

**UNMASKING THE HIDDEN CRISIS OF
MURDERED AND MISSING INDIGENOUS
WOMEN (MMIW): EXPLORING
SOLUTIONS TO END THE CYCLE OF
VIOLENCE**

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON INDIGENOUS PEOPLES OF THE
UNITED STATES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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**OVERSIGHT HEARING ON UNMASKING THE
HIDDEN CRISIS OF MURDERED AND
MISSING INDIGENOUS WOMEN (MMIW):
EXPLORING SOLUTIONS TO END THE
CYCLE OF VIOLENCE**

**Thursday, March 14, 2019
U.S. House of Representatives
Subcommittee on Indigenous Peoples of the United States
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 9:05 a.m., in room 1324, Longworth House Office Building, Hon. Ruben Gallego [Chairman of the Subcommittee] presiding.

Present: Representatives Gallego, Soto, Haaland, Cartwright, Grijalva; Cook and Radewagen.

Mr. GALLEGO. The Subcommittee for Indigenous Peoples of the United States will now come to order.

The Subcommittee is meeting today to hear testimony on “Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women: Exploring Solutions to End the Cycle of Violence.”

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. This will allow us to hear from our witnesses sooner and helps Members keep to their schedules.

Therefore, I ask unanimous consent that all other Members’ opening statements be made part of the hearing record if they are submitted to the Subcommittee Clerk by 5 p.m. today, or the close of hearing, whichever comes first.

Hearing no objections, so ordered.

**STATEMENT OF HON. RUBEN GALLEGO, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF ARIZONA**

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

Today, we will be confronting a deeply troubling and disturbing situation affecting Indian Country nationwide: the hidden crisis of missing and murdered indigenous women.

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

On reservations, American Indian and Alaska Native women experience murder rates 10 times the national average. Additionally, an independent report found at least 5,712 cases of missing or murdered indigenous women that were reported just in 2016.

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

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

The witnesses we have here today will attest to many other factors that exasperate the situation, including the following: extreme jurisdictional challenges in our criminal justice system leading to confusion, delays, and lack of prosecution; and inadequate resources for tribal justice systems.

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

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

In February 2018, 9 months after Ashley went missing, the Federal Bureau of Investigation finally joined the search. To this day, even with the help of the FBI, Ashley still remains missing.

In 2013, MacKenzie Howard, a 13-year-old villager from Kake, Alaska, went missing after a memorial ceremony. After her body was found behind a local church, it took 11 hours for state troopers to finally arrive, during which time the village men guarded MacKenzie's body and the crime scene throughout the night.

In 2016, Ashlynnne Mike, an 11-year-old Navajo girl, was found dead after being tricked into accepting a ride home from a stranger while playing after school on the Navajo Reservation. Because of jurisdictional issues, an official AMBER Alert for Ashlynnne was not issued until 12 hours after her disappearance.

According to a study on child abductions by the Washington State Attorney General's Office, 76 percent of kidnapped children are killed within the first 3 hours.

In 2017, Savanna Greywind, a 22-year-old member of the Spirit Lake Tribe, went missing in Fargo, North Dakota. Savanna was 8 months pregnant. Her brutal attack and murder were perpetuated by a neighbor, and her body was found 8 days later by a kayaker near the Red River, north of Fargo.

I know these stories are hard to hear. Trust me. It is hard for me to read them, but we must face this problem in order to address it. We must improve the data systems related to murdered and missing indigenous women to truly identify the scope of this problem.

We must prioritize intergovernmental communication to reduce the lag time responding to these atrocities, and we must change the law to improve the proactivity in combatting violence against indigenous women. We must take action so this does not keep on going.

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

[The prepared statement of Mr. Gallego follows:]

PREPARED STATEMENT OF THE HON. RUBEN GALLEG0, CHAIR, SUBCOMMITTEE ON
INDIGENOUS PEOPLES OF THE UNITED STATES

Good morning to you all, and a warm welcome to all our witnesses here today. Today, we will be confronting a deeply troubling and disturbing situation affecting Indian Country nationwide—the hidden crisis of Missing and Murdered Indigenous Women.

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

On reservations, American Indian and Alaska Native women experience murder rates 10 times the national average. Additionally, an independent report found at least 5,712 cases of missing or murdered Indigenous women were reported in 2016.

In reality, these numbers are much larger, because Indigenous women are often unrepresented in national and local data. A lack of comprehensive data to quantify the number of missing and murdered women in Indian Country is just one factor contributing to this crisis.

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

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

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

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

In February 2018, 9 months after Ashley went missing, the Federal Bureau of Investigation finally joined the search. To this day, even with the help of the FBI, Ashley remains missing.

In 2013, Mackenzie Howard, a 13-year-old villager from Kake, Alaska, went missing after a memorial ceremony. After her body was found behind a local church, it took 11 hours—ELEVEN HOURS—for State Troopers to finally arrive, during which time the village men guarded Mackenzie’s body and the crime scene throughout the night.

In 2016, Ashlynn Mike, an 11-year-old Navajo girl, was found dead after being tricked into accepting a ride home from a stranger while playing after school on the Navajo Reservation. Because of jurisdictional issues, an official Amber Alert for Ashlynn wasn’t issued until 12 hours after her disappearance.

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In 2017, Savanna Greywind, a 22-year-old member of the Spirit Lake Tribe, went missing in Fargo, North Dakota. Savanna was 8 months pregnant. Her brutal attack and murder were perpetrated by a neighbor, and her body was found 8 days later by a kayaker near the Red River, north of Fargo.

I know these stories are hard to hear, but we must face this problem in order to address it. We must improve data systems related to murdered and missing Indigenous women to truly identify the scope of this problem.

We must prioritize intergovernmental communication to reduce lag time in responding to these atrocities. And we must change law enforcement protocols to improve proactivity in combatting violence against indigenous women. We must take action so that history doesn’t keep repeating itself.

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

Mr. GALLEG0. I would now like to recognize the Ranking Member, Mr. Cook, for his opening statement.

**STATEMENT OF HON. PAUL COOK, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. COOK. Thank you very much, Mr. Chairman.

And thank you to our witnesses for being here today.

Today's hearing is focused on a very, very difficult subject, but a very serious issue faced by Native communities and especially by Native women.

Crime and violence, tragically, are not a new phenomenon in Indian Country. The Department of Justice has emphasized making law enforcement in Indian Country a priority because American Indians are victims of violent crimes at rates higher than the general population.

Compounding the problem is the fact that many tribal communities are found in remote, rural areas where tight tribal police budgets make timely and effective response to crimes on a reservation that much more challenging.

There also appears to be a consensus among experts that the trends of high rates of domestic violence against Native women continue, despite the enactment of two major laws since 2010 to tackle this problem. I am speaking of the Tribal Law and Order Act of 2010 and the Violence Against Women Reauthorization Act of 2013, of which I was pleased to support and vote for, known as VAWA.

While reliable, timely data concerning crime and law enforcement in Indian Country can be hard to come by, depending on the scope and methods of each report on the topic, all have shown there is a problem plaguing tribal communities.

I am pleased that the Department of the Interior has included in its budget proposal a new initiative to combat crime, specifically against Native American women in Indian Country.

It would be helpful, and we talked about this, in the future to have witnesses representing the Departments of the Interior and Justice to tell us what the officers and Federal prosecutors are doing about missing and murdered Native women, but I don't believe we have any here today.

And the other reason is, quite frankly, they could get the message that we are very, very concerned about that, and all of us think that we need more funding in these vital areas to perhaps correct that problem.

Given the complicated jurisdictional issues in Indian Country, we must ensure that all at the table are working to reduce these types of crimes. And I want to thank the Chairman for allowing me to testify. Thank you.

[The prepared statement of Mr. Cook follows:]

PREPARED STATEMENT OF THE HON. PAUL COOK, RANKING MEMBER, SUBCOMMITTEE
FOR INDIGENOUS PEOPLES OF THE UNITED STATES

Thank you, Chairman Gallego, and thank you to our witnesses for being here today.

Today's hearing is focused on a very difficult subject, but a very serious issue faced by Native communities and especially Native women.

Crime and violence, tragically, are not a new phenomenon in Indian Country. The Department of Justice has emphasized making law enforcement in Indian Country a priority because American Indians are victims of violent crimes at rates higher than the general population.

Compounding the problem is the fact that many tribal communities are found in remote, rural areas, where tight tribal police budgets make timely and effective response to crimes on a reservation that much more challenging.

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While reliable, timely data concerning crime and law enforcement in Indian Country can be hard to come by, depending on the scope and methods of each report on the topic, all have shown there is a problem plaguing tribal communities.

I am pleased that the Department of the Interior has included in its budget proposal, a new initiative to combat crime, specifically against Native women, in Indian Country.

It would be helpful to have witnesses representing the Departments of the Interior and Justice here to tell us what their officers and Federal prosecutors are doing about missing and murdered Native women, but I don't believe any of these officials were invited to testify today.

I hope the Chairman might join me in requesting a briefing from the Departments of the Interior and Justice to advance our efforts to help bring about a positive resolution to the missing, murdered Indigenous women crisis.

Given the complicated jurisdictional issues in Indian Country, we must ensure all are at the table working together to reduce crime.

Thank you, Mr. Chairman.

Mr. GALLEGO. Thank you, Ranking Member Cook, and I look forward to working with you in this Congress to move this along and bring some justice to our Indian Country.

Now I will introduce our expert witnesses for today. Our first witness is Sarah Deer. She is a citizen of the Muscogee Creek Nation, lawyer, and Professor of Women, Gender, and Sexuality Studies at the University of Kansas, and also, she has just recently been inducted into the National Women's Hall of Fame.

Congratulations, and thank you for being here.

Next is going to be the Honorable Ruth Buffalo, citizen of—and I apologize—the Mandan, Hidatsa, and Arikara Nation, and member of the North Dakota State House of Representatives.

You are welcome, Your Honor, and I apologize if I have messed up any of those names and titles.

Our next witness is Mary Kathryn Nagle, a member of the Cherokee Nation of Oklahoma and legal counsel to the National Indigenous Women's Resource Center.

And finally, our last witness is Tami Jerue, an Athabaskan mother of four, and Executive Director of the Alaska Native Women's Resource Center.

Thank you all for being here.

Let me remind witnesses that under our Committee Rules, they must limit their oral statements to 5 minutes, but their entire written statement will appear in the hearing record.

When you begin, the lights on the witness table in front of you will turn green. After 4 minutes, the yellow light will come on. Your time will have expired when the red light comes on, and I will ask you to please wrap up your statement.

I will also allow the entire panel to testify before we begin questioning of the witnesses.

The Chair now recognizes Ms. Sarah Deer to testify.

**STATEMENT OF SARAH DEER, PROFESSOR OF WOMEN,
GENDER, AND SEXUALITY STUDIES, SCHOOL OF PUBLIC
AFFAIRS AND ADMINISTRATION AND SCHOOL OF LAW,
UNIVERSITY OF KANSAS, LAWRENCE, KANSAS**

Ms. DEER. Good morning. The Honorable Chairman Raúl Grijalva, Ranking Member Rob Bishop, Chairman Ruben Gallego, Ranking Member Paul Cook, and members of the Committee, I would like to express my deep appreciation and thanks for inviting me to testify before this Subcommittee on missing and murdered indigenous women, or MMIW.

I am a citizen of the Muscogee Creek Nation of Oklahoma and currently hold a position as Professor at the University of Kansas. I also serve as the Chief Justice for the Prairie Island Indian Community Court of Appeals.

Today, I am testifying in my personal capacity.

My testimony today will focus on our knowledge in terms of the high numbers of MMIW, and I will offer some theories about the causes of the high rates, and finally, a few suggestions on how Congress can improve law enforcement's response to this crisis.

I would like to mention the names of four of my fellow tribal members from the Muscogee Creek Nation: Faren McGirt, missing, 1999; Peggie McGuire, missing, 2015; Ruthanne McGirt Staller Rex, murdered in March 2015; and Margie Childers, whose body was just found 2 days ago in Oklahoma.

I think it is critical to understand that the crisis that we are talking about today has deep roots in the historical mistreatment of Native people throughout the history of the United States. Native women and girls have been disappearing literally since 1492 when Europeans kidnapped Native people for shipment back to Europe.

Targeted killing of Native women is also not a recent phenomenon. The history of oppression makes it difficult to achieve buy-in for marginalized communities who have been victims of oppression at the hands of the Federal Government.

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

I want to mention an organization called the Sovereign Bodies Institute, which has been collecting the names and stories of MMIW in the United States. Currently, that database has over 1,870 names.

There are many questions about why these rates are as high as they are. In my written testimony, I mention several factors, including jurisdictional barriers, indifference from government officials, the lack of cross-jurisdictional communication and planning, the failure to adequately fund tribal justice systems, and the problem of sex traffickers and other predators targeting Native women specifically.

We know the jurisdictional questions are always at the forefront of any question about crime in Indian Country, and this is no different. There are a variety of legal jurisdictional questions that immediately arise when a tribal member goes missing.

Did they live on the reservation? Did they disappear from the reservation? Did they disappear off the reservation? What agency has jurisdiction? Does the tribe have concurrent jurisdiction?

So, we need to have some resolution to these questions.

