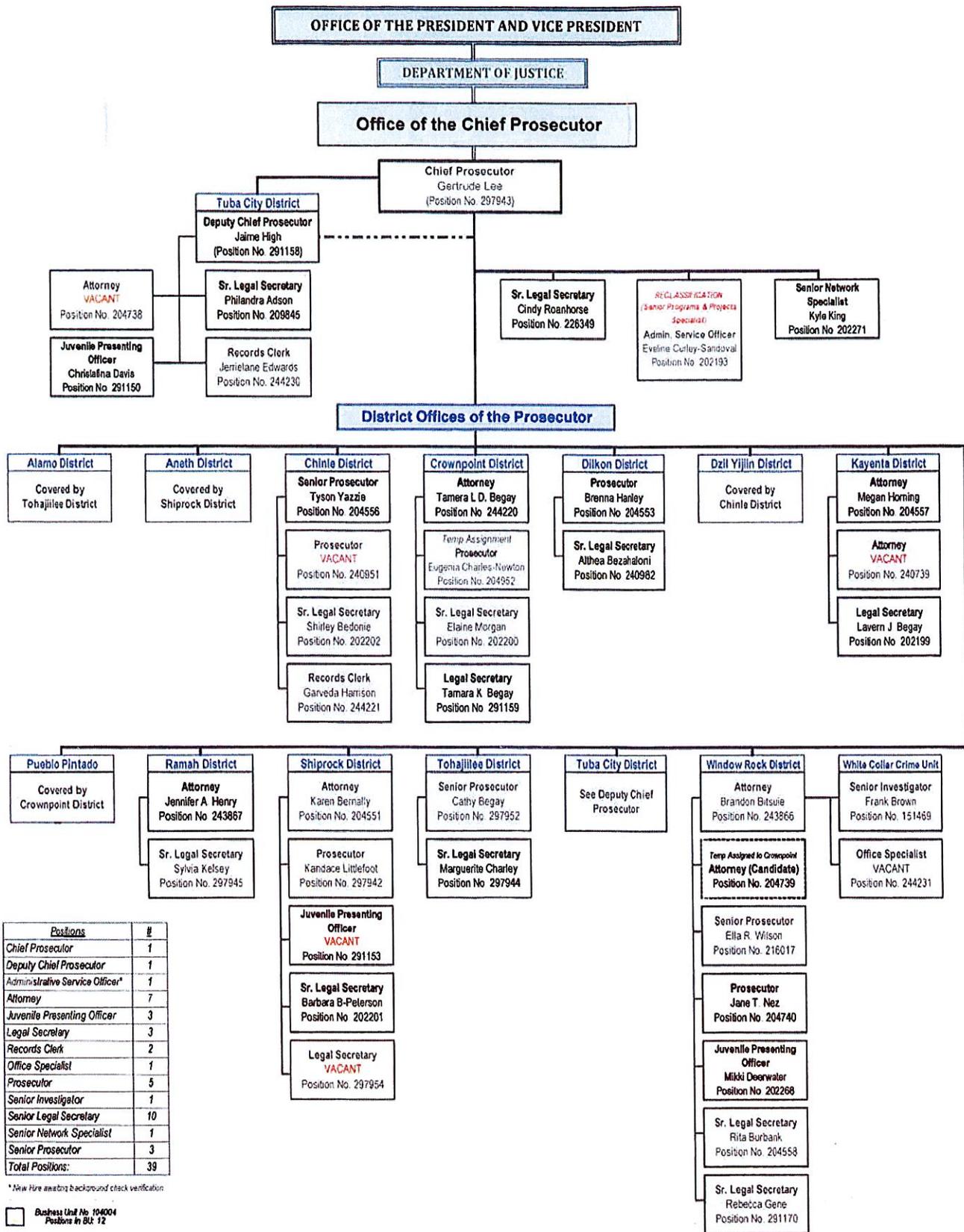
C. FUNDING FOR CRITICAL BUILDINGS NEEDS

Shiprock Prosecutor District is a high volume district (second in volume of reports received in all the districts). However, the Office of the Prosecutor staff work in a very tight area with room comfortably for only four (4) staff. There is inadequate room for files, office space, and nowhere to meet with victims, defense counsel, law enforcement, or other justice partners. Additionally, because of the location of the building, the internet and electricity frequently go out, which greatly affects the functioning of the Office.

Dilkon Prosecutor District is located in the Dilkon Police District Offices. At present the two (2) staff members are sharing a trailer with the Dilkon Police Lieutenant with two (2) rooms serving as a dedicated Prosecutor area. There is inadequate room for case files, equipment, and general office space. There is also nowhere to meet with victims, defense counsel, law enforcement, or other justice partners.

Recently, several justice facilities were built in Tuba City, Chinle, and Crownpoint. However, the layout of the Prosecutor's Office has caused safety concerns for the staff. The Tuba City and Crownpoint buildings only have one entry-way and exit for the entire office. In all three new buildings, there is no divider between the public and the staff in the Office. This has caused safety concerns for the staff when irate or intoxicated individuals enter the office and refuse to leave. Such individuals have ready access to the staff and there is no barrier to separate them from going where they wish in the building. Barriers need to be built in Tuba City, Kayenta, Chinle, Dilkon, Window Rock, Crownpoint, and Tohajiilee to ensure staff safety. Unfortunately, since January 2017 the NNOTP has made several requests to the Facilities Maintenance Department to build the barriers but the requests have gone unanswered and unaddressed.

Office of the Prosecutor Organizational Structure



Positions	#
Chief Prosecutor	1
Deputy Chief Prosecutor	1
Administrative Service Officer*	1
Attorney	7
Juvenile Presenting Officer	3
Legal Secretary	3
Records Clerk	2
Office Specialist	1
Prosecutor	5
Senior Investigator	1
Senior Legal Secretary	10
Senior Network Specialist	1
Senior Prosecutor	3
Total Positions:	39

* New Hire analyzing background check verification

- Business Unit No. 104004
Positions in BU: 12
- Business Unit No. 104005
Positions in BU: 27

OFFICE OF THE PROSECUTOR STATS - FY2018 COMPARED TO FY2017

10/1/17 - 9/24/18

FY2018 Hand Tally

	Received	Pending	Filed	Closed	Brought F	Police Rs	Walk-Ins	DFS
Alamo	99	94	81	85	9	132	302	13
	55	48	47	32	1			
Tohajiilee	146	144	126	74	92			
	78	61	64	64	60			
Dzil Yijiin	744	914	339	394	47	1845	1084	50
	648	487	199	143	1			
Chinle	1585	1429	1324	1368	558			
	1955	1207	987	1807	458			
Crownpoint	1583	1576	926	699	376	698	1137	56
	1386	1335	373	667	145			
Dilkon	759	650	642	858	727	414	232	14
	872	314	1011	374	211			
Kayenta	2524	3489	1639	2477	776	1702	854	28
	1368	301	442	423	599			
Ramah	800	842	543	404	78	527	562	11
	657	584	202	130	19			
Shiprock	2760	2390	2403	520	5806	1886	712	29
	1897	615	1563	870	4711			
Aneth	299	245	272	206	174			
	288	12	232	209	94			
Tuba City	3931	4934	2016	1465	541	2531	612	39
	1929	410	1146	739	180			
Window Rock	1657	1691	1396	1734	887	907	1352	35
	1932	1853	1253	1449	475			
						Total Hand Tally		
TOTAL	Received	Pending	Filed	Closed	Brought F	10642	6847	275
FY2018	16887	18398	11707	10284	10071			
FY2017	13065	7227	7519	6907	6954			

HEARINGS	11513	FY2018
	8108	FY2017

ATTACHMENT
B

5-DAY BILL HOLD PERIOD:
Website Posting Time/Date: 09-28-18 @ 4:25 pm
Posting End Date: 10-03-18
Eligible for Action: 10-04-18

Law & Order Committee

THENCE

Naa'bik'iyáti' Committee

THENCE

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL - Fourth Year, 2018

Navajo Nation Council

INTRODUCED BY



(Prime Sponsor)

Kael Allen Begay JSR

TRACKING NO. : 0321-18



AN ACT

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; AMENDING 2 N.N.C. § 1352 AND 17 N.N.C §§ 1851 THROUGH 1854; AMENDING CORONER PROVISIONS AND ESTABLISHING A DEPARTMENT OF MEDICAL EXAMINERS WITHIN THE DIVISION OF PUBLIC SAFETY; AUTHORIZING THE LAW AND ORDER COMMITTEE TO APPROVE A PLAN OF OPERATION FOR THE DEPARTMENT OF MEDICAL EXAMINERS

BE IT ENACTED:

SECTION ONE. AUTHORITIES

A. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 600 (A). The committee, among other duties and responsibilities, oversees the Navajo Nation Division of Public Safety and programs within the division. 2 N.N.C. §§ 600(C)(5) and 601(C)(1). The committee pursuant to 2 N.N.C. § 601(B)(4) is authorized to approve and amend plans of operation for programs over which it exercises oversight authority.

B. Pursuant to 2 N.N.C. §164(A)(9), "a proposed resolution that requires final action by the Navajo Nation Council [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'iyáti' Committee."

1 C. The Navajo Nation Council, pursuant to 2 N.N.C. §102(A), is the "governing body of
2 the Navajo Nation" A primary role of Navajo Nation Council delegates is policy-
3 making, a role which includes approval of enabling legislation.
4

5 **SECTION TWO. FINDINGS**

6 A. Pursuant to 17 N.N.C. §1851, "[t]he President of the Navajo Nation is authorized to
7 appoint at least one coroner within each police district, and to hold office at the
8 President's pleasure. Coroners shall be paid at a rate established by the Navajo Nation
9 Council and may be reimbursed for actual and necessary expenses, upon presenting
10 proper vouchers to the Controller of the Navajo Nation." 17 N.N.C. § 1851, *Appointment*
11 *of coroners; compensation.*

12 B. By a 2004 Executive Order, Joe Shirley, Jr., then President of the Navajo Nation,
13 appointed the Navajo Department of Criminal Investigation Captains (Criminal
14 Investigator Supervisors) as Coroners; and Criminal Investigation Lieutenants (Senior
15 Criminal Investigators) and Criminal Investigation Sergeants (Criminal Investigators) as
16 Deputy Coroners of each of the several Police Districts on the Navajo Nation.

17 C. The Navajo Department of Criminal Investigations is a program within the Division
18 of Public Safety, and is contracted through the BIA P.L. 93-638 to conduct investigations
19 of major crimes such as, but not limited to, homicides, rapes, and serious assaults.

20 D. Regarding determinations on causes of death, the policy of the BIA is that "under no
21 circumstances will a BIA Special Agent or Police Officer make a ruling regarding the
22 cause of death." BIA Death Investigation Policy # DIV-CR-02-2005 (issued 2005). This
23 policy applies to all law enforcement officers performing the same duties and
24 responsibilities as BIA Special Agents or Police Officers under the Navajo Nation's P.L.
25 93-638 contract.

26 E. The Navajo Department of Criminal Investigation is currently experiencing a strain to
27 perform coroner duties and to also conduct major crime investigations, especially under
28 the current manpower shortage.

29 F. Death investigation is a health-related field that should be managed by personnel
30 specifically trained in Medicolegal Death Investigation.

1 G. The creation of the Navajo Department of Medical Examiners supports self-reliance,
2 self-determination, job creation, and ensures that Navajo interests, beliefs, and traditions
3 will be protected.

4
5 **SECTION THREE. AMENDING ENABLING LEGISLATION FOR DIVISION**
6 **OF PUBLIC SAFETY**

7 The Navajo Nation hereby amends the enabling legislation for the Navajo Nation
8 Division of Public Safety, 2 N.N.C. § 1352 *et seq.*, as follows:

9
10
11 **TITLE 2. NAVAJO NATION GOVERNMENT**

12 **Chapter 5. Executive Branch**

13 **Subchapter 15. Division of Public Safety**

14 ****

15 **§ 1352. Purpose and objectives**

16 A. The purposes of the Navajo Division of Public Safety shall be:

- 17 1. To plan, organize and administer all aspects of the Navajo Division of Public Safety
18 programs so as to provide multi-public safety services that meet the needs of tribal
19 members of the Navajo Nation, as well as other individuals and entities within the
20 territorial jurisdiction of the Navajo Nation as defined in 7 N.N.C. § 254 and 18
21 U.S.C. § 1151.
- 22 2. To exercise control and authority over all law enforcement and public safety
23 activities within the Navajo Nation and adjoining Indian Country as designated
24 under Navajo, federal and other applicable laws where the Navajo Nation
25 exercises jurisdiction.

26 B. The objectives of the Navajo Division of Public Safety include, but are not limited to
27 the following:

- 28 1. To maintain law and order by the enforcement of applicable criminal laws and the
29 safeguarding of the lives and properties of the persons on the Navajo Nation by
30 deterring criminal activities and violations of tribal, state and federal laws,

1 through effective investigation, and to provide assistance in prosecutions and
2 appropriate court actions, in cooperation with the Navajo Nation Office of the
3 Prosecutor and other criminal justice entities which possess jurisdiction; to
4 negotiate and enter into appropriate agreements with other governmental
5 jurisdictions to carry out the responsibilities herein, in compliance with applicable
6 Navajo Nation laws, rules and regulations.