I want to now move to a more difficult factor, which is the predatory targeting of Native women and girls.

While most women victims of homicide in the United States are killed by someone they know, there is sufficient evidence that there are predators who target Native women and girls for trafficking.

In 2010, law enforcement officers in Alaska determined that Alaska Native girls and women who traveled to Anchorage are often targeted by sex trafficking rings, in part, because of their marketability in the sex trade.

FBI Agent Jolene Goeden explained, “Native girls are targeted, in part, because they are considered versatile, meaning they can be advertised on the Internet as Hawaiian or Asian.”

An Anchorage-based sex trafficker named Troy Williams, who was finally convicted after years of targeting Alaska Native teenage girls who were struggling with rough childhoods, poverty and addiction, trapped victims in the sex trade through brute force, including sadistic beatings, icy baths, and sleep deprivation.

In Canada, an investigation by reporters for Globe and Mail Newspaper concluded that indigenous women in Canada, which has a similar history, are seven times more likely than a non-indigenous woman to die at the hands of a serial killer.

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

[The prepared statement of Ms. Deer follows:]

PREPARED STATEMENT OF PROFESSOR SARAH DEER, UNIVERSITY OF KANSAS

The Honorable Chairman Raúl M. Grijalva, Ranking Member Rob Bishop, Chairman Ruben Gallego, Ranking Member Paul Cook, and members of the Committee, Hensci! Mvccv nettv ce homv hueret cem kerkuecetv vm pohateckat, mvto cekicis. Svcvfvckes.¹

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

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

STATISTICS: WHAT WE KNOW

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

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

buy-in from marginalized communities who have been victims of oppression at the hands of the Federal Government for centuries.

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

Currently, there is no formal government-funded national database that carefully and deliberately tracks cases of MMIW. Fortunately, a Native-owned and -operated non-profit organization known as the Sovereign Bodies Institute (SBI) has been working tirelessly since 2015 to gather as much data as possible using open source reporting and input from family members of MMIW. I share this data with the permission of the Sovereign Bodies Institute (SBI):

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

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

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

Currently, the database has over 1,870 MMIW names in the United States. Most of the database is recent; approximately 75 percent of the names of MMIW are cases from the year 2000 or later.

- Demographics: The average age is 26, but over one-third are 18 years old and under
- Over 436 different tribal nations are represented in the database
- Categories: Within the database, approximately 50 percent are murder cases, 40 percent are unsolved missing cases, and the status of 10 percent are unknown
- Foster Care: The database tracks Native girls who go missing or are killed while in foster care. Of those girls, over 75 percent of them were experiencing abuse in their foster home
- Mothers as Victims: The database reveals that over 85 percent of the MMIW are mothers. This means countless numbers of youth are growing up without a mother.
- Vulnerability: 29 of the 1,870 entries of MMIW have another MMIW in their family
- Police Violence: There are nearly 40 cases of deaths caused by police brutality or deaths in custody in the database

REASONS FOR HIGH RATES OF MMIW

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

These explanations include:

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

A. Jurisdiction

Native women and girls are vulnerable to violent crime because of the complicated jurisdictional scheme that applies to Indian Country. Whether a Native person is taken against their will from the reservation, is being held against her will on the reservation or is the victim of a homicide on the reservation, tribal officials will usually be the first responders. However, tribal criminal jurisdiction is significantly and

unacceptably curtailed, particularly when the offender or suspected offender is non-Indian.²

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

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

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

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

B. Indifference from Officials

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

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

The Oversight Hearing heard from Ms. Kimberly Loring-Heavy Runner. When Ashley Loring-Heavy Runner went missing on the Blackfeet Reservation, her family reported the crime only to find that there wasn't much interest in the case. Her sister, Kimberly said, "No one took it seriously . . . They just said: 'She's of age, she can leave when she wants to.' When we talk to other families whose girls went missing, they say that's what they got from law enforcement, too. It's not a proper response."⁴

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

C. Failure to Adequately Fund Tribal Justice Systems

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

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

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

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

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

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

⁵Sharon Cohen & Mary Hudetz, *Haunting Stories Beyond Missing Posters of Native Women*, Associated Press, September 4, 2008.

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

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

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

The report also cites to a 2011 U.S. Government Accountability Office Report on Indian Country Criminal Justice⁹ concluding that the Departments of the Interior and Justice should strengthen coordination to support tribal courts. The GAO report documents the challenges tribal courts face given their level of support.

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

D. Predatory Targeting of Native Women and Girls

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

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

In Canada, an investigation by reporters for the *Globe and Mail* newspaper concluded that Indigenous women in Canada are seven times more likely than a non-Indigenous woman to die at the hands of a serial killer.¹⁵ The President of the Native Women’s Association of Canada said that “vulnerable indigenous women are being “targeted” in urban centres by killers confident they will get away with it.”¹⁶

⁷*Id.* at 48 (2018).

⁸*Id.* at 43 (2018) (emphasis added) (footnotes omitted).

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

¹⁰Bureau of Indian Affairs report.

¹¹Bureau of Indian Affairs September 2015 report.

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

¹³DeMarban, *id.*

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

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

¹⁶Baum & McClearn, *id.*

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

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

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

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

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

RECOMMENDATIONS

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

1. Make accurate national data collection on the MMIW crisis a priority.
2. Restore criminal jurisdiction so that tribal governments can prosecute non-Indians who murder, kidnap, or traffic in Native people. Currently these crimes cannot be prosecuted by the tribal nation if committed by a non-Indian. The Supreme Court's *Oliphant* decision requires a legislative fix. Tribal law enforcement and prosecutors should not be prohibited from protecting the people they serve.
3. Provide funding to tribally lead local and regional efforts to address the MMIW crisis through the Gathering of Native Americans (GONA) curriculum. The GONA curriculum is already endorsed by the Department of Health and Human Services.¹⁸ The GONA model is an indigenous-centric model that encourages and solicits tribal leadership to develop solutions to difficult problems.
4. Improve the efficacy of the Federal NamUs (National Missing and Unidentified Persons System) by encouraging better response times for entering data.
5. Develop at least two dedicated funding streams—one for tribal nations who wish to develop a plan for addressing MMIW within their jurisdiction and a second dedicated funding stream for non-profit organizations that intend to study and support MMIW, particularly non-profits with survivors and family members on the board of directors.

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

¹⁸Substance Abuse and Mental Health Services Administration, *Gathering of Native Americans Fact Sheet*, (2016).

6. Any new MMIW funding for Federal agencies must require the development of protocol guidelines for responding to MMIW. Federal agencies should only receive funding for the development of these guidelines if they have a plan for meaningful consultation with tribal leaders and families of MMIW.
7. Require action by all U.S. Attorneys to develop protocols and collaborative efforts with tribal nations for MMIW issues. This should apply even include U.S. Attorneys without tribal lands in their districts, because MMIW cases often arise off reservation, especially in cities. Tribal members travel just as widely as other Americans, but they are not always well served by local police departments far from their ancestral homelands.
8. Require Federal law enforcement agencies, including the FBI, to start accurately logging race/tribal affiliation in their database of missing persons.
9. Require Federal law enforcement agencies to share information about MMIW with tribal nations. On the basis of comity and respect, if a Native person goes missing outside of tribal jurisdiction, then tribal nations (as sovereigns), are entitled to know if their citizens are missing. This is also an important investigative step in learning more about MMIW.
10. Require Federal law enforcement agencies to track the number of MMIW reported in their jurisdiction to be published in the required annual Tribal Law and Order Act report.

CONCLUSION

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

QUESTIONS SUBMITTED FOR THE RECORD TO PROFESSOR SARAH DEER, UNIVERSITY OF KANSAS

Questions Submitted by Rep. Haaland

Question 1. As part of your “recommendations” in your written testimony (suggestion #4), you stated that there should be a “funding stream for non-profit organizations” to help address Missing and Murdered Indigenous Women (MMIW). If Congress allocated money for these non-profits, how would that funding help address the issue of MMIW and domestic violence in urban areas where 70 percent of the Native American population currently reside?

Answer. I believe this recommendation is actually #5 on my list. In terms of non-profit funding, I believe it would be helpful if urban Indian centers were eligible for funding, based on the fact that most Native people do not currently reside on reservations and many of the missing and unsolved murders are reported from urban (or off-reservation) communities. Urban Indian centers are often the only safety net that Native people have and I believe that they are often in the best position to help organize a response in those environments. At the same time, we want to ensure that tribal governments are not excluded from funding opportunities.

Question 2. What else do you think could be done in urban areas with high populations of Native Americans/Indigenous women to help address this issue?

Answer. It would be helpful if the Subcommittee were to hold field hearings in some of these urban areas so that Members could hear firsthand what families and communities need in order to stem this crisis. Based on what I am hearing from families, there is a real concern that law enforcement agencies often adopt a position of indifference when a Native woman or girl goes missing. More training might be useful, but such training should be developed and designed in collaboration with Native organizations.

Questions Submitted by Rep. Grijalva

Question 1. In your expert opinion, what is the historical context of the MMIW crisis, and how do you think that history exasperates the issue to this day?

Answer. It is difficult to pinpoint an event or time when the crisis of MMIW began, because the trafficking and abuse of Native women has been ongoing as part of the settler colonial efforts to extinguish Native people. Historically, the protection

of Native women has not been a priority for the United States or local governments. Even though the official policy is no longer one of extermination or termination, the attitudes and culture remain. Whether conscious or subconscious, there remains within much of the law enforcement community a sense that MMIW are not worthy of high priority investigations. While there are certainly exceptions to the rule, I believe that training for law enforcement agencies must include a historical component.

Question 2. Ideally, what do you feel like is the proper response to MMIW from a law enforcement standpoint? (tribal, state, local agencies)?

Answer. Because Native women are highly vulnerable to trafficking and homicide, it would be ideal if law enforcement agencies had a more immediate response to a report from family and friends. I have heard from families that investigations are often delayed for weeks or months.

Question 3. In your written testimony, you highlighted the colonial history of Indigenous women. What are the current statistical gaps when it comes to Missing and Murdered Indigenous Women?

Answer. Unfortunately, we have very little data about the contemporary crisis. Even state or local agencies that have publicly-available data about missing adults do not specify whether the person is Native or not. Thus, it is hard to gather enough information for a national estimate.

Question 4. What role does tribal sovereignty play in addressing this violence?

Answer. Native women are citizens of tribal nations. Tribal nations should be apprised when their citizens go missing and be kept informed as to the status of the case. Typically, when a foreign national goes missing or is murdered in the United States, it is common courtesy to keep their home country informed as to the investigation whenever possible. I believe tribal nations should be accorded that same courtesy.

Question 5. Your written testimony states that many Missing and Murdered Indigenous Women cases are “unsolved.” What does an unsolved case mean? What are your recommendations for these unsolved cases as it relates to MMIW?

Answer. By “unsolved” I mean there has not been a resolution to the incident. When a Native person is reported missing, until that person is found, there is no resolution. Families have no closure. Cases can go “cold” for years. An unsolved murder is one where there has been no determination as to the assailant(s), and so no one is held accountable for that murder. Again, this leaves families and communities reeling from the loss of a valued member of the community without any resolution.

Question 6. Why are police investigations into MMIW cases plagued with delays and missteps?

Answer. I’m not sure we know enough to be able to make generalizations about what goes wrong. Anecdotal information from families and community members report that searches are delayed for weeks—sometimes months. They report indifference from law enforcement agencies who often do not make these cases a priority. It can also be very difficult to determine which law enforcement agencies (tribal, state, or federal) should be the lead investigatory agency.

Question 7. Your written testimony noted 40 cases of deaths caused by police brutality or deaths in custody. Do you have recommendations on how to address issues related to police brutality and deaths in custody? How does this relate to violence against Indigenous women?

Answer. There are many ongoing efforts to try to address police brutality and deaths in custody for all people of color. While most law enforcement officers do not abuse their authority and they treat suspects with dignity, there are significant exceptions to this rule. Native families have reported that their loved ones have been mistreated, abused, and even killed by law enforcement officers. I believe there should be better screening for law enforcement officers and swifter action when an accusation is levied. This relates to violence against Native women because women and girls are often the victims of police brutality. This, in turn, makes communities distrust law enforcement and thus less likely to trust or engage with law enforcement when a loved one goes missing.

Mr. GALLEGO. Thank you, Professor.

Next, we have the Honorable Ruth Buffalo, State Representative from North Dakota House of Representatives 27th District.

STATEMENT OF HON. RUTH BUFFALO, STATE REPRESENTATIVE, NORTH DAKOTA HOUSE OF REPRESENTATIVES 27TH DISTRICT, FARGO, NORTH DAKOTA

Ms. BUFFALO. Good morning. [Speaking native language.] My name is Ruth Buffalo Woman Appears. Thank you. It is an honor to be here in front of you to share about this important topic.

I am a member and a citizen of the Mandan, Hidatsa, and Arikara Nation and descendent of the Chiricahua Apache. Currently, I am representing District 27 in South Fargo. I am a newly elected member to the House of Representatives in North Dakota, the 66th legislative assembly.

I want to share a little bit further about my tribal heritage. In our communities, in the Hidatsa specifically, we are a matriarchal society, so the women carry, pass on the clan. I am a member of the Dripping Earth Clan. So, as you can tell, when we lose our women, it is a huge hit on our entire community.