- 7 2. To plan for, respond to, and aid in the recovery from natural and manmade
8 disasters on the Navajo Nation and to coordinate with and train tribal and
9 affiliated non-tribal entities in the development of a comprehensive emergency
10 management plan.
- 11 3. To provide fire and rescue services and to develop community volunteer fire
12 services to effectively and efficiently respond to fire and rescue operations; to
13 provide training facilities and instructors for local fire departments; to enforce fire
14 and building codes and other applicable codes related to fire safety.
- 15 4. To respond to medical emergencies by rendering emergency care, and to transport
16 the sick or injured to a clinic or hospital when appropriate.
- 17 5. To establish, operate and provide support services for victims of serious and
18 violent crimes.
- 19 6. To provide and coordinate support services to ensure the availability of counseling
20 for Division employees.
- 21 7. To coordinate and disseminate information on safety programs and to facilitate
22 funding mechanism for its component departments with non-tribal entities.
- 23 8. To plan for, establish, provide and operate appropriate correctional facilities and
24 appropriate correctional services.
- 25 9. To provide competent medicolegal death investigations.

26 *****
27 _____
28
29
30

1 SECTION FOUR. AMENDING TITLE 17 BY DELETING CORONER
2 PROVISIONS; CREATING A DEPARTMENT OF MEDICAL EXAMINERS

3 The Navajo Nation hereby amends Title 17 by deleting coroner provisions at sections
4 1851 through 1854 and creating a Department of Medical Examiners as follows:

5 _____
6
7 TITLE 17. LAW AND ORDER

8 Chapter 5. Procedures

9 Subchapter 3. ~~Coroners~~ Medical Examiners; Investigation of Deaths

10
11 ~~§ 1851. Appointment of coroners; compensation~~

12 ~~The President of the Navajo Nation is authorized to appoint at least one coroner within~~
13 ~~each police district, and to hold office at the President's pleasure. Coroners shall be paid at~~
14 ~~a rate established by the Navajo Nation Council and may be reimbursed for actual and~~
15 ~~necessary expenses, upon presenting proper vouchers to the Controller of the Navajo~~
16 ~~Nation.~~

17
18 § 1851. Establishment of the Navajo Department of Medical Examiners

19 There is established within the Navajo Nation Division of Public Safety in the
20 Executive branch of the government of the Navajo Nation, the Navajo Department of
21 Medical Examiners.

22
23 § 1852. Investigation of deaths - Generally

24 ~~Whenever a coroner is informed that a person on Navajo Nation land has been killed, or~~
25 ~~has suddenly died under such circumstances as afford reasonable ground to suspect that the~~
26 ~~death was occasioned by the criminal act or gross negligence of another, the coroner shall~~
27 ~~go to the place where the body is located and inquire into the cause of death. Unless the~~
28 ~~coroner is a physician, he or she shall endeavor to have a physician accompany him or her~~
29 ~~to the place where the body is located.~~

1 A. The Navajo Nation Department of Medical Examiners shall, within the Navajo Nation,
2 investigate all deaths occurring under suspicious circumstances, including violent and
3 unexplained deaths. The Chief Medical Examiner, other medical examiners, and
4 medicolegal investigators within the Navajo Nation Department of Medical Examiners are
5 authorized to make determinations and issue certificates of death, among other duties and
6 responsibilities within its Plan of Operation.

7 B. The Navajo Nation Department of Medical Examiners is authorized to respond to the
8 scene of the death and shall prescribe procedures for taking possession of a dead body
9 following a death subject to investigation under this Section and for obtaining all
10 medicolegal facts relevant to the medical cause of death. The dead body shall not be
11 disturbed unless the Chief Medical Examiner or his/her designee grants permission to do
12 so.

13 C. All medicolegal investigations must be conducted in a manner that respects the culture,
14 tradition, and beliefs of the Navajo Nation.

15 D. As needed, the Navajo Nation Department of Medical Examiners may engage medical
16 examiners or offices of medical examination on a short term basis to respond to unexpected
17 surges in the need for medicolegal investigations.

18
19 **§ 1853. Autopsies and exhumations**

20 ~~A. When the coroner determines that the cause of death cannot be determined without an~~
21 ~~autopsy, the coroner or district prosecutor may petition the district court of the Navajo~~
22 ~~Nation to order an autopsy be held. If such an autopsy shall require exhumation of the~~
23 ~~body, such information shall be included in the petition. Hearings on such petitions shall~~
24 ~~be held on an expedited schedule upon a showing of exigent circumstances derived from~~
25 ~~medical necessity or the needs of a criminal investigation.~~

26 ~~B. The immediate family of the decedent shall be served with a copy of the petition and~~
27 ~~shall be allowed to file objections, if their identity and whereabouts can be ascertained and~~
28 ~~their participation is consistent with the requirements of medical necessity or the needs of a~~
29 ~~criminal investigation. The petitioner must show what reasonable, good faith efforts have~~
30 ~~been made to locate and serve the decedent's immediate family.~~

1 C. ~~The district court may order an autopsy if it finds that:~~

- 2 1. ~~The cause of death cannot be determined without an autopsy;~~
3 2. ~~Such determination is critical to a criminal investigation or required by medical~~
4 ~~necessity;~~
5 3. ~~No less invasive means is available for the investigation.~~

6 D. ~~After the district court has ordered an autopsy, the coroner may request the United~~
7 ~~States Public Health Service perform the autopsy, or may engage a private physician or~~
8 ~~other licensed health care provider to perform such service.~~

9 E. ~~If the ordered autopsy requires exhumation of a body, the coroner shall cause the body to~~
10 ~~be exhumed for examination and reburial after autopsy. The coroner may call upon the~~
11 ~~Navajo police for assistance in exhumation and reburial.~~

12
13 **§ 1853. Notification and Reporting of Deaths**

14 A. Any person subject to the jurisdiction of the Navajo Nation must promptly notify the
15 Navajo Nation Police Department of any death or dead body.

16 B. The Navajo Police Department shall promptly notify the Navajo Nation Department of
17 Medical Examiners of any death subject to investigation under this Act.

18
19 **§ 1854. Report**

20 A. ~~After inspecting the body and conferring with a physician, if the coroner is not himself~~
21 ~~or herself a physician, the coroner shall make a written report, in quadruplicate, stating the~~
22 ~~following facts:~~

- 23 1. ~~The name and census number of the dead person.~~
24 2. ~~When and where he or she died, and the circumstances of his or her death.~~
25 3. ~~What caused the death.~~
26 4. ~~Who caused the death, if caused by the act, whether criminal or not, of another~~
27 ~~person, or by gross negligence.~~
28 5. ~~An inventory of the property other than clothing of ordinary value found on the dead~~
29 ~~person.~~

1 ~~6. If the coroner is not a physician, the name and address the physician he or she~~
2 ~~consulted.~~

3 ~~B. The coroner shall submit all copies of his or her report to the Police Captain of the~~
4 ~~Navajo police district in which the death occurred. The Captain shall retain one copy and~~
5 ~~forward the remaining three copies to the Chief of the Navajo police.~~

6
7 § 1854. Exhumations for Death Investigations

8 A. When the Navajo Department of Medical Examiners concludes that the cause of death
9 cannot be determined without an exhumation of the body, the Chief Medical Examiner,
10 other medical examiners, medicolegal investigators, through a Navajo Nation prosecutor or
11 other legal counsel, may petition the district court of the Navajo Nation to order an
12 exhumation. Hearings on such petitions shall be held on an expedited schedule upon
13 showing of exigent circumstances including medical or Public Safety necessity.

14 B. The immediate family of the decedent shall be served with a copy of the petition and
15 shall be allowed to file objections, if their identity and whereabouts can be ascertained and
16 their participation is consistent with the requirements of medical or Public Safety necessity.
17 The petitioner must show what reasonable, good faith efforts have been made to locate and
18 serve the decedent's immediate family.

19 C. The district court may order an exhumation if it finds that:

- 20 1. The cause of death cannot be determined without an exhumation;
21 2. An exhumation is required for Public Safety or Medical Necessities; and
22 3. No less invasive means are available to determine cause of death or meet the
23 medical or Public Safety necessity.

24 D. The Navajo Department of Medical Examiners shall prescribe means for exhumation
25 that are minimally invasive under the circumstances and carry out the reburial following
26 the autopsy. The Department of Medical Examiners may call upon the Navajo Nation
27 Police for assistance in exhumation and reburial.

1 **§ 1855. Disposition of property found on body**

2 It shall be the duty of the coroner to take possession of all property except clothing of
3 ordinary value found on the person of anyone whose death he or she is required to
4 investigate, and to turn property over to the District Police Captain with his or her report
5 containing the inventory thereof. The District Police Captain shall deliver such property to
6 the Court of the Navajo Nation after it has served any purpose it may have as evidence in a
7 eriminal prosecution arising out of the death, and the Court shall dispose of the same as
8 part of the estate of the deceased or in such other manner as justice may require.
9

10 **§ 1855. Records and Reports**

11 A. The Chief Medical Examiner shall be responsible for maintaining complete and
12 thorough records and files that are properly indexed and searchable. At a minimum, the
13 record of every deceased person whose death is investigated shall contain:

- 14 1. The name, date of dirth, and census number of the deceased (if known);
15 2. The place where the body was found;
16 3. The date, cause and manner of death;
17 4. An inventory of the property found on the deceased and the current disposition of
18 that property;
19 5. Any and all other relevant information and reports of the Navajo Department of
20 Medical Examiners concerning the death; and
21 6. A death certificate.

22 B. The records and reports generated and maintained by the Navajo Department of
23 Medical Examiners shall be:

- 24 1. promptly delivered to the appropriate Navajo Nation Law Enforcement Agency
25 upon completion; and
26 2. open to the inspection of the Navajo Nation Law Enforcement Agencies, the Navajo
27 Nation Office of the Prosecutor, the Federal Bureau of Investigations, and the
28 United States Attorney's Office, and any other law enforcement agency or official
29 with a legitimate interest.
30

1 C. The records maintained by the Navajo Department of Medical Examiners, or
2 reproductions certified by the Chief Medical Examiners, are admissible as evidence in any
3 Navajo Nation court.

4 D. Notwithstanding the Navajo Nation Privacy Act, the following persons and entities
5 shall have conditional access to the records of the Navajo Department of Medical
6 Examiners:

- 7 1. All federal, state, and/or tribal law enforcement or prosecutor's office for purposes of
8 criminal prosecution.
- 9 2. The executor or representative of the decedent's estate.
- 10 3. Next of Kin.
- 11 4. Insurance companies handling claims for decedent's family.
- 12 5. Hospitals, health clinics, and/or medical/treatment facilities that provided treatment
13 to deceased for purposes of updating their medical records.

14 E. The Navajo Department of Medical Examiners is authorized to access confidential
15 medical records (including, but not limited to, records of substance use and abuse) and any
16 relevant information from physicians, hospitals, nursing homes, residential care facilities,
17 and all other health care providers subject to the jurisdiction of the Navajo Nation. Any
18 violation could result in penalties under 2 N.N.C. §§ 91 and 92.

19
20 **§ 1856. Duty of person discovering body**

21 ~~It shall be the duty of every Navajo police officer upon learning that a person has~~
22 ~~apparently been killed on Navajo Nation land, or has apparently died on such land because~~
23 ~~of the criminal act or gross negligence of another, to notify a Navajo coroner of such fact~~
24 ~~immediately. It shall be the duty of any person other than a police officer making a~~
25 ~~discovery of a body to notify a Navajo police officer or coroner without delay.~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SECTION FIVE. EFFECTIVE DATE; DIRECTIVE TO APPROVE PLAN OF OPERATION

A. This action of the Navajo Nation Council herein shall be effective pursuant to 2 N.N.C. § 221(B).

B. The Navajo Nation Council hereby directs the Law and Order Committee to approve within 30 days a Plan of Operation for Navajo Nation Department of Medical Examiners within the Division of Public Safety.

SECTION SIX. CODIFICATION

The provisions of these amendments of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amendments in the next codification of the Navajo Nation Code.

SECTION SEVEN. SAVINGS CLAUSE

Should any provision of these amendments be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those amendments that are not determined invalid shall remain the law of the Nation.

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0321-18

SPONSOR: Honorable Kee Allen Begay Jr.

TITLE: An Act Relating to Law and Order, Naabik'iyáti' and the Navajo Nation Council; Amending 2 N.N.C. § 1352 and 17 N.N.C. §§ 1851 Through 1854; Amending Coroner Provisions and Establishing a Department of Medical Examiners within the Division of Public Safety; Authorizing the Law and Order Committee to Approve a Plan of Operation for the Department of Medical Examiners

Posted: September 28, 2018 at 4:25pm

5 DAY Comment Period Ended: October 3, 2018

Digital Comments received:

Comments Supporting	1. Navajo Nation Human Rights Commission of the Navajo Nation Resolution No. NNHRCOCT-18-18
Comments Opposing	<i>None</i>
Inconclusive Comments	<i>None</i>



**Legislative Secretary II
Office of Legislative Services**

10/11/2018 3:05pm
Date/Time

**Resolution of the Navajo Nation Human
Rights Commission of the Navajo Nation**

**Supporting the Proposed Navajo Nation Council Resolution to Establish a Department of
Navajo Nation Medical Examiners**

WHEREAS:

1. Pursuant to 2 N.N.C. §920 and §921, the Navajo Nation Human Rights Commission (“Commission”) is established within the Legislative Branch as an entity of the Navajo Nation government and to operate as a clearinghouse to address discriminatory actions against citizens of the Navajo Nation; and to interface with local, state, federal governments and with national and international human rights organizations in accordance with its plan of operation and applicable laws and regulations of the Navajo Nation; and
2. In summer 2017 and winter 2018, the Commission conducted four (4) seminars addressing funerary activities that cause substantial financial burden on Navajo families across the Navajo Nation. In addition, the Commission conferred with Navajo cultural experts to bring to bear the cultural meaning of death and burial that was practiced by Navajos before the development of funeral homes and mortuary services; and
3. It is clear, in accordance with Navajo traditional teachings, that interment of a loved one is the replanting of the body so that the decedent can bring new life in the form of vegetation. Today, the Navajo people significantly depend on funeral homes off the Navajo Nation to prepare their loved one’s bodies for a final resting place, which includes a church service, placing the deceased in a casket that is made from metal or wood and at times placed in a burial box or concrete vault. The use of off Navajo Nation resources for funeral services and activities have become costly thus over burdening Navajo families; and
4. On August 3, 2018, the Commission met with the Navajo Nation Department of Justice and Navajo Nation Division of Public Safety Criminal Investigation Section (“NNCI”) to discuss Navajo Nation law enforcement policies and procedures when investigating death. It was reiterated that the roles and responsibilities of Navajo Nation law enforcement and mortuaries impact the families’ decision when it comes to the planning, cost, and interment of a decedent; and
5. Moreover, NNCI expressed the need for public education on Navajo perceptions towards death because Navajo Nation law enforcement officers and Navajo people exhibit concern toward death. The concern towards death creates an opportunity for mortuaries to assume principle facilitation for the planning and interment of a decedent which often leads to purchasing expensive funeral and burial packages; and
6. While the NNCI expends a substantial amount of resources investigating death and relies on outside entities to conduct autopsy and other related services, the on-going efforts by NNCI to establish an internal Navajo Nation Department of Medical Examiners will allow for improved coordination and communication between the decedent’s family and law

enforcement when an investigation is necessary to determine the cause of a death. The Navajo Nation Department of Medical Examiners will allow for the hiring of qualified medical examiners trained in the area of medicolegal death investigations. The creation of the Navajo Department of Medical Examiners supports self-reliance, self-determination, job creation, and ensures that Navajo interests, cultural beliefs and traditions will be protected; and

7. The Commission advocates for the practice and protection of the Navajo people to exercise their Navajo human rights in all aspects of the Navajo Life Way, and after the review of the proposed amendments to Title 2 N.N.C. § 1352 and Title 17 N.N.C. §§ 1851 through 1854 of the Navajo Nation Codes, the Commission hereby supports the amendments purposed by NNCI that will establish the Department of Navajo Nation Medical Examiners.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Human Rights Commission hereby supports the Navajo Nation Council proposed resolution, Tracking No. 0321-18, Navajo Nation Division of Public Safety Criminal Investigation Section on amending Title 2 N.N.C. § 1352 and Title 17 N.N.C. §§ 1851 through 1854 of the Navajo Nation Codes to establish a Department of Navajo Nation Medical Examiners.
2. The Navajo Nation Human Rights Commission hereby recommends appropriate Navajo cultural teachings toward death, including funeral and burial protocols, be incorporated into the policies of the proposed establishment of a Department of Navajo Nation Medical Examiners as follows:
 - A. Interment of decedent is replanting - add language on Page 6 of 11, line 14: tradition, and beliefs of the Navajo Nation and people including, but not limited to, the belief that burying a loved one is replanting;
 - B. Implementing Navajo Fundamental Law of Sa'a Naaghai Bik'e Hozhoo, Hashkééjį, Hózhóójí and K'é be incorporated as follows:
 - a. Add language to SECTION TWO. FINDINGS, new paragraph to be placed between current paragraphs F. and G. to read "In 2002, the Navajo Nation Council enacted law that recognizes the foundation of Diné, Diné law and Diné government and that these laws provide sanctuary for the Diné life and culture, Diné people's relationship with the world beyond the sacred mountains, and the balance Diné people maintain with the natural world. 1 N.N.C. § 201, et. seq."
 - b. Replace § 1856 in its entirety with new title and paragraph as follows:
 Title: Respecting the Navajo Culture and Traditions
 Paragraph: The Navajo Department of Medical Examiners shall institute in its plan of operation and regulations the Diné beliefs and principals in accord with Diné bi beehaz'áanii bitsi siléi as provided for in Title 1 N.N.C. § 201, et. seq.; and

- C. Proper record be maintained of the decedents' gender and sexuality – add language on Page 9 of 11, line 14: 1. The name, date of birth, sex, gender, and census number of the deceased (if known).
 - D. Technical amendment to the proposed legislation to state that the sections amended in Title 17 end at §1856, not 1851.
3. The Navajo Nation Human Rights Commission hereby advocates the Office of the Navajo Nation President and Vice-President, Office of the Navajo Nation Speaker, and the Navajo Nation Council do everything necessary to ensure the establishment of a Department of Navajo Nation Medical Examiners.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Human Rights Commission at a duly called meeting in Saint Michaels, Navajo Nation (Arizona), at which time a quorum was present and was passed by a vote of 3 in favor and 0 opposed, this 8th day of October 2018.



Jennifer Denetdale, Ph.D., *Chairperson*
Navajo Nation Human Rights Commission

**23rd NAVAJO NATION COUNCIL
NAABIK'ÍYÁTI' COMMITTEE REPORT
Fourth Year 2018**

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0321-18

An Act Relating to Law and Order, Naabik'iyáti' and the Navajo Nation Council; Amending 2 N.N.C. § 1352 and 17 N.N.C. §§ 1851 Through 1854; Amending Coroner Provisions and Establishing a Department of Medical Examiners within the Division of Public Safety; Authorizing the Law and Order Committee to Approve a Plan of Operation for the Department of Medical Examiners

Sponsored by: Honorable Kee Allen Begay, Jr.

Co-Sponsored by: Honorable Olin Kieyoomia

Has had it under consideration and reports the same legislation **WAS PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL.**

Respectfully Submitted,



*Honorable LoRenzo C. Bates, Chairman
NAABIK'ÍYÁTI' COMMITTEE*

09 NOVEMBER 2018

MAIN MOTION

Motioned by: Honorable Amber Kanazbah Crotty

Seconded by: Honorable Nathaniel Brown

Vote: 11 in Favor, 0 Opposed (Chairman Bates not voting)

Per N.N.C. § 700 (D), "A quorum of the committee shall be satisfied by the presence of two (2) members of each standing committee..."



CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska

Office of the President • Edward K. Thomas Building
9097 Glacier Highway • Juneau, Alaska 99801

**TESTIMONY OF PATRICIA ALEXANDER, CO-CHAIR OF THE
CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA
VIOLENCE AGAINST WOMEN TASK FORCE**

**SENATE COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING ON
MISSING AND MURDERED: CONFRONTING THE SILENCE IN INDIAN COUNTRY**

DECEMBER 12, 2018

GREETINGS FROM ALASKA! My name is Patricia Alexander. I am the Co-Chair of the Violence Against Women Task Force (“VAWTF”) of the Central Council of Tlingit and Haida Indian Tribes of Alaska (“Tlingit & Haida” or “Tribe”). Thank you for inviting me to testify on behalf of my Tribe. Our President, the Honorable Richard J. Peterson, sends you his greetings and gratitude for the attention this Committee has placed on this topic of such vital importance to the future wellbeing of our Tribe.