We still hang onto some of these matriarchal traditions, such as our women sitting during prayer while our men stand because the men have such great respect for our women.

I have introduced four legislative bills which address the epidemic of missing and murdered indigenous people and human trafficking, and I also want to acknowledge the good work that has been done by former Senator Heidi Heitkamp with regards to the missing and murdered and also human trafficking.

In addition, I have brought forward a study resolution to further examine the issue of missing and murdered indigenous people and human trafficking and a resolution urging Congress to pass Savanna's Act. This legislation has passed through the North Dakota House and now awaits action in the North Dakota Senate.

It is important to note that the legislation introduced in North Dakota is non-gender specific, as we wanted to include all genders in using the language "missing and murdered indigenous people."

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

House Bill 1313 would create a state repository for missing persons, including indigenous populations. This bill comes with a fiscal note of \$75,000 to update the software of the Criminal Justice Information System within the Attorney General's Office.

In addition, this bill would address the need for accuracy in data collection of missing and murdered indigenous people.

House Bills 1507 and 1541 will provide human trafficking prevention and awareness training to hotels, establishments, and schools.

I wish I had more data to share with you, but the fact that I do not is part of the reason why I am here.

As a resident of Fargo, North Dakota, I found myself on the front lines of the search for Savanna in August 2017. Elder women from

the Turtle Mountain Band of Chippewa asked me to lead the search the following day.

In our culture, when someone asks you to do something, you do not say no, especially if a female elder makes the request.

We began the search on August 27, my birthday. Later that day, kayakers found the body of the deceased Savanna Greywind in the Red River.

From that day forward our eyes were opened to the very real threat before us, and we formed a local task force in the Fargo-Moorhead area dedicated to preventing such tragedies from ever happening again.

And we thought if and when this should ever happen again, we did not want to waste time in having to convince law enforcement that we are human beings and that we deserve justice.

There cannot be, there must not be, any more stolen sisters. We simply cannot tolerate losing any more sisters in this way.

From my experience of being a volunteer searcher, it has led me to find solutions. I thought of how Savanna was an enrolled member of a federally recognized tribe, but grew up in Fargo off of the reservation. From the start of the search, I wanted Federal agencies to become involved. After all, she was a member of a federally recognized tribe.

The realities of the situation dictated that we must work with local authorities when instances occur outside of the reservation.

One thing that will forever ring in my mind is attending the trial and hearing what one of the murderers said that day to the police. He told the police, "She always goes missing," or, "she is always taking off. Her parents were just here last week looking for her," when we knew this statement was false.

But it raises many questions. Did this comment sway law enforcement or not into taking swift action? That is why we continue working for justice and for healing our communities.

Some of the recommendations that I would like to quickly mention is a national inquiry with hearings held throughout the United States in rural and urban areas; to go to the very communities that suffer the loss of their loved ones; to include language of missing and murdered indigenous women and girls and people into the scope of work within the Office of Violence Against Women and the Office of Victims of Crime.

As a public health professional and researcher, I know data tells a story. Without data, there is no clear evidence that a problem exists. Hundreds of communities hold stories of truth from generation to generation. Our communities know which relatives have yet to return to their families. We must help have those stories told by giving them tools and resources to do so and eventually bringing the lost ones home.

Thank you for allowing me to testify before you.

[The prepared statement of Ms. Buffalo follows:]

PREPARED STATEMENT OF REPRESENTATIVE RUTH BUFFALO, NORTH DAKOTA HOUSE OF REPRESENTATIVES, DISTRICT 27

Dosha, Mazda nuxxbaagao, Mr. Chairman and members of the Committee. My name is Ruth Buffalo, I am a citizen of the Mandan, Hidatsa, and Arikara Nation of northwest North Dakota and I represent District 27 in south Fargo; I am a newly

elected member of the House of Representatives in the North Dakota State legislature. I am a public health professional and educator.

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

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

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

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

HB 1313 would create a state repository for missing persons including indigenous populations; this bill comes with a fiscal note of \$75,000 to update the software of the Criminal Justice Information System within the Attorney General's office. This bill would address the need for accuracy in data collection of missing and murdered indigenous people. According to the Urban Indian Health Institute's report on Missing and Murdered Indigenous Women & Girls, 71 percent of American Indians/Alaska Native live in urban and non-reservation areas.¹ The issue of Missing and Murdered Indigenous Women and Girls is a nationwide crisis, worsened by the fact that it is also a nationwide *data* crisis. The National Crime Information Center reports that, in 2016, there were 5,712 reports of missing American Indian and Alaska Native women and girls, with only 116 cases logged in the U.S. Department of Justice Federal missing persons database.

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

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

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

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

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

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

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

The epidemic of our Missing and Murdered Indigenous People has left many of our communities throughout North Dakota and country on high alert. From the horrendous crime committed in the murder of Savanna Lafontaine-Greywind, a young Indigenous mother who was 8 months pregnant, to our indigenous men who go missing.

Recommendations:

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

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

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

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

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

QUESTIONS SUBMITTED FOR THE RECORD TO REPRESENTATIVE RUTH BUFFALO,
NORTH DAKOTA HOUSE OF REPRESENTATIVES, DISTRICT 27

Ms. Buffalo did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Rep. Haaland

Question 1. I appreciate the work that you have done in your state to address the epidemic of MMIW and human trafficking. I want to assure you that I am working on Savannah's Act in the House to move this issue forward in Congress. From the state perspective, what complications do your law enforcement officials encounter when working on MMIW cases, especially in coordinating with tribal law enforcement?

Question 2. Are these complications further exacerbating the gaps in data collection that we see across the board? Also, how does this complicate data collection in urban areas where 70 percent of American Indians live?

Questions Submitted by Rep. Grijalva

Question 1. What are concrete steps the Federal Government can take to enhance tribes' ability to respond to this crisis?

Question 2. Who should be leading efforts to address this violence, and how can the Federal Government support them in doing so?

2a. How can Congress collaborate with on the ground efforts to address this issue?

Question 3. What are the cultural aspects that need to be considered when working with state and tribal governments on this issue?

Question 4. If you have one recommendation for the Federal Government to address this issue, what would it be?

Mr. GALLEG0. Thank you, Representative.

Next, we would like to introduce Ms. Mary Kathryn Nagle. She is a Legal Counsel for the National Indigenous Women's Resource Center.

**STATEMENT OF MARY KATHRYN NAGLE, LEGAL COUNSEL,
NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER
(NIWRC), LAME DEER, MONTANA**

Ms. NAGLE. Thank you.

Good morning, Chairman Gallego, Chairman Grijalva, Ranking Member Paul Cook, and all of the members of the Committee. Thank you so much for inviting me here today and for your time and consideration of this very important issue.

I am honored to represent, as Legal Counsel to the National Indigenous Women's Resource Center, a national non-profit, dedicated to the restoration of tribal sovereignty and jurisdiction to protect and save the lives of Native women and children.

The NIWRC has played a critical role in raising awareness around the missing and murdered indigenous women crisis here in the United States today. The NIWRC has hosted numerous educational trainings, briefings on the Hill. They have hosted screenings of educational films, held candlelight vigils, and collaborated with local grassroots organizations to generate support for a national day of awareness for missing and murdered Native women and girls.

Our main office is in Lame Deer, Montana, and so our staff directly experienced the losses of both Henny Scott and Hanna Harris. This is a crisis that strikes at home, and it strikes deep.

In September 2018, the NIWRC hosted a candlelight vigil at the Smithsonian Museum of the American Indian. We were honored that Congresswoman Gwen Moore came and spoke about the importance of the restoration of tribal jurisdiction, supplementing with tribal resources to tribal law enforcement, and compelling the Federal Government to take this issue seriously and investigate and prosecute cases of murdered and missing indigenous women.

But probably the most impactful moment of that candlelight vigil was when Florence Choyou spoke and shared the story of her daughter Monica, who was murdered during a domestic violence action in the Keams Canyon on the Hopi Reservation.

As to myself, I am a citizen of the Cherokee Nation. I am an attorney, and I am direct descendant of a tribal leader, my great-great-great-grandfather who in the 1820s, as speaker of our tribal council, worked to create and establish our Cherokee Nation Supreme Court and pass a law that criminalized the rape of any woman on Cherokee lands regardless of the identity or race/citizenship of the perpetrator.

I am a direct descendant of a tribal leader who understood the connection between tribal sovereignty and safety for Native women,

and that understanding informs and commands the work that I undertake today.

I think all of our written testimony, the testimony of my colleagues today, underscores the depth of this crisis, the fact that our women are murdered 10 times the national rate on reservations.

In addition to that incredibly high rate of violence, we also know, from a statistic of the DOJ National Institute of Justice, the majority of violent crimes committed against Native women are committed by non-Indians.

So, even though our members of our own nations and our communities are committing these crimes, we have a huge crisis of non-Indian perpetrated violence against Native women.

And because in 1978 the Supreme Court eliminated tribal jurisdiction, this has only exacerbated the crisis that, as Professor Deer mentioned, has been accumulating over hundreds of years since 1492.

However, when we look at the missing and murdered indigenous women crisis, the jurisdictional loophole is a major source of the high rates of violence against our women and the lack of a response. Because of this Supreme Court decision in 1978 and the current legal framework, for a tribal nation to undertake an arrest and then prosecute a perpetrator who has murdered or kidnapped a Native woman, the tribal government must, for jurisdictional purposes, determine that the identity of the perpetrator is a citizen of a federally recognized tribe, an Indian. And if they cannot determine that, that paralyzes tribal law enforcement and the tribal government from working to protect their own citizens.

This is the case so often. It was the case with Olivia Lone Bear. When she went missing in October 2017, her tribal nation could not determine whether or not it had jurisdiction simply because they could not identify the identity of the perpetrator. And although her brother, Matthew Lone Bear, repeatedly demanded that all state, tribal, and Federal officials act immediately to locate her and to search for her, it was not until 10 months later, after he had been asking for 10 months for the Federal authorities to search all bodies of water on the reservation, that they found her deceased in her truck at the bottom of Lake Sakakawea.

Often when one of our women or girls goes missing, it is our family members and our friends who undertake the search to rescue her, not law enforcement. That has to change.

So, it is not only a jurisdictional issue. It is the lack of response from the Federal authorities, who oftentimes under the current legal framework do have jurisdiction and yet do nothing.

Another major issue that I have written much about in my written testimony and what the NIWRC recommends is more access to the National Criminal Information System, NCIC. Currently, today, only 47 tribal nations have access to this database.

This database is a critical tool any time a Native woman goes missing or is murdered for justice, and right now the lack of access that tribes have with only 47 of the 573 federally recognized tribes having access is a huge impediment.

Finally, lack of resources. Many of our tribal nations do not have adequate funding for their own law enforcement, as well as victim services. As NIWRC has stated publicly for many years and

advocated, we are working so hard to fund victim services because we have to deal with the crisis of domestic violence and sexual assault. Oftentimes those crimes escalate to murder and homicide.

So, we need funding for our victim services and our tribal law enforcement.

Thank you so much for the opportunity to speak today.

[The prepared statement of Ms. Nagle follows:]

PREPARED STATEMENT OF MARY KATHRYN NAGLE, NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER

Dear Chairman Gallego, thank you for the opportunity to testify on the crisis that our women and children currently face.

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

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

As this Subcommittee is aware, there are countless examples of missing and murdered Native women and children where insufficient resources and lack of clarity on jurisdictional responsibilities have exacerbated efforts to locate those missing. On December 12, 2018, Kimberly Loring Heavy Runner appeared before the Senate Committee on Indian Affairs to share her sister's story.¹ Her sister, Ashley Loring Heavy Runner, a 22-year-old Blackfeet woman, disappeared on June 12, 2017. Despite Heavy Runner's family finding evidence tied to her disappearance, the family later learned that the evidence had not been processed, nor had the scene where the evidence was discovered been investigated. The family encountered obstacles when trying to obtain information or support from the Blackfeet Tribal Law Enforcement or the Bureau of Indian Affairs. And, it took 9 months for the Federal Bureau of Investigation to become involved with the case. Information discovered in the early days after someone goes missing is critical to ensuring their safety, but in the case of Ms. Loring Heavy Runner, leads were dropped early on, and she has not been found.

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

And recently, a 14-year-old girl from Northern Cheyenne, Henny Scott, was discovered nearly 3 weeks after she last spoke to her mother, Paula Castro, on December 7, 2018. The Bureau of Indian Affairs did not enter her into the missing

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

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

person database until December 13,³ and the Montana Department of Justice did not issue a Missing and Endangered Person Advisory for Scott until December 26. The body of Henny Scott was discovered on December 28 after a search party composed mostly of volunteers began searching for her. Scott's mother has expressed frustration with how her daughter's case was handled by BIA officials in Lame Deer when she was convinced her daughter was missing.⁴

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

THE ORGANIZING EFFORTS OF NIWRC TO ADDRESS THE CRISIS OF MISSING AND
MURDERED INDIGENOUS WOMEN

As a part of a national movement, the NIWRC has been heavily involved with raising awareness and organizing around the issue of MMIW. Many members of the NIWRC Board of Directors and staff have organized and advocated to increase the safety of Native women since the 1990s. The relationship of NIWRC to this issue is based in this collective history.