Tlingit & Haida is a federally-recognized tribal government with over 30,000 citizens worldwide, and has an active, government to government relationship with the United States. The Tribe serves 18 villages and communities spread over 43,000 square miles within Southeast Alaska. More than 7,000 tribal citizens reside in Juneau, with several thousand more located in Anchorage. Beyond that, the vast majority of tribal citizens reside in Washington State, and smaller numbers stretch into Oregon and the rest of the world. Tlingit & Haida tribal citizens are among the largest, most isolated, and most geographically dispersed tribal populations nationwide. In Southeast Alaska, where the Tribe provides the majority of its services, most communities have no roads in or out, and must rely on planes and boats for both day-to-day needs and emergencies.

I have dedicated much of my professional work life to providing much-needed health and social services to our tribal citizens. I have worked in tribal social service programs for Tlingit & Haida as well as for the Sitka Tribe. I have also served in a tribal treatment center in Arizona, and have engaged in hospital administration for the Southeast Alaska Regional Health Consortium.

Tlingit & Haida wishes to commend our own Senator Lisa Murkowski, along with Chairman John Hoeven, Vice Chairman Tom Udall and other members of this Committee for continuing to work in partnership with Tlingit & Haida and others in Indian Country to identify meaningful solutions that promote the well-being of Native women and children. I would also like to thank Senator Heidi Heitkamp for her leadership on S. 1942, Savanna’s Act, and to all those on this Committee for working so hard to pass this measure in the Senate last week. This bill is an important first step in assisting federal, state, local, and tribal law enforcement to apply the appropriate justice protocols needed to address missing and murdered Native Americans and Alaska Natives throughout Indian Country

Tlingit & Haida Efforts to Prevent Missing and Murdered Women in Alaska

While violence against Native American women occurs at higher rates than in any other ethnic group in the United States, it is even worse in Alaska. According to the Alaska Native Tribal Health Consortium, 50% of Alaska Native women experience physical or sexual violence in their lifetime. The Violence

Policy Center reports that the homicide rate against Alaska Native women and children is three times the national average, identifying that in twelve murders, eight will be American Indian or Alaska Native. Even more troubling, 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.

Tlingit & Haida is all too familiar with the corrosive effect that this violence against our women and children has had on our communities. It has been more than a year since the unsolved death of 19-year-old Jade Williams of Kake and nearly a year since the unsolved death of 37-year-old Francile Turpin of Klawock. The alleged murder of Judylee Guthrie, 28 of Klawock, Alaska, has yet to be prosecuted nearly two and a half years later. Earlier this year, Tlingit & Haida held a memorial in solidarity with our northern relatives after ten year old Ashley Johnson Barr of Kotzebue was found dead, sexually assaulted and strangled, after being missing for days. Fortunately, the perpetrator is being held accountable for this heinous crime.

Because we believe the future of Indian Country rests in the secure status of women living in environments that are free of violence, Tlingit & Haida has committed its resources and staff to working towards bringing an end to these threats to our women and children. At our 2018 annual Tribal Assembly, Tlingit & Haida passed resolution TA18-27 calling for the increased investigation of Missing and Murdered Indigenous Women and asking the Department of Justice to report on their steps to reduce the disproportionate numbers of victims who are Native women.¹

In addition, Tlingit & Haida adopted Resolution TA 18-37 establishing a Violence Against Women Task Force (“Task Force”) to fight against violence destroying the lives of our women. The work of the Task Force, in fact, is what brought me in front of you all today.

The Task Force is a community-driven response to end domestic violence and to address cases of missing Alaska Native women. It is charged with studying, analyzing, reporting, and providing recommendations on how to:

- Improve criminal justice system to better serve and protect Alaska Native women;
- Increase criminal justice protective and investigative resources for reporting and identifying murdered and missing Alaska Native women;
- Identify rates of violence against women and reduce incidences through continuing efforts to connect state, tribal and federal resources;
- Address issues relating to public safety and law enforcement that create barriers for responding timely to violent crimes against Indigenous women in rural Alaska communities;
- Identify effective tribal justice methods used to reduce violence against Alaska Native women; and
- Create partnerships with local, state and national organizations for resource development (i.e. Alaska Native Women's Resource Center, National Indigenous Women's Resource Center and NCAI's VAW Task Force).

¹ “BE IT FINALLY RESOLVED, that the Tlingit & Haida petition the US Department of Justice to evaluation and report on progress by federal and state law enforcement agencies in investigating and reducing the incidence of missing and murdered indigenous women no later than December 31, 2019 from the states of Alaska and Washington, and US Department of Justice.”

The Task Force is a continuation of Tribe's increasing attention to violence against women. In 2012, Tlingit & Haida advocated for fully including Alaska Native Tribes within the purview of the Violence Against Women Act.² Since then, we have repeatedly met with the U.S. Department of Justice ("DOJ") to advocate for resources that meets the needs of Alaska Native women and children. We have also supported National Congress of American Indians ("NCAI") resolutions which advocate for the safety of Alaska Native women residing in tribal and village communities.

In 2014, when the unduly-limiting Section 910 of the Violence Against Women Act was repealed, Tlingit & Haida took active steps as a tribal government to increase protections for Alaska Native women. The Tlingit & Haida Tribal Court, began issuing civil protection orders for domestic violence committed by intimate partners and family members.³ Our orders addressed a range of domestic violence offenses, including threats, assault, and sexual assault. We issue emergency protection orders, ex parte, for up to 20-day periods upon a showing of probable cause. Permanent protection orders are issued from one to five years after a hearing is held.

The protection orders are served on the Respondent by the Juneau Police Department or Alaska State Troopers or Village Public Safety Officers based on the location of the Respondent. Service of process is more challenging in our remote villages without law enforcement. For violations of the Tribal Court Protection Order that occur in Juneau, the City Prosecutor files criminal charges for violation of the tribally-issued protection order. The Tribe is exploring how to encourage the state of Alaska to better prosecute violations that occur outside of Juneau. In an effort to maximize protection and increase safety for Native Women, the Tribal Court makes every effort to collaborate with state and local law enforcement and prosecutors in serving and enforcing protection orders. However, many of our communities lack any first responders to enforce a protection order, which leaves those in such villages more vulnerable.

Since the Task Force's establishment, we have participated with the Alaska Native Women's Resource Center's annual Unity meeting held prior to the Alaska Federation of Native's Annual meeting, the Office of Violence Against Women's 2018 Annual Consultation, and most recently the Office of Victims of Crime ("OVC") Listening Session in Palm Springs. We further plan to evaluate whether to establish a DOJ Office of Violence Against Women-funded Southeast Alaska Native Women's Coalition. We successfully applied for Phase I of the Victims of Crime Act ("VOCA") 2018 Tribal Set-aside program, although our application's budget was cut ¼ by OVC, who may not understand the logistical challenges we face in Alaska including the lack of available housing and actual costs of resources and services in our remote village communities.