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

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

Our on-going efforts to address the critical issues regarding MMIW include leading events and activities locally, regionally, nationally and internationally. For example, the NIWRC has contributed by: coordinating Conversations With the Field (CWTF) discussions, organizing a hill briefing, hosting a reception on Capitol Hill, hosting educational screenings of *Wind River* with accompanying panel discussions, providing testimony at international advocacy forums, educating tribal leaders prior to each annual tribal consultation, participating in awareness activities/marches/vigils, creating webinars, creating a toolkit, organizing with grassroots organizations

³Mike Kordenbrock, *Family, community filled with questions after teen's death on Northern Cheyenne Reservation*, Billings Gazette (Dec. 29, 2018), https://billingsgazette.com/news/state-and-regional/crime-and-courts/family-community-filled-with-questions-after-teen-s-death-on/article_768c2bb9-189e-51f7-bdb3-4c274bc86ea7.html.

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

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

around the support of a National Day of Awareness for Missing and Murdered Native Women and Girls, and, last but not least, providing countless updates during various NIWRC and partner conferences, including NCAI Violence Against Women Task Force meetings. The NIWRC has also contributed numerous articles in NIWRC's Restoration Magazine since 2008 concerning the issue of MMIW, and I have submitted one such article along with my written testimony. (Please see attachment, "*MMIW and the Need for Preventative Reform*"). The NIWRC's Restoration Magazine is an incredible resource on many issues related to ending domestic violence and sexual assault against Native women, as well as MMIW.

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

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

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

In February 2018, the NIWRC and several partners successfully hosted a reception and an event: "*Understanding the Crisis of Missing and Murdered Native Women*" at the Capitol Visitor Center in Washington, DC. The event coincided with NCAI's Executive Council Winter Session and was partnered with NCAI, the National Indian Gaming Association, the ILRC, the StrongHearts Native Helpline, the AKNWRC, the Tunica-Biloxi Economic Development Corporation, the Tunica-Biloxi Tribe, the Cheyenne River Sioux Tribe, and the Shakopee Mdewakanton Sioux Community. We also hosted a briefing to discuss MMIW issues and followed the event with a screening of *Wind River*. The event was well attended by Hill staffers, tribal leaders, and advocates from across the country who are actively engaged in addressing the issue of violence against Native women.

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

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

a domestic violence incident in Keams Canyon on the Hopi Reservation. The event concluded with a candlelight vigil.

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

THE NIWRC TRIBAL COMMUNITY RESPONSE TOOLKIT FOR ACTION: AN OVERVIEW TO ASSIST COMMUNITIES PREPARE TO ADDRESS MMIW

The need for a response to the urgent crisis of MMIW in the United States is very clear. Until recently the issue of MMIW has not been included in most federally funded grant programs impacting violence against women. Because NIWRC is primarily federally funded, most of our work in this area has been undertaken using non-Federal funding or with our volunteer time. But, we understand the importance of responding at a tribal, state, national and international level to this crisis. The NIWRC also understands the lack of educational awareness and general lack of response from law enforcement agencies. The NIWRC's main office is located in Lame Deer, Montana, and our staff experienced the disappearance and losses of Henny Scott and Hannah Harris directly as members of that community. In addition, many NIWRC Board Members and staff have personally suffered the loss of family and community members.

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

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

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

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

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

POLICY RECOMMENDATIONS TO ADDRESS MURDERED AND MISSING INDIGENOUS WOMEN

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

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

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

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

1. Focus on prevention by addressing underlying infrastructure concerns as represented by tribal leaders, advocates and survivors. Namely, address the current housing and shelter deficiency that exist in tribal communities and develop an understanding of the issue of MMIW as it pertains to children who age out of foster care;
2. We maintain that a local tribal response is the best response. Therefore, where MMIW cases have a gender-based violence component, it is necessary to consider adopting legislation that would strengthen the local tribal response. Thus, we again propose that Congress enact legislation to strengthen tribal sovereignty by addressing the remaining jurisdictional gaps with respect to the Special Domestic Violence Criminal Jurisdiction (SDVCJ) provisions in the Violence Against Women Act (VAWA) by adopting provisions in VAWA 2019 that are similar to those in the Native Youth and Tribal Officer Protection Act and in the Justice for Native Survivors Act. Congress should also enact legislation to address the issue of implementation for tribes who have Restrictive Claims Settlement Acts (such as Maine and Alaska);
3. Expand and create a dedicated funding stream to support permanent authorization for the Department of Justice's Tribal Access Program (TAP) to ensure that all tribes have access to Federal Criminal Justice Information Service systems;
4. Recognize the need for tribal, federal, and state responses to cases of missing and murdered Native women and girls, including development of local and inter-jurisdictional protocols and establish standardized protocols based on best practices, in consultation with tribal governments as mandated by VAWA, and improve data collection without hampering funding for tribal governments and tribal programs;
5. Establishing permanent funding for victim services in tribal communities is key. Set aside resources for local, tribal responses to MMIW, such as a permanent tribal Victims of Crime Act (VOCA) set aside for tribal victim assistance and compensation programs;
6. Address the unique jurisdictional challenges of Alaska Tribes and support a pilot project for Alaska Tribes to exercise SDVCJ over non-Native perpetrators committing acts of domestic and sexual violence; and
7. Address the long-standing resource disparity Indian tribes face when funding their tribal victim advocacy and tribal justice services.

POLICY RECOMMENDATIONS TO ADDRESS MURDERED AND MISSING INDIGENOUS WOMEN:
EXPAND THE USDOJ, TRIBAL ACCESS PROGRAM AND ACCESS TO NCIC

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

VAWA 2005 and the Tribal Law & Order Act of 2010 both included provisions directing the Attorney General to permit Indian tribes to enter information into and

obtain information from Federal criminal information databases. Indian tribes have raised this issue for years. In response to these concerns, in 2015, the USDOJ announced the Tribal Access Program for National Crime Information, which provides eligible Indian tribes with access to the Criminal Justice Information Services systems.

Under TAP, tribes have successfully begun entering information directly into the Federal databases, resulting in nearly 600 sex offender registrations and over 550 sex offender check-ins, nearly 300 instances of data entry that would prohibit someone from being able to purchase a firearm, over 1,000 orders of protection entered or modified, and over 4,200 fingerprint-based record checks for civil purposes that include employment, tribal housing placement and personnel/volunteers who have regular contact with or control over Indian children. These are the sorts of achievements that prevent the escalation from domestic violence to homicide, and serve to assist law enforcement in the apprehension of a suspect before he commits yet another crime that could result in the murder or kidnapping of a Native woman.

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

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

CONCLUSION

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

The following documents were submitted as supplements to Ms. Nagle's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

- The National Congress of American Indians—Resolution #PHX-16-077, Title: Addressing Crisis of Missing and Murdered Native Women.
- Restoration Magazine, Volume 16, Issue 1, February 2019, National Indigenous Women's Resource Center, "MMIW and the Need for Preventative Reform," by Caroline LaPorte, Senior Native Affairs Advisor, NIWRC.

QUESTIONS SUBMITTED FOR THE RECORD TO MARY KATHRYN NAGLE, NATIONAL INDIGENOUS WOMEN'S RESOURCE CENTER

Questions Submitted by Rep. Haaland

Question 1. In your testimony, you stated that there are resources needed for victim services which would provide meaningful interventions for survivors of gender-based violence. What types of programs would be most effective to address this? Is the funding needed in Indian Country, urban areas, or both?

Answer. First, it is critical to have tribal programs in place that provide meaningful interventions to Indian victims *before* domestic and sexual violence, including sex trafficking, escalates to abductions, homicide or murder. Funding for such services is needed in Indian Country and urban areas. Less than one-half of all Indian tribes receive funding to serve victims of crimes enumerated under the Violence Against Women Act (VAWA). The vast majority of Indian tribes lack any services for victims and many of these tribes are geographically isolated in rural or remote areas. Generally more funding is available for victim services programs in urban areas

than for Indian tribes. Many tribes continue to serve their people wherever they are located, including urban areas, with what limited resources they have.

In past reauthorizations of VAWA and the Family Violence Prevention and Services Act (FVPSA), Congress created programs for Indian tribes. These programs and resources have made a difference in the lives of Indian victims and should continue to be reauthorized.

However, the funding for tribal services remains insufficient. According to the National Institute of Justice, 38 percent of Indian victims were unable to receive necessary services, including medical care and legal services.¹ Resources like the StrongHearts Native Helpline, a culturally appropriate, confidential service for Native Americans affected by domestic violence and dating violence, have found that there is a severe tribal resources disparity that is a barrier for tribal governments limiting how and what advocacy and justice services they are able to develop and provide their citizens and non-Indian residents.

This resource disparity is, in large part, due to the fact that tribes did not have direct access to the Crime Victims Fund (CVF) through the Victims of Crime Act (VOCA) until last year. Though the FY 18 Omnibus Spending Bill includes a 3 percent set aside for tribal governments, a permanent fix is needed. There must be a government-to-government funding stream legislatively established for tribal governments accessing the CVF. Critical resources like the StrongHearts Native Helpline, Tribal Domestic Violence and Sexual Assault Coalitions, tribally-run or Native-based shelter and sexual assault services, services designed to address sex trafficking, tribal housing, legal services, comprehensive medical and forensic services, mental health services, services for Native children and youth affected by domestic and sexual violence, other culturally appropriate programs and services, and technical assistance supporting tribal response development are absolutely vital to any meaningful response to violence in tribal communities. The current funding available in Indian Country is inadequate to address these needs—from the provision of basic, emergency services and responses to more comprehensive, long-term services—and is a breach of the Federal trust responsibility to assist Indian tribes in safeguarding the lives of Indian women.² Without adequate Federal assistance through resources for Indian tribes, Indian women will continue to go missing and be murdered at the highest rates in the country.

The crisis of MMIW in urban areas deserves attention. The Urban Indian Health Institute (“UIHI”), based in Seattle, Washington, recently conducted research across 71 urban areas and cities with a significant Native population.³ The Institute’s findings are remarkable and alarming and provide a partial view of the barriers facing Indian women vulnerable to murder and abduction. The majority of urban area law enforcement agencies fail to keep data or records to indicate if and when a Native woman is murdered or missing within their jurisdiction.⁴ The UIHI Report called for reforms around the experiences of urban Indians, including funding to ensure proper data collection.

Where the reforms in Indian Country are rooted in the Federal trust responsibility to assist Indian tribes in safeguarding the lives on Indian women, the reforms in urban areas must come from city and state governments that have the authority to respond and responsibility for public safety within their jurisdictions. Unlike Indian Country, city and state governments have the infrastructure and resources to develop their responses and services in partnership with tribal governments and organizations, including urban Indian centers. In addition, because it’s not unusual for Indian peoples to travel between urban areas and tribal lands, cross jurisdictional agreements would maximize efforts to prevent abductions and homicides, including ensuring comity and full faith and credit of tribal court orders, including orders issued from CFR Courts.

Perhaps the Subcommittee would consider supporting pilot projects with existing state and local government funding (e.g., VAWA, Byrne, COPS, VOCA) that would support the development of urban justice responses and advocacy services to the issue of MMIW, including cross jurisdictional agreements with Indian tribes and partnerships with urban Indian centers. Additional funding for Indian tribes could

¹ Andre B. Rosay, *Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey*. Washington, DC: U.S. Dept. of Justice, National Institute of Justice, 2016, NCJ 249736.

² 34 U.S.C. § 10452 Note.

³ The full report and findings can be found here: <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>.

⁴ *Missing and Murdered Indigenous Women & Girls*, <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf> (2018).

focus on the expansion of existing domestic and sexual violence tribal justice responses and advocacy services to address prevention of abductions and homicides.

Question 2. You mentioned that to address this issue, there needs to be improved access to Federal criminal databases. Can you explain the difference between the various available Federal data systems and which one would be the best central point for data collection for MMIW?

Answer. It is critical that just like state and local governments, tribal governments have equal access to the National Criminal Information Center (NCIC) database maintained by the FBI. In fact, given the public safety challenges such as MMIW, this Congress has the opportunity to ensure tribal governments have the access they need to prevent any more Indian women going missing and being murdered. The NCIC database currently consists of 21 files of data. There are seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are 14 persons files, including: Supervised Release; National Sex Offender Registry; Foreign Fugitive; Immigration Violator; Missing Person; Protection Order; Unidentified Person; Protective Interest; Gang; Known or Appropriately Suspected Terrorist; Wanted Person; Identity Theft; Violent Person; and National Instant Criminal Background Check System (NICS) Denied Transaction. The system also contains images that can be associated with NCIC records to help agencies identify people and property items. The Interstate Identification Index, which contains automated criminal history record information, is accessible through the same network as NCIC.

One of the largest obstacles to addressing the crisis of murdered and missing Indian women have been the barriers Tribal Nations face in accessing national crime databases. For instance, without access to NCIC, Tribal Nations are unable to enter the name of one of their citizens if and when she goes missing. This means that other Federal and state law enforcement agencies will not be aware that she is missing, and ultimately it means she is less likely to be located and her life, most likely, will not be saved.

VAWA 2005 and the Tribal Law & Order Act of 2010 both included provisions directing the Attorney General to permit Tribal Nations to enter information into and obtain information from Federal criminal information databases. Tribal Nations have raised this issue for years. In response to these concerns, in 2015, DOJ announced the Tribal Access Program for National Crime Information (TAP), which provides eligible Tribal Nations with access to the NCIC systems.

Under TAP, tribes have successfully begun entering information directly into the Federal databases, resulting in nearly 600 sex offender registrations and over 550 sex offender check-ins, nearly 300 instances of data entry that would prohibit someone from being able to purchase a firearm, over 1,000 orders of protection entered or modified and over 4,200 fingerprint-based record checks for civil purposes that include employment, tribal housing placement and personnel/volunteers who have regular contact with or control over Indian children. These are the sorts of achievements that prevent the escalation from domestic violence to homicide, or serve to assist law enforcement in the apprehension of a suspect before he commits yet another crime that could result in the murder or kidnapping of a Native woman.

As of September 2018, TAP has been deployed to 47 Tribal Nations. While we celebrate this change, the Federal trust responsibility to assist Indian tribes in safeguarding the lives of Indian women extends to all 573 federally recognized Indian tribes, so we must work to grant access to 526 more tribal governments.

A dedicated funding stream should be created for expanding the TAP program and making it available to all interested tribes who meet the requirements. TAP is the best central point for data collection for MMIW. All Tribal Nations should have the ability to access Federal databases not only for the purpose of obtaining criminal history information for criminal or civil law purposes, but also for entering protection orders and other relevant information, including NICS disqualifying events, into the databases.

I want to close NIWRC's response to your question, Representative Haaland, with the words of one mother Florence Choyou and her story (attached) of her daughter's murder:

The man who violently took Monica's life received 3 years and will be released soon. Before coming to our reservation, he was banished from two other nearby reservations for violence. If we had only known of his violence, she might still be alive. The tribal registry might have saved her life.⁵

Questions Submitted by Rep. Grijalva

Question 1. What programs or initiative is your organization or other organizations currently developing to address the MMIW issue?

1a. How is your organization collaborating with local tribal groups or coalitions?

Answer. The NIWRC's on-going efforts to address MMIW include leading events and activities locally, regionally, nationally and internationally. Partnerships with the following organizations and many others identified below have been key to the groundswell of attention and activity: the Alaska Native Women's Resource Center, National Congress of American Indians, Indian Law Resource Center, National Resource Center on Domestic Violence, and tribal domestic violence and sexual assault coalitions including the Native Women's Society of the Great Plains and Healing Native Hearts Coalition.

The list below is not exhaustive, but provides some of what NIWRC has done because of the need:

- conducted Conversations With the Field (CWTF),
- organized hill briefings,
- hosted a reception on Capitol Hill,
- hosted several educational screenings of Wind River with accompanying panel discussions,
- provided testimony at international advocacy forums,
- educated tribal leaders at National Congress of American Indians conferences, including assisting with the passage of 2016 NCAI Resolution, presentations during NCAI Violence Against Women Task Force meetings and during annual VAW government-to-government consultations,
- participated in awareness activities/marches/California Indian film festival/vigils,
- created a toolkit, postcards, issued press releases, and interviews with media worldwide,
- conducted webinars and a social media campaign in support of the National Day of Awareness for Missing and Murdered Native Women and Girls, including Native Hawaiian women,
- assisted with development of video PSAs and a documentary about missing and murdered Alaska Native women, and
- written Restoration Magazine articles since 2008, and I submitted one such article along with NIWRC's written testimony on March 14, 2019. The NIWRC's Restoration Magazine is an incredible resource on many issues related to ending domestic violence and sexual assault against Native women, including MMIW. NIWRC has reported on the crisis of MMIW since 2008.

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

⁵Jacqueline R. Agtuca, *Safety for Native Women: VAWA and American Indian Tribes*, NIWRC, 2014.

Additionally, in 2017, in cooperation with Senator Murkowski, the NIWRC sponsored a MMIW hill briefing in partnership with the Indian Law Resource Center (ILRC) and the Alaska Native Women's Resource Center (AKNWRC), which focused on "Moving Ahead to Increase the Safety of American Indian and Alaska Native Women, Efforts to Address Missing and Murdered Native Women and Girls." In addition to remarks offered by our panelists, Senators Murkowski, Tester and Daines, the NIWRC shared statistics from the NIJ report, Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey and showed the NIJ video, Violence Against American Indian and Alaska Native Women and Men. The NIWRC provided an overview of missing and murdered Native women along with the Senate resolution, calling for May 5th as a National Day of Awareness for Missing and Murdered Native Women and Girls.

In February 2018, in cooperation with Representative Torres, the NIWRC and several partners successfully hosted a reception and an event: "Understanding the Crisis of Missing and Murdered Native Women" at the Capitol Visitor Center in Washington, DC. The event coincided with NCAI's Executive Council Winter Session and was partnered with NCAI, the National Indian Gaming Association, the ILRC, the StrongHearts Native Helpline, the AKNWRC, the Tunica-Biloxi Economic Development Corporation, the Tunica-Biloxi Tribe, the Cheyenne River Sioux Tribe, and the Shakopee Mdewakanton Sioux Community. We also hosted a briefing to discuss MMIW issues and followed the event with a screening of Wind River. The event was well attended by Hill staffers, tribal leaders, and advocates from across the country who are actively engaged in addressing the issue of violence against Native women.

The NIWRC organized additional screenings of Wind River with community discussions at the Haskell Indian University in Lawrence, KS in September 2017, University of South Dakota, Vermillion in February 2018, Pala Band of Mission Indians (CA) in April 2018 during the Sexual Assault Awareness Walk for Honor Walk for Justice organized by the Avellaka Program La Jolla Band of Luiseno Indians, and NIWRC's Women Are Sacred 2018 Conference.

The NIWRC provided statements with NCAI, ILRC and AKNWRC to the United Nations, including at the UNCSW March 2016 parallel event titled "Indigenous Women's Movements to End Violence Against American Indian, Alaska Native, and Aboriginal Women."

In August 2018, the NIWRC supported the Native Women's Society of the Great Plains that organized a candlelight vigil at the annual VAW government-to-government consultation in Sioux Falls, SD.

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

NIWRC has supported organizing efforts nationally and specifically the annual walks held in Lame Deer, Montana, during the National Day of Awareness. The NIWRC national office is located in Lame Deer, and it was also the home of Hanna Harris. NIWRC works closely with Malinda Harris, Hanna's mother, and staff have engaged at various levels of community support from making banners to the helping with the community meal following the walks.

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

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

- Develop a response before a disappearance occurs;
- Contact law enforcement immediately as soon as a disappearance occurs;
- Document and track events—dates and times are essential;

- Issue an alert immediately—a press release, radio announcement, social media post;
- Organize community actions—a vigil, search, justice walk, or march to provide a positive anchor for family and community to support the woman who is missing.

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

The NIWRC has presented four webinars:

- Sept. 2014—“Missing and Murdered Native Women”
- Nov. 2016—“Missing and Murdered Native Women—Public Awareness Efforts”
- May 2017—“Honoring Missing and Murdered Indigenous Women”
- Dec. 2017—“Effective Use of the National Missing and Unidentified Persons System (NamUs) for Case Resolution”

Through our partnership with the Alaska Native Women’s Resource Center and Healing Native Hearts Tribal Coalition, we have supported the development of public service announcements and a video documentary on Missing and Murdered Indian women, which have not yet been publicly distributed. During the March 14 hearing Tami Truett Jerue (Executive Director, AKNWRC) shared one of the PSAs with the Subcommittee.

The NIWRC, with continued grassroots advocacy efforts and in close collaboration with our partners, will continue to raise awareness and advocate for social and systemic change to remove the barriers in laws and policies that prevent Tribal Nations from developing local, tribal responses to domestic and sexual violence, including MMIW. As in the past, since 2008, NIWRC will continue to document efforts in our Restoration Magazine.

Question 2. Your testimony also refers to Alaska having “unique” jurisdictional challenges when compared to other tribes. Can you explain why Alaska has different jurisdictional issues and how the NIWRC is working with Alaska Native tribes to deal with this?

2a. Please provide the historical context and different relationship Alaska Natives have with the Federal Government.

Answer. In 2013, the NIWRC worked closely with Alaska Native village-based advocates to create the Alaska Native Women’s Resource Center dedicated to working with Alaska Native tribes and allies to address domestic and gender-based violence. The AKNWRC formed as its own non-profit in 2015. NIWRC continues to work closely with the AKNWRC.

Chapter 2 titled *Reforming Justice for Alaska Native: The Time is Now* of the Indian Law and Order Commission’s (ILOC) report, *A Roadmap for Making Native America Safer* (November 2013) explains Alaska’s jurisdictional issues, including some of the historical context, and provides recommendations for removing barriers in Federal laws and policies that NIWRC supports. Alaska Native tribes have the same government-to-government relationship with the Federal Government as tribes in the rest of the country.

The extraordinarily high rates of murder, rape, sexual assault, and domestic violence committed against Alaska Native women have been recounted by Senators, documented by the United States Department of Justice, and Federal commissions, including the ILOC. As Senator Lisa Murkowski recently noted, “violence against Native American and Alaska Native women is a dire issue, with murder being the third-leading cause of death of indigenous women.”⁶

⁶ Statement by Senator Lisa Murkowski (Nov. 14, 2018), <https://www.murkowski.senate.gov/press/release/murkowski-highlights-findings-of-new-report-on-missing-and-murdered-indigenous-women-and-girls>.

A *Roadmap for Making Native America Safer* made the following recommendations:

2.1: *Congress should overturn the U.S. Supreme Court’s decision in Alaska v. Native Village of Venetie Tribal Government, by amending ANCSA to provide that former reservation lands acquired in fee by Alaska Native villages and other lands transferred in fee to Native villages pursuant to ANCSA are Indian country.*

2.2: *Congress and the President should amend the definitions of Indian country to clarify (or affirm) that Native allotments and Native-owned town sites in Alaska are Indian country.*

2.3: *Congress should amend the Alaska Native Claims Settlement Act to allow a transfer of lands from Regional Corporations to Tribal governments; to allow transferred lands to be put into trust and included within the definition of Indian country in the Federal criminal code; to allow Alaska Native Tribes to put tribally owned fee simple land similarly into trust; and to channel more resources directly to Alaska Native Tribal governments for the provision of governmental services in those communities.*

2.4: *Congress should repeal Section 910 of Title IX of the Violence Against Women Reauthorization Act of 2013 (VAWA Amendments), and thereby permit Alaska Native communities and their courts to address domestic violence and sexual assault, committed by Tribal members and non-Natives, the same as now will be done in the lower 48.*

2.5: *Congress should affirm the inherent criminal jurisdiction of Alaska Native Tribal governments over their members within the external boundaries of their villages.*

The current VAWA, however, does not ensure safety for Alaska Native women. As re-authorized in 2013, VAWA contained a specific provision (Section 910) exempting 228 federally recognized tribes in Alaska from Section 904’s jurisdictional provision. In December 2014, Section 910’s exemption for tribes in Alaska was repealed. This, however, has not ensured that Alaska tribes can protect their women from non-Indians who commit violent crimes and seek to harm them. The amendment repealing Section 910 did nothing to address the fact that Section 904 limits tribes’ jurisdiction to crimes committed in “Indian country,” a legal term that the U.S. Supreme Court has interpreted to exclude the land bases of almost all of Alaska Native tribes (*Alaska v. Village of Venetie Tribal Government*, 522 U.S. 520 (1998)). As a result, Section 904 continues to preclude 228 of the 229 federally recognized tribes in Alaska from exercising the jurisdiction that has now been restored to other Indian tribes. This jurisdictional loophole leaves Alaska Native women unprotected, and in many instances, makes calling the police a pointless—if not dangerous—exercise.

The Tribal Law and Order Act Commission recommended a legislative fix for *Venetie*. The fix would amend the definitions of “Indian country” to include Alaska Native allotments and native-owned town sites; supporting land into trust applications by Alaska Native tribes; channeling more resources directly to Alaska Native tribal governments for governmental services; and supporting Alaska Native tribes and villages with the exercise of criminal jurisdiction within their communities. The reform needed also requires an amendment to the Alaska Native Claims Settlement Act’s definition of “Indian country” to include Alaska Native allotments and Native-owned town sites. The Indian Law and Order Commission’s Report stated that Congress should legislate a fix for *Venetie* by amending ANCSA to provide that former reservation lands acquired in fee by Alaska Native villages and other lands transferred in fee to Native villages pursuant to ANCSA are Indian Country.

In partnership with the AKNWRC, the NIWRC recommends the adoption of a pilot project—similar to the one created in VAWA 2013—wherein three to five tribes in Alaska will be permitted to exercise SDVCJ (as well as any additional tribal criminal jurisdiction restored in the 2019 reauthorization of VAWA). As this Committee moves forward with VAWA reauthorization, we encourage you to work closely with the Alaska delegation and the Alaska Native Women’s Resource Center to include provisions that will address the needs of Alaska Native victims.

Question 3. Ms. Nagle, NIWRC has done a lot of events both on the local and Federal level to educate the public on this issue, and I want to thank you and your organization for that.

3a. *With that in mind, why do you think it has been, and continues to be, so difficult in getting attention focused on the MMIW issue, especially in the law enforcement and justice arenas?*

3b. *In your opinion, what is the greatest roadblock in this area?*

Answer. In addition to a lack of clear data from urban, state, and local law enforcement agencies across the United States, one of the largest barriers to addressing the crisis of murdered and missing indigenous women is that when a Native woman goes missing—on tribal lands—there is more often than not a jurisdictional barrier to launching the investigation and search and rescue effort that will ensure her safety.

When a Native woman disappears and goes missing, so much of the “response” is based on more questions—which law enforcement agency has jurisdiction to take an initial report, who can respond, who can search, who can investigate . . . and ultimately, who can/will prosecute? The first 24 hours of any missing person case is a crucial time for law enforcement to organize and conduct an immediate search, but too often, questions of jurisdiction impede a timely law enforcement response.

Although the Supreme Court made it clear in *Oliphant* that Congress has the constitutional authority to restore the tribal criminal jurisdiction that the Supreme Court has removed,⁷ until tribal criminal jurisdiction over non-Indian perpetrated crimes of murder is restored, whether a Tribal Government has authority to investigate, arrest, and/or prosecute when a Native woman is missing on tribal lands depends upon the Indian/non-Indian status of the offender, the precise location of the crime (is it on land held in trust?), the nature of the crime, and within what state the tribe is located.⁸

The consequence of this current jurisdictional quagmire is that, most times, when a Native woman goes missing on tribal lands and the local Tribal Government cannot demonstrate that the perpetrator was Indian—or that the crime took place on lands that qualify as “Indian country” under 18 U.S.C. § 1151(a)—then the Tribal Government is without jurisdiction, although the Federal Government could have jurisdiction, the Federal Government most often declines to intervene or take on the case.⁹

The non-existent response of law enforcement leaves the responsibility of a search effort to the family members or tribal community. There is no question that the pillars beneath the crisis of missing and murdered are the restrictions on tribal authority to prosecute non-Natives for crimes committed on tribal lands and the severe resource disparity in Indian Country at large. The current legal framework fails to respond to the disappearance and murder of Native women and girls because that same framework was born during an era of termination of Indian tribes and a prejudiced belief that Tribal Nations should be without jurisdiction to protect their citizens on tribal lands. We often speak of a “broken system” or of legal reform, but the truth is that the legal framework that applies in Indian Country was not designed to protect Native women and girls.

We know that the restoration of tribal criminal jurisdiction over non-Indians works. Five years ago, when Congress passed the Violence Against Women in 2013, the re-authorization of VAWA included a provision, known as Special Domestic Violence Criminal Jurisdiction (“SDVCJ”), that reaffirmed the inherent sovereign authority of Tribal Governments to exercise criminal jurisdiction over certain non-Indians who criminally violate qualifying protection orders or commit domestic or dating violence crimes against Indian victims on tribal lands.¹⁰

⁷ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) at 206–212 (“Congress has the constitutional authority to decide whether Indian tribes should be authorized to try and to punish non-Indians.”).

⁸ See The General Crimes Act, 18 U.S.C. § 1152 (providing that Federal courts have jurisdiction over inter-racial crimes committed in Indian country); the Assimilative Crimes Act, 18 U.S.C. § 1; the Major Crimes Act, 18 U.S.C. § 1153 (providing Federal criminal jurisdiction over 10 enumerated major crimes committed in Indian country that is exclusive of the states); Public Law 83–280, 18 U.S.C. § 1162 (delegating Federal jurisdiction to six states over most crimes throughout most of Indian country within their state borders); *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) (holding that tribes lack criminal jurisdiction over non-Indian defendants); Violence Against Women Reauthorization Act of 2013, S. 47, 113th Congress, Title IX (2013) (expanding tribal criminal jurisdiction to non-Indians for the crimes of domestic violence, dating violence and the violation of protection orders so long as the defendant has certain ties to the community and the tribe provides certain due process protections).

⁹ From 2005–2009, the Government Accountability Office (GAO) found that U.S. Attorneys declined to prosecute nearly 52 percent of violent crimes in Indian country. U.S. GAO, *U.S. Department of Justice Declinations of Indian Country Criminal Matters*, Report No. GAO-11-167R, 3 (2010).

¹⁰ 25 U.S.C. § 1304.

In the 6 years since VAWA was reauthorized in 2013, over two dozen Tribal Governments have begun exercising criminal jurisdiction over non-Indians and several dozen more are in varying stages of planning to implement the law.

From 2013 to 2018, the implementing tribes reported making 143 arrests of 128 non-Indian abusers. These arrests ultimately led to 74 convictions, 5 acquittals, and as of 2018, there were 24 cases then pending. There has not been a single petition for *habeas corpus* review brought in Federal court in an SDVCJ case. Although some argued, prior to VAWA 2013's passage, that Tribal Courts would be incapable of fairly implementing SDVCJ, the absence of even a single habeas petition in the first 5 years reveals that those arguments were unfounded and likely based on prejudice alone. Moreover, for the tribes that have implemented SDVCJ, their juries acquitted more often than they convicted non-Indian defendants. The bias that many previous asserted should prevent Tribal Nations from arresting and prosecuting non-Indians simply does not exist.

The National Congress of American Indians has issued a report summarizing their experiences that shows the true difference that the 2013 Reauthorization has been making on the ground for Native victims. I encourage you to review this report in its entirety as the information, data, and analysis contained in the report demonstrates that the restored tribal criminal jurisdiction in VAWA 2013 (SDVCJ) increased public safety for all of those—both Indian and non-Indian—living on tribal lands and in tribal communities. By all accounts, it has been an incredible success.

Until or unless the inherent authority of Tribal Nations of Tribal Nations to protect their citizens on tribal lands, our Native women and children will not be safe living in their own homes. The restoration of tribal criminal jurisdiction is a critical and requisite component to effectively addressing the murdered and missing indigenous women's crisis in the United States.

Question 4. What avenues of funding are needed to address violence associated with the murder of Native women? What type of funding is needed for tribes and local governments to address problems that arise when a Native woman goes missing?

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

Specifically, the NIWRC recommends establishing permanent funding for victim services in tribal communities. Set aside resources for local, tribal responses to MMIW, such as a permanent tribal Victims of Crime Act (VOCA) set aside for tribal victim assistance and compensation programs.

Funding of Indian tribes to address MMIW is generally zero to inadequate, and this lack of funding generally contributes to the vulnerability of Indian women to abusers and predators. Dedicated funding to Indian tribes under VAWA, FVPSA, and VOCA is based on the government-to-government political relationship of Indian tribes to the United States. These three dedicated funding streams each have specific purposes areas under the respective statute, and all currently include domestic violence; FVPSA is dedicated to shelter for victims of domestic and family violence; and, VOCA broader tribal victim services. All three of these statutes provide services to victims of crimes frequently co-occurring with the disappearance and/or murder of Native women—domestic violence, dating violence, sexual assault, sex trafficking, and stalking. Victim services are essential to prevent the future disappearance or murder of a Native woman. Where the response of the criminal justice system is critical to assist a woman who has disappeared and/or prosecuting the murderer. The following amendments are focused on increasing victim services and justice response, and a better understanding of the crisis of MMIW.

The following recommendations require congressional action to enhance the response of Indian tribes to MMIW and crimes inter-connected to the crisis of MMIW:

- Increase funding to Indian tribes to provide necessary services to victims regardless of where they live and work to prevent disappearances and homicides;
- Increase funding to Indian tribes to develop MMIW protocols;
- Authorize and appropriate under VOCA a pilot program for Indian tribes to develop MMIW protocols and increased response;

- Amend VAWA, FVPSA, and VOCA tribal grant programs to specifically support the development of MMIW protocols in the context of the respective program;
- Amend the VAWA 2013 National Institute of Justice national program of tribal research to add the area of missing Native women (VAWA 2013 included an amendment adding the area of murder);
- Amend the VAWA National Baseline Study to prepare a report to Congress on the crisis of MMIW and appropriate \$1 million per year for 5 years to conduct research and prepare the report;
- Inclusion under the Savanna's Act of a new pilot program to support Indian tribes and tribal non-profits organizations to develop and implement MMIW protocols (as non-profit organizations urban tribal domestic violence or sexual assault programs or urban Indian health centers would be eligible).

Mr. GALLEGO. Thank you, Ms. Nagle.

Next, we have Ms. Tami Jerue. She is the Executive Director of the Alaska Native Women's Resource Center.

STATEMENT OF TAMRA TRUETT JERUE, EXECUTIVE DIRECTOR, ALASKA NATIVE WOMEN'S RESOURCE CENTER (ANWRC), FAIRBANKS, ALASKA

Ms. JERUE. Thank you for inviting me to testify on this important issue today.

I am an enrolled citizen of a small Deg it' tan Athabascan village in the interior of Alaska. I am a mother, a grandmother, an auntie, as well as the Executive Director of the Alaska Native Women's Resource Center.

Missing and murdered indigenous women, or MMIW, is a far too common occurrence and recently has received much attention due to the many raised voices having put the issue in the public eye.

Unfortunately, MMIW did not just start happening a few years ago, but has been happening since the first contact. There are many stories and experiences of Alaska Native women and girls that have faced victimization just because they are indigenous.

Too many of our relatives have suffered abuse and death because of a government system that fails in their legal trust and moral responsibility to assist indigenous nations in safeguarding the lives of our women and children.

There are many stories, such as the 20-year-old Sophie Sergie who traveled to Fairbanks from her small Yup'ik village in Western Alaska in 1993. She went to visit her friend at the University of Alaska. She left the room to go outside and never returned.

She was eventually found, sexually assaulted, stabbed multiple times, shot in the back of the head in a dormitory bathroom.

Unfortunately, for 25 years there had been no justice, and until recently a DNA was linked from a genetic genealogy site which uses family genetic history to find suspects. The DNA was linked to a student who attended the university in the 1990s and is now a nurse working in Maine. Finally, an arrest was made for this heinous crime 25 years ago.

However, often we have no choice and no closure with many of our women who die unexpectedly and unnaturally. The manner of death, while it is far too often considered suspicious and often with visible injuries, is classified as accidental, suicidal, or undetermined.

In the village of Klawock, police suspected foul play in the unnatural death of Francile Ella Turpin, 37, on January 14, 2018. A year later, there is no resolution.

Why is it that our women and families do not get the closure regarding cause of death that the general population takes for granted? Maybe because 40 percent of our communities have no law enforcement or even have 911 services to speak of.

So, who do they call? The first responders are often volunteer medics who their first inclination is to address the injury. The possibility that there could be a crime committed is not even contemplated, and a scene can easily be contaminated before a semi-qualified individual can preserve the scene.

Often first responders are the tribal chief or volunteer advocates who are tasked to preserve crime scene.

Why do our women and girls go missing or are murdered at such high rates? I believe that is a simple but complicated question. The tragic truth is that the impact of colonization, past and current laws and policies, and natural resources development have endangered Alaska Native women and children.

Oftentimes the attitude of people coming into our lands is that the lack of infrastructure, such as local police and services, normally in place that offer protection and justice systems to hold perpetrators of crimes accountable, do not exist in our tribal communities. A mixed message is sent that it is OK to commit crimes against Native people and there will be no consequences.

Sadly, the long history and belief is that Native people are less valuable and a barrier to land and resource development, and American Indian and Alaska Native women are objectified and considered of little importance.

As for the missing and murdered persons and homicides of Alaska Natives, Alaska has the highest number of any state, and these are not per capita numbers. Areas that would help decrease these statistics is to continue funding organizations such as ourselves, Alaska Native Women's Resource Center, which we are developing a community engagement toolkit to address when a person goes missing or dies by unnatural death.

This plan will help tribal communities respond. We cannot wait for the State or Federal Government to act. We recommend we need a jurisdictional fix in Alaska's Indian Country issue in which 228 out of 229 tribes are without territorial jurisdiction and regular and consistent tribal justice and tribal law enforcement funding in Alaska through the Indian Tribal Support Act.

A bipartisan group of co-sponsors in the Senate has introduced Savanna's Act, S. 227, which includes several provisions aimed at improving the response to the cases of missing and murdered women in tribal communities.

However, how it is written now would exclude half of the tribes and needs to address Alaska tribes particularly.

It provides sufficient Federal support for effective and culturally appropriate services to indigenous women, survivors of domestic violence and sexual violence, including to the provision of victim services, rape crisis, and transitional housing.

When indigenous women do not have adequate services and safe housing, they are placed at risk.

Provide permanent access to the Crime Victims Fund for victims' assistance and compensation. The House needs a bill similar to the Senate Survive Act.

Fully implement VAWA 2005 program of research and specifically regarding the disappearance and murders of Native women. We need a baseline study for Alaska. As statistics prove, our situation is worse and may be different than the Lower 48.

And finally, support tribal amendments to H.R. 1585, VAWA reauthorization, including a pilot project similar to the one created in VAWA 2013, wherein Alaska tribes can exercise special domestic violence criminal jurisdiction.

There is a unique opportunity to recognize these issues and make corrections to the laws to support the Nation's first peoples.

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[The prepared statement of Ms. Jerue follows:]

PREPARED STATEMENT OF TAMRA TRUETT JERUE, EXECUTIVE DIRECTOR, ALASKA
NATIVE WOMEN'S RESOURCE CENTER

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

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

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

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

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

We have no closure with many of our women who die unexpectedly and unnaturally. The manner of death, while it is too often considered "suspicious" and often with visible injuries, the death is classified as accidental, suicidal, or undetermined.

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

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

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

As for the murder epidemic, the Violence Policy Center reports that Alaska is ranked first among states with the highest homicide rates of women by men and is the most violent state, with Anchorage as the most violent city within the Union. The Seattle-based Urban Indian Health Institute reports that Alaska is among the top 10 states with the highest number of missing and murdered Native Americans and Alaska Natives with 52 active cases.⁴

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

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

As for the DNA collection, anyone can provide a family reference sample to NamUs, a law enforcement officer, or agent of a criminal justice agency for testing

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

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

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

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

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

According to the National Institute of Justice, the NamUs team was in Alaska October 2018, to do outreach with several law enforcement agencies, the Alaska medical examiner, Department of Public Safety, and others. During those discussions it was raised that there is a backlog in digitizing ~1,200 missing persons cases. Apparently, there is only one person currently working the backlog (Search and Rescue Program Coordinator, Missing Persons Clearinghouse Manager, Alaska State Troopers). That is not to say those cases are not being worked, just that they are not digitized thus unknown how many of those 1,200 cases are American Indian and Alaska Natives.

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

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

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

While there is tremendous diversity among all tribes, it is worth noting that many of the 229 tribes in Alaska experience extreme conditions that differ significantly from tribes outside Alaska. Most of the Alaska Native villages are located in remote areas that are often inaccessible by road and have no local law enforcement presence. The Tribal Law and Order Commission found that "Alaska Department of Public Safety (ADPS) officers have primary responsibility for law enforcement in rural Alaska, but ADPS provides for only 1.0–1.4 field officers per million acres."⁸ Without a strong law enforcement presence, crime regularly occurs with impunity. Victims live in small, close-knit communities where access to basic criminal and

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

⁷ *Supra* fn 1.

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

civil justice services is non-existent and health care is often provided remotely through telemedicine technology. Providing comprehensive services and justice to victims in these circumstances presents unique challenges. In many of these communities, tribal members receive services in informal ways, if at all. Domestic violence victims, for example, may be offered shelter in a home that is a known “safe house” in the village. Many victims of sexual assault never receive forensic medical services. Furthermore, Alaska tribal governments are unique among indigenous American tribes in their lack of access to the same type of government revenues available to nearly every other sovereign entity in the country.

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

According to the 2013 Tribal Law and Order Act Commission Report, Alaska Native women are over-represented in the domestic violence victim population by 250 percent; they comprise 19 percent of the state population but are 47 percent of reported rape victims. And among other Indian tribes, Alaska Native women suffer the highest rates of domestic and sexual violence in the country. Tribal governments are also unable to prosecute crimes of sexual assault, trafficking, and stalking. A 2016 study from the National Institute for Justice (NIJ), found that approximately 56 percent of Native women experience sexual violence within their lifetime, with one in seven experiencing it in the past year.⁹ Nearly one in two report being stalked.¹⁰ Contrary to the general population where rape, sexual assault, and intimate partner violence are usually intra-racial, Native women are more likely to be raped or assaulted by someone of a different race. Ninety-six percent of Native women and 89 percent of male victims in the NIJ study reported being victimized by a non-Indian.¹¹ Native victims of sexual violence are three times as likely to have experienced sexual violence by an inter-racial perpetrator as non-Hispanic White victims.¹² Similarly, Native stalking victims are nearly four times as likely to be stalked by someone of a different race, with 89 percent of female stalking victims and 90 percent of male stalking victims reporting inter-racial victimization.¹³ The higher rate of inter-racial violence would not necessarily be significant if it were not for the jurisdictional complexities unique to Indian Country and the limitations imposed by Federal law on tribal authority to hold non-Indians accountable for crimes they commit on tribal lands.

Historically, Alaska tribes have been treated differently than Lower 48 tribes, often making fundamentals of tribal court jurisdiction challenging to understand or ascertain resulting in recognized disparities which resulted in the FY 17 appropriations for an Alaska Native Tribal Resource Center on Domestic Violence (see attached article, “A Tribal Perspective on VAWA 2018” from Restoration Magazine, V15.3-October 2018 NIWRC). With the passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, the only remaining reservation in the state is the Annette Island Reserve in Southeast Alaska.¹⁴ Rather than recognize sovereign tribal lands, ANCSA tasked the for-profit corporations to manage more than 40 million acres of fee land. ANCSA divided the state into 12 regional corporations and over 200 village corporations that would identify with their regional corporation. Many of these villages had corresponding tribal village governments, but with the passage of ANCSA, no meaningful land base. As a result, unlike most court systems that have defined territorial jurisdiction and personal jurisdiction, Alaska tribal courts generally exercise jurisdiction through tribal citizenship, and not through a geographic space defined as “Indian Country” because of ANCSA and in part due to a U.S. Supreme Court case.

As a result of the U.S. Supreme Court’s unfavorable decision in *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998), most of the tribes’ traditional territory is not considered “Indian Country.” Without the ability to tax, without Indian gaming, and without consistent and predictable tribal court and law enforcement appropriations, Alaska tribes lack the revenue typically available to other tribal governments to fund and sustain essential governmental programs. All

⁹ Andre B. Rosay, Nat’l. Inst. of Justice, Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey, U.S. Dept. of Justice 11 (2016), available at <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

¹⁰ Id., at

¹¹ Id., at 18.

¹² Id., at 29.

¹³ Id., at 32.

¹⁴ 25 U.S.C. 495 (1891).

Alaska tribes are in a similar position and must find innovative ways to raise government revenue and to leverage other resources to sustain their tribal courts and public safety programs. As a result of this resource dilemma, available grants for developing and maintaining programs are incredibly important for Alaska tribes.

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

As required by a provision included in VAWA 2005, DOJ holds an annual consultation with tribal governments on violence against women. For several years tribal leaders have raised concerns at the annual consultation about the inadequate response to cases of missing or murdered Native women. DOJ summarized tribal leader testimony on this issue in 2016: "At the 2016 consultation, many tribal leaders testified that the disappearance and deaths of American Indian and Alaska Native (AI/AN) women are not taken seriously enough, and that increased awareness and a stronger law enforcement response are critical to saving Native women's lives. They noted that missing AI/AN women may have been trafficked, and they also provided examples of abusers who murdered their partners after engaging in a pattern of escalating violence for which they were not held accountable. Tribal leaders also raised concerns that cases involving Native victims are often mislabeled as runaways or suicides, and that cold cases are not given sufficient priority. Recommendations included the creation of a national working group to address these issues and an alert system to help locate victims soon after they disappear, as well as the development of an Indian Country-wide protocol for missing Native women, children, and men."¹⁵

Policy or funding recommendations for the Federal Government to address this issue:

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

We recommend the following:

1. We call on the United States for a jurisdictional fix to the Alaska Native Indian Country issue, and regular and consistent tribal justice funding.
2. A bi-partisan group of co-sponsors in the Senate, has introduced "Savanna's Act," S. 227, which includes several provisions aimed at improving the response to cases of missing and murdered women in tribal communities. While this bill is encouraging in that it has several provisions that will improve the tracking and recognition of the problem, the current version may potentially leave out more than ½ of the tribes sharing concurrent state jurisdiction in P.L. 280 states who have no involvement with the U.S. Attorney Office. We need the House to have a similar bill introduced.
3. However, Savannah's Act places the responsibility for collecting data on law enforcement. As previously mentioned nearly 40 percent of our communities lack any law enforcement, thus we would be left out. We need to make sure that there is more inclusion for all American Indians and Alaska Native communities to be included and considered. A plan needs to include all 573 tribes in the Nation.
4. Providing sufficient Federal support to non-profit, non-governmental indigenous women's organizations to provide effective and culturally appropriate services to indigenous women survivors of domestic and sexual violence, including but not limited to the provision of shelter, rape crisis and transitional housing. When Indigenous women do not have adequate and safe housing they are placed at risk.

¹⁵U.S. Department of Justice, Office on Violence Against Women, "2017 Update on the Status of Tribal Consultation Recommendations," (2017).

5. Provide dramatically increased funding resources for broader community training on domestic/dating violence, sexual assault, stalking, sex trafficking, and trauma and best practices for prevention.
6. Provide increased support for dramatically increased funding resources for tribal courts and tribal law enforcement in Alaska.
7. Provide increased victim services to the families and community members of the disappeared or murdered Native women, such as counseling for the children of the disappeared, burial assistance, and community walks, healing and other tribal-specific ceremonies. The House needs a bill similar to the SURVIVE Act as that would address this issue.
8. Fully implement the VAWA 2005 program of research and specifically provide Indian tribes information regarding the disappearance and murder of Native women. We need a baseline study for Alaska as our situation may be different than what the National Institute of Justice reported in their Violence Against American Indians and Alaska Native Women and Men.
9. Upon enactment of Savanna's Act, provide targeted funding for tribal governments like Tlingit & Haida, perhaps on a pilot program basis, to ensure full participation in and coordination of efforts across Federal departments to conduct research and collect data to better improve tribal government responses to the disappearance or murder of Native women and girls.
10. Support tribal amendments in H.R. 1585, VAWA Reauthorization including a pilot project in section 903—similar to the one created in VAWA 2013—wherein Alaska Tribes can work with each other and with the Department of Justice through an Inter-Tribal Working Group for Alaska Tribes to develop their responses and exercise SDVCJ (as well as any additional tribal criminal jurisdiction provisions proposed in the VAWA 2019 reauthorization). As VAWA reauthorization moves forward, we encourage you to work closely with the Alaska delegation and the Alaska Native Women's Resource Center to address the needs of Alaska Native victims.

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

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

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

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

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The following documents were submitted as supplements to Ms. Jerue's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

- Indian Law & Order Commission: Report to the President and Congress of the United States, "A Roadmap for Making Native America Safer," November 2013. Chapter Two—Reforming Justice for Alaska Natives: The Time is Now.
- National Missing and Unidentified Persons System, NamUs Tribal Update, as of January 30, 2019.
- Restoration Magazine, Volume 15, Issue 3, October 2018, National Indigenous Women's Resource Center, "A Tribal Perspective on VAWA 2018, Extending the Same Protections for Alaska Native Women, by Michelle Demmert, Chief Justice of the Central Council of Tlingit and Haida Indian Tribes of Alaska Supreme Court.

QUESTIONS SUBMITTED FOR THE RECORD TO TAMRA TRUETT JERUE, EXECUTIVE
DIRECTOR, ALASKA NATIVE WOMEN'S RESOURCE CENTER

Questions Submitted by Rep. Haaland

Question 1. In your "Recommendations" in your written testimony, you suggested that victim services are needed for family and community members of MMIW. How do you see the after effects of these crimes impacting the community and especially children? What could we do to help the community heal?

Answer. We need resources and a jurisdictional fix to the Indian Country issue in Alaska. We need sustainable, predictable funding to create and maintain the necessary programs within our communities. As mentioned, we need a jurisdictional fix in Alaska, so once and for all, we aren't fighting to be included in programs and policies with our limited resources. The Tribal Law and Order Commission identified in Chapter 2 of their report, that our communities continue to be vulnerable to heightened levels of violence, including disturbed individuals who prey on Native women, unless more resources and jurisdictional issues are addressed.

Many of our tribal communities are small and many of our relations, both within the community and those that live outside of the community, are impacted by the trauma of not knowing what may have happened to a loved one when they go missing, as well as if a person is taken suddenly and violently through murder or an unexplained death. At this point in Alaska, trauma-informed care is difficult to access particularly in small isolated tribal communities. Lack of access to adequate resources impacts the families directly in their ability to heal particularly from a person who has been taken suddenly through murder. Sadly, law enforcement frequently do not help the situation, as they don't maintain contact with the family to keep them informed of the investigation and as a result, our families suffer. The questions, feelings and lack of justice for that person and family have a negative lingering effect with the family and directly impacts the surviving children. The fear and trauma experienced will continue to have long-term impacts as verified in many studies such as the Adverse Childhood Effects as well as the fear of it happening to them; especially if no one has been held accountable for the murder or the death is unexplained.

When a family member goes missing, many issues come up—blame, guilt, confusion, sadness along with the inability and unwillingness to give up the search. All of these factors can lead to many health, mental health and addictive types of concerns that need attention and culturally based resources. We all process trauma differently. Unfortunately, many of the services that are possibly available are in larger cities and are difficult to access for rural Alaskans.

The resources to our rural areas are often scarce but needed. The services mentioned above, law enforcement, justice systems, victim services, all require resources, money, services and training to provide the necessary support. The state of Alaska, as a P.L. 280 state, has been tasked with providing these services but over the years these services have not been forthcoming. The state's actions demonstrate it does not understand the needs of rural communities, or worse yet, that these communities and citizens are not a priority. The current budget crisis in Alaska continues to decrease the resources allocated to our villages. One example is that if a village judicial officer retires, the state may not fill that position to save costs. When the magistrate retired in Kake, the state closed the court there. This story is not unique. The state also withdrew funding for law enforcement there. Right now, in Kake, while Village Public Safety officers (VPSOs) can respond to some emergencies, 911 services are off site, and sometimes citizens are only able to leave a message. Law enforcement, except for the limited services a VPSO can provide, is also off site, and as a result, their response is often delayed, jeopardizing even the possibility of access to justice because a crime scene goes stale or the chain of custody is lost. Many other villages lack even a VPSO. Our villages need resources to address the same criminal justice needs that urban citizens face. Fortunately, the tribes stand by, ready to partner with the state and fill the need, not only for its tribal citizens, but all rural citizens. However, without adequate resources this solution is not viable at the present time.

Our urban populations, meanwhile, have access to other resources, as individuals who reside where the Federal Government and states provides services, but their access to justice can be similarly impaired. At a recent meeting in Washington State, Central Council of Tlingit and Haida Indian Tribes of Alaska held a joint meeting with the Washington State Patrol to help with identifying resources for MMIW cases. Tlingit & Haida has more than 6,000 tribal citizens in the Seattle area. They heard story after story from Alaska Native indigenous women and their families who have been mistreated by law enforcement in urban areas and how this

mistreatment is its own trauma that imprints within them. In some places, law enforcement asked victims if the abuse they suffered was not typical “for their people.” In other places, the families of missing women have been told the women have a right to disappear, even when there is evidence of a crime or violence thus evidencing a lack of understanding of what our people face and very little sympathy and compassion to finding a solution. What?! That view is shocking and lacks any understanding of the epidemic that we are facing. The families are brushed aside, with the same sentiment, ‘this reality is typical for your people.’ The unspoken message sent when time and energy are not allocated to these incidents is that the treatment is typical, and acceptable. Our communities thus shun the law enforcement as meaningless and possibly causing more damage and pain than helping with any situation.

Questions Submitted by Rep. Grijalva

Question 1. Ms. Jerue, we’ve heard mention of the NamUs database, which is an entirely volunteer system for tracking missing people and the fact that it doesn’t even coordinate with the FBI Criminal Justice Information Service’s missing person file.

1a. What are the other shortcomings of this current tracking system, and how do those effect getting accurate data on MMIW?

Answer. NamUs has been very helpful in getting information to a broader amount of people when searching for information on a loved one who has gone missing as well as identifying whether that person may be an indigenous person. That being said because of its volunteer status, it may not, and probably is not, accessed regularly by law enforcement over many jurisdictions. However, in Alaska, where there is law enforcement, there may be limited access to FBI Criminal Databases due to remote locations and lack of consistent access to quality internet or cellular service, which creates another layer of information not readily available to help in searching for MMIW issues.

As you may know, NamUs was originally set up to try to match remains found with people who were missing. It is voluntary, and literally, anyone can access it. All they have to do is set up an account and enter the information they want to enter about a missing person. The NamUs staff then take that information and confirm with law enforcement before the information can go out publicly. There are fewer missing Native persons in NamUs than there are in FBI Criminal Justice Information Services (CJIS) missing persons file. The FBI CJIS database is also voluntary, except for entry of missing persons under age 18 which is mandatory, though a few states have mandatory missing person reports to CJIS by their law enforcement. NamUs and CJIS are separate systems, which cannot currently talk to each other. When this point is raised with Federal officials, they look at us like we have a third eye—they don’t acknowledge the value of having one streamlined database and process.

Tribes and the general public could have access to NamUs, the challenge, however, is that the most tribes lack the resources and infrastructure to track the type of information that needs be entered and assign someone to enter such information.

1b. How does this greatly affect on the ground issues you see in Alaska?

Answer. One main issue is that 40 percent of our tribal communities have no law enforcement and have to depend on off-site law enforcement such as the Alaska State Troopers based in other areas, so often a search will be started by a local people. The other impact is that there are circumstances that missing indigenous women living out of their communities in Alaska cities may not be as high a priority as other situations because of how they may be living. Our victims are not perfect, and their lifestyle may be a barrier to getting help. The databases, beside NamUs, require law enforcement to access them to even enter the information if a missing person designation has even been given. The Tribal Access Program, as it currently exists will not be available to the 228 out of the 229 tribes of Alaska because the criteria for involvement requires a tribal law enforcement agency. Very few of our communities have this, and none probably have the 24-hour law enforcement that can be required for participation.

Question 2. How can agencies like the FBI and BIA shift their protocols to better work with tribes to protect Native women and girls, and solve MMIW cases?

Answer. Resources need to be available for all tribes regardless of where they are located, whether a P.L. 280 state, non-P.L. 280 state, checkerboard jurisdiction, etc. The FBI-CJIS has policies and procedures that are not tribal friendly and they, the FBI and CJIS in particular, need to be challenged to add users to their systems who

may not have the necessary infrastructure to work with their existing models. CJIS should be further challenged to develop programs that address the needs of tribal communities in this area. There is a trust responsibility that they are not being reminded of and how their role could help track the real numbers of MMIW, the circumstances, the success and failure rate of solving these cases and the number of unsolved cases and what if any, common factors exist that inhibit solving the case.

The BIA is better about working with tribes and understanding tribal needs, but unless you are within their limited service definition for direct services, you will not have access to a BIA Victim Service specialist. I believe there may be only 10 or so in the country. How can that be possible with over 560 tribes nationwide? The Tribal Justice Support, Office of Justice Services has made a big impact in helping with funding for victim services, however, the funding is year to year based on appropriations and cannot be rolled into our compacts or self-governance agreements. In Alaska, we need to open up compact negotiations to include court and law enforcement as those were previously unavailable to us.

Question 3. Where should the priorities be in providing funding to address this violence?

3a. Which Federal agency should be tasked with leading MMIW cases?

Answer. This is a very difficult question to answer because currently many agencies—DOI, HHS, DOJ-OVW, OVC, OJJP, etc.—have programs that relate to many of these issues, but do not collaborate with each other to provide comprehensive services, thus tribes have to pick and choose who they have the capacity to work with because of their limited resources. DOI has the ability to work with tribes directly, but most of the other agencies fund programs through competitive grants. We need consistent funding that provides the resources to all tribes that want to collaborate and coordinate. The competitive grant program should not be considered for funding these important issues. NIJ should be tasked with establishing a protocol for researching the cost of crimes and law enforcement to address these issues, and formulas should be created to determine how best to fund programs to combat these very serious issues. We need funding programs for fatality review commissions to study the issues, and fully understand what lead to these fatalities, and develop solutions to address the cultural needs to stop these issues and provide culturally relevant healing and resources for services.

Alaska tribal governments are unique among indigenous American tribes in their lack of access to the same type of government revenues available to nearly every other sovereign entity in the country, thus their resources are highly dependent on the Federal Government. If you would like further information, feel free to contact me.

Mr. GALLEGO. Thank you so much to all of our witnesses.

Again, I want to thank the expert witnesses for their powerful testimony.

Reminding members that Committee Rule 3(d) imposes a 5-minute limit on questions, the Chairman will now recognize Members for any questions they may wish to ask of the witnesses.

I will start by recognizing myself for the first 5 minutes, and we will alternate to our Ranking Member and go on from there.

Thank you again for the witnesses. This has been, I think, very difficult for many of us to listen to, but very much necessary.

Professor Deer, in your testimony you mentioned the Sovereign Bodies Institute, a non-profit Native-owned and operated organization. What is the importance of having organizations such as SBI work on data gathering projects related to MMIW?

And, how accessible is this information to Federal agencies?

Ms. DEER. Thank you for that question.

I believe that it is critical that Native people are at the forefront of this effort. Even if we were to receive Federal funding, it still should be that tribal members and families and survivors should drive the data collection, and one of the reasons is for cultural reasons.

If someone is going to add a name of a missing loved one to a data set, there is sometimes the need for ceremony. Feasts are associated with that. So, if it is the Federal Government collecting the data, they are not necessarily in the position of providing that.

And while Federal data would be helpful, I really do believe that the forefront should be led by indigenous women survivors and their families.

I think that non-profits can partner with Federal agencies, but it needs to be on the terms of the indigenous people at the forefront, and that will help our families feel comfortable in coming forward and sharing their story, and sometimes it has been decades, and they do not believe anyone cares anymore.

So, we need to do that outreach. That requires grassroots efforts.

Mr. GALLEGO. Thank you, Professor.

Representative Buffalo, you spoke about the progress of your bills on the issue in the North Dakota legislature. In my home state of Arizona, a bill to improve data on missing and murdered indigenous women just unanimously passed the House this week and is headed to the State Senate.

Can you speak to why it is important to address this crisis at a Federal level, as well as the local like you are trying right now?

Ms. BUFFALO. Mr. Chairman and members of the Committee, it is very important that all levels of government pay attention to this issue because we have a larger population that also lives off of the reservation or outside of the exterior boundaries of an Indian reservation.

That is why we are focusing on a state level, to make sure that we implement mechanisms that will tell a story and will show evidence that there is an issue here and that we need to pay special attention to this epidemic.

Thank you.

Mr. GALLEGO. Thank you, Representative.

Ms. Jerue, how does the MMIW issue differ for Alaska tribes versus tribes in the Lower 48?

And how do these differences impact your attempts to address the issue?

Ms. JERUE. There are many jurisdictional differences in Alaska compared to the Lower 48 tribal communities, and those jurisdictional issues have impact in a couple of different ways.

A lot of our tribes are very isolated. We have 229 tribes. Only one is federally recognized as a reservation, and that is Metlakatla. And because of that, the 228 tribes are under the jurisdiction under Public Law 280 with concurrent jurisdiction with the state of Alaska.

So, they are tasked for their law enforcement and jurisdictional and justice systems through the state of Alaska. At this point because of the isolation of the tribes and the differences in terms of distances, the cost of those distances, it has created a mess in terms of the fact that there are very difficult times.

I know that Joel Jackson, whom you referred to from the Native village of Kake, often tells the story that they will get faster response for a killing of a moose out of season than they will of a Native woman. And, unfortunately, that is not just a story.

The problem is that law enforcement, the lack of law enforcement and justice systems in our communities, really does create a crisis in terms of living in our isolated communities.

Unfortunately, we also have a large number of Native people that live in the cities of Anchorage, Fairbanks, and Juneau, and other what they call hub communities. And, oftentimes, the response there tends to be Native women, if they have other issues, are often not take seriously, especially if there has been some kind of crime against them, and there are often many crimes against them. I think we have a very vulnerable population in the cities.

Unfortunately, then law enforcement's response also lacks any real care.

Mr. GALLEGO. Thank you, Ms. Jerue.

Now I would like to recognize my Ranking Member, Mr. Cook, for his first question.

Mr. COOK. Thank you very much.

Once again, I want to thank the witnesses.

I notice I see Wilson Pipestone in the audience. A number of years ago, I went down to Cherokee, North Carolina, where there was a Native American play, that I think he was the star of. I don't know, but it was a great, great play to emphasize VAWA, Violence Against Women.

And some of these things to outsiders, they don't see that. Some of the things that you underscored we are all concerned about.

In the back of my pea brain, I am trying to figure out, boy, this is horrible, this is terrible. Now, how are we going to correct this, how do we do this?

And we talked about the differences, and people are concerned about confidentiality and everything else, I think, identifying the problem, getting law enforcement, all of those things, a database.

There was a woman. I cannot remember her name. I think her last name was McNamara. She was not a police officer, but she wrote a book about what she did in these killings in California all over the place, and this one person, when you look at this, she just passed away, unfortunately, and then her book became a best seller.

And I am trying to think what I want from you. I understand the anecdotes and the emotion and everything else. What I am hoping is that the collective wisdom here, that you give us a battle plan, a battle plan where we can turn it into action in terms of constructive laws and policies that unite everybody.

Oh, I just found out you wrote the play.

[Laughter.]

Mr. COOK. Hey, I am just a dumb Marine up here.

Wilson, you were not that good. You never liked the bear meat that they served that night.

It is not fair being in the Minority right-of-way.

But I think you have a lot of supporters. As I said, I voted for VAWA. What I need, and I am not an attorney or anything else. I just want to do something in terms of how we can do it.

It is going to be very, very difficult just because of the circumstances and everything else, but you have right on your side here. You have history on your side.

I am a historian, and I was not alive, Wilson, in 1492, although some of my colleagues think so.

So, I am hoping that maybe we might have another round on this where we have Justice and the other one, partly because I not only want their input. I want them to hear this testimony, and the more advocates that we have, this is a huge problem. It is not going away, and how we can correct this and get something done.

Thank you, Ms. Nagle. I want to apologize, and I want to thank the Chairman for embarrassing me in front of everybody.

Mr. GALLEGO. To reclaim my time, that was my attempt to help you from embarrassing yourself.

But this is certainly not going to be the last time that we address this because this is a serious, serious problem. When thousands of our U.S. citizens, our sisters, go missing, it is irresponsible for us to not do something.

With that, I would like to move down the dais here to Representative Cartwright for his questions.

Mr. CARTWRIGHT. Thank you, Mr. Chairman.

I want to take a moment to thank Chairman Gallego for calling this important hearing and also to my new colleague, Congresswoman Haaland, who raised this issue in her campaign. In fact, she called MMIW an epidemic in her campaign, and I think she is right.

So, thank you, Chairman, for calling this hearing.

My understanding—and if I am mistaken, please correct me—my understanding is that victims of violence in tribal communities are often reluctant to report and share information about crimes