To continue improving services and protection for our women, Tlingit & Haida's Chief Justice Michelle Demmert also participated in the Third Meeting of the North American Trilateral Working Group on Violence Against Indigenous Women and Girls in Mexico City held this year to explore how to better improve collaboration, information sharing, and leverage resources to respond to violent crimes against

² Tlingit Haida Resolution TA/12-58, Opposition to Any Language Excluding Alaska Native Tribes from the Violence Against Women Act (April 18-21, 2012), <http://www.ccthita.org/info/press/releases/2012releases/Resolution%20TA%2012-58%20Opposition%20to%20Any%20Language%20Excluding%20AK%20Native%20Tribes%20from%20the%20VAWA.pdf>; Tlingit Haida Press Release, Tribe Strongly Opposes Exclusion from Violence Against Women Act (April 23, 2012), <http://www.ccthita.org/info/press/releases/2012releases/NR%2004232012%20TribeStronglyOpposesExclusionFromVAWA.pdf>

³ Tlingit Haida, Tribal Update (December 18, 2018), http://www.ccthita.org/government/president/updates/TribalUpdate_Dec2014.pdf

Alaska Native women.⁴ Indigenous representatives from the United States, Canada and Mexico discussed common themes including, high rates of suicide among their youth and the housing crisis that their communities face and the impact this crisis has on women attempting to leave the violence. Canadian participants discussed the high rate of missing and murdered indigenous women and girls, and how their government is attempting to address these issues including a national inquiry and apology, as well improved protocols among law enforcement. We can learn much from our northern neighbors as we look for ways to improve the protocols for American Indian and Alaska Native women and girls.

This past year, more than 200 tribal, state, regional, and national organizations, including Tlingit & Haida, joined the National Indigenous Women’s Resource Center in support of the Senate resolution recognizing a 2nd National Day of Awareness for Missing and Murdered Native Women and Girls.⁵ The first national day of awareness in 2017 reached millions of people across the United States and the world through social media platforms. The social media networking and mobilization this year surpassed the 2017 efforts. Tlingit & Haida held a Rally, March and Awareness event in Juneau that had over 200 citizens in attendance. The response to the public call for increased awareness is indicative of the extent of the reality that Native women go missing daily often without any response by law enforcement.

Challenges Facing Alaska Native Communities

There are many barriers that make it difficult for Tlingit & Haida to adequately protect our Alaska Native women residing in what are often remote communities. These include extreme weather, limited police and public safety protection, lack of access to necessary resources and limited counseling and support services. This situation is compounded by insufficient federal funding opportunities that do not even begin to meet the needs of Alaska Natives. We suffer from inadequate data reporting that makes it difficult to tailor programs to the needs of our women. We face a challenging lack of coordination between state and tribal officials, and a lack of training and resources in villages where neighbors are often the first, and only, responders who lack training beyond their compassionate hearts. In the rest of my testimony, I will provide greater detail on each of these barriers.

A. Remote Location, Extreme Weather, Lack of Transportation

The geographical remoteness, extreme weather, and the lack of adequate transportation present serious challenges in responding to crime in Alaska Native villages and in accessing state judicial systems in a timely matter. Tlingit & Haida serves 20 villages and communities spread over 43,000 square miles within Southeast Alaska. Our service population is among the largest, most isolated, and most geographically dispersed tribal population in Indian Country. While we are proud to maintain our lives in our original homeland, our struggle to protect our women and children is made more challenging by our geophysical realities. Most of our Southeast Alaska communities are connected only by ferry boats or small planes. There are very few road connections. With only three secure women’s shelters in Juneau, Ketchikan, and Sitka in our region, if female victims in other communities seek to leave for safety purposes, doing so requires very public and often delayed travel by plane or ferry. Additionally, if a domestic violence incident occurs in any of the other outlying communities or villages, the victim’s safety is at great risk because our limited police and Village Public Safety Officers (“VPSO”) cover huge territories and often are not present for days and weeks in some communities. Consequently, victims often have trouble getting help in time to collect evidence and in some instances, to save their lives.

⁴ Tlingit & Haida Chief Justice to Attend Trilateral Work Group Meeting on Violence Against Indigenous Women and Girls (September 7, 2018), <https://myemail.constantcontact.com/FOR-IMMEDIATE-RELEASE--Chief-Justice-to-Attend-Trilateral-Meeting-on-Violence-Against-Indigenous-Women-and-Girls.html?oid=1124597381696&aid=nmPvEYNC6-A>

⁵ See TA18-34 attached

B. Village Public Safety Officers are the First Responders

Village Public Safety Officers (VPSOs) are crucial resources for Alaskan villages. Women and children also go missing and are murdered in these communities too. VPSOs are often the first, and in some cases, the only official responders to incidents of domestic violence and sexual assault in remote areas of Alaska. While VPSOs do their best, they are hampered by more limited training than other law enforcement officers receive, more limited resources and authority and lower compensation.

These challenges contribute to turnover in the VPSO program. Turnover, which can be the result of burnout, from being on call, for all practical purposes, 24 hours a day, leaves communities with gaps in their law enforcement coverage, as a new officer is sent to training for months and there is no current officer. It is also not infrequent that the VPSO program trains officers, who too quickly depart for higher paying law enforcement positions, serving for a municipal force or moving down south.

The VPSO program needs additional resources and authority for training and responses because the officers, in spite of all the challenges, do amazing work to keep our families and communities safe. Our communities have learned that the presence of a VPSO increases reporting of crime and violence. So while statistics rise when a VPSO is present, it is only because there is finally someone to report to, a local person, with whom the community has a relationship and where there is trust. For those communities with no law enforcement, VPSO or otherwise, crime is underreported. It is yet another area where statistical evidence for our Alaskan communities is lacking or misleading.

C. Funding Barriers

While U.S. DOJ has attempted to direct funding towards domestic violence and sexual assault, many federal grant programs do not allow us to spend money on prevention, enforcement, or policing and few programs are available to help us provide counseling services to victims of domestic violence and child witnesses. While Tlingit & Haida is encouraged by the 2018 VOCA Tribal Set –Aside, it is clear from our reduced application award in the Phase I process, that OVC does not understand the true costs of crimes in Alaska and the Resources needed. We need a permanent set aside for VOCA, and grant awards that truly build capacity and program sustainability.

In 2015 DOJ announced the Tribal Access Program (“TAP”) for the National Crime Information Center (“NCIC”), which provides eligible tribes with access to the Criminal Justice Information Services systems. There are now 30 tribes participating in TAP, which will greatly facilitate their ability to enter protection orders and criminal history into the federal databases. Because DOJ is using existing funding for the TAP program, eligibility is currently limited to tribes with a sex offender registry or with a full-time tribal law enforcement agency. Tlingit & Haida is one of many tribes, particularly in Public Law 83-280 jurisdictions like California and Alaska, who cannot meet this DOJ criteria but who do have tribal courts that issue protection orders. For our protection orders to be effective and protect victims, an issuing tribe like Tlingit & Haida needs to be able to enter them into the protection order file of NCIC. A dedicated funding stream should be created for expanding the TAP program and making it available to all interested tribes who meet the requirement. All tribes should have the ability to access federal databases not only for obtaining criminal history information for criminal or civil law purposes, but also for entering protection orders, missing person’s reports, and other relevant information, including National Instant Criminal Background Check System disqualifying events, into the databases.

D. Inadequate Data Collection

Perhaps even more challenging is the lack of enough data on domestic violence, sexual assault, sex trafficking, and violence against children, which is needed to build sound legal infrastructure and

provide appropriate services to ensure our women and children are not living in danger. Tlingit & Haida commends this Committee for persuading the Senate to pass Savanna's Act to address this exact problem.

Following my appointment, I initiated research, at the local level, to find out how missing and murdered indigenous women are identified and their cases tracked. To my surprise, I learned that tracking the racial background of victims is not done by the Sitka Police, nor by the State of Alaska. I further learned that there is no communication between a tribe and law enforcement when a victim is a tribal citizen. Moreover, despite domestic violence shelters compiling data and sharing it with the state of Alaska, the state finds it difficult to interpret and successfully use this data to focus on the unique needs of Native women and children.

Additionally police have informed us that they are only collecting data if there is an arrest. But, how can there be an arrest without law enforcement within 75 of Alaska communities?⁶ This means that many, if not most, instances of domestic violence, sexual assault, sex trafficking, and missing women are *not* being documented or accounted for. This is shocking. Just because a perpetrator cannot be identified and arrested does not mean a victim cannot be identified and served. The rights of victims can no longer be denied just because law enforcement fails to apprehend perpetrators.

When data is not kept, there is no ability to track our women. Our voices, our stories, the realities that we live, continue to be marginalized because they remain anecdotal evidence. The failure of data collection is not only making it difficult to tailor our programs and services and partner with local and state law enforcement to protect Alaska Native women, but more importantly, it is preventing our Tribe from being able to proactively provide Alaska Native women with resources that could save their lives and the lives of their children. Law enforcement must track this information. Not only do I believe adequate data will lead to valuable information, but that information can then be a basis for advocating for increased resources. I also believe there is inherent value in validating the reality that Alaska Native women face.

Recommendations for Protecting Alaska Native Women and Children

In response to our experience with these barriers, Tlingit & Haida provides the following recommendations to the Committee to consider as it continues to advance measures to protect our women and children.

1. DOJ funding should be dramatically increased and should be focused on violence prevention, enforcement, and policing.
2. DOJ VOCA grant funding should be dramatically increased and made permanent or it will remain ineffective. The SURVIVE Act S. 1870 would address this issue and should include victim compensation and services as defined by the tribal government.
3. Data reporting models in Alaska should be required to include data collected from VPSOs and tribal governments without tribal law enforcement or VPSO's . Funding should be provided to meet this requirement.
4. VPSO programs should be provided with dramatically increased funding –
 - a. Especially for training VPSOs in data collection in cases involving violence against women and children;
 - b. For training VPSOs in responding to domestic violence, sexual assault, sex trafficking, and trauma;

⁶ See TLOC Report, *supra* 39.

- c. To ensure that there is a VPSO officer in every Alaska Native community, including the most remote of villages.
5. Provide dramatically increased funding resources for broader community training on domestic violence, sexual assault, 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. Passage of the SURVIVE Act S. 1870 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.

I, along with all of us at Tlingit & Haida, look forward to working further with Senator Murkowski and the rest of this Committee on ways we can heal this life and death filled trauma for many women and children in our Native communities. Together, we must ensure the safety of our tribal citizens. Thank you for this opportunity to join the Committee in sounding a call to arms.

Gunalchéesh! Háw'aa! Thank You!

Kimberly Loring Heavy Runner

TESTIMONY TO THE SENATE COMMITTEE ON INDIAN AFFAIRS Oversight Hearing on

"Missing and Murdered: Confronting the Silent Crisis in Indian Country."

December 12, 2018

My name is Kimberly Loring Heavy Runner, and I am here today to share my sister Ashley Loring Heavy Runner's story, and to shed light on the mistreatment of Missing and Murdered Indigenous Women cases handled by multiple levels of Law Enforcement in Montana, and across the United States.

Ashley's story-

Ashley Loring Heavy Runner is a 22 year old Blackfeet woman that went missing June 12, 2017 on the Blackfeet Reservation in Montana, at the age of 20, over one and half years ago. Ashley's life is valued and cannot be explained in the five minutes that I am being allowed. Please forgive me if I go slightly over the requested time frame.

Failure of Law Enforcement-

The first information in regards to Ashley's disappearance was received on June 25, 2017 stating that Ashley was running from a males' vehicle on US Highway 89, alongside the Rocky Mountain Front on the Blackfeet reservation.

In the beginning stages of the investigation, a sweater was found on the Blackfeet Reservation on June 28, 2017 and placed into evidence with Blackfeet Tribal Law Enforcement (BLES). The sweater was identified by an eye-witness stating that Ashley was wearing the exact same sweater when she went missing. When the sweater, which was stained with 'red spots' and holes was turned over by Blackfeet Law Enforcement (BLES) to the BIA, the agent stated multiple times

that he sent the sweater to the crime lab, when we questioned the results of the testing of the sweater he then changed the story and said he couldn't send out due to testing reasons after eight (8) months of being in evidence with the BIA. We later found out the sweater has never been sent, and is still currently sitting in BIA evidence. The Blackfeet Law Enforcement (BLES) informed us they did a search on the location where the sweater was found on July 28, 2017. We searched that location for two weeks after the sweater was found and never seen either agency BLES or BIA during our searches. We later spoke with a BLES officer that was working on Ashley's case and she had no recollection of a search ever being conducted in that location. We were then told Blackfeet Law Enforcement (BLES) was no longer taking any tips concerning Ashley's case and we instructed to contact the BIA agent assigned to our area in Montana. Several attempts have been made by the family with no response from the BIA agent to date. During the course of the investigation with the Blackfeet Law Enforcement (BLES) we became aware that a Blackfeet law enforcement officer working on Ashley's case was having relations with, and giving information to a prime suspect.

For over the course of nine (9) months that the BIA has taken over the case most leads and information given to BIA have not been followed up on, nor documented. Blackfeet Tribal Law Enforcement (BLES) as well as the Bureau of Indian Affairs have not take Ashley's case seriously.

After two months of being reported missing the BIA Agent responded to our calls by stating "Ashley is of age and can leave whenever she wants to." Despite the fact all the leads coming in were stating that Ashley was in danger, or was hurt and placed in the mountains. From the very beginning, both Blackfeet Tribal Law Enforcement (BLES) and the BIA have ignored the dire

situation that Ashley is in and have allowed this investigation to be handled in a dysfunctional manner. This isn't just a reality for our family but a reality for many MMIW families. We all share the same experience when working with law enforcement.

In closing, think of how each of you would feel if the response you are given about your wife, sister, daughters missing persons case was

”she is of age and can leave when she wants to.”

Ashley is loved and cherished, I will continue to search for my sister.

I am asking you to recognize that Indigenous women matter, and the way our missing and murdered women cases are handled needs to be corrected.

We are going missing, we are being murdered. We are not being taken seriously. I am here to stress to you we are important and we are loved and we are missed. We will no longer be the invisible people in the United States of America, we have worth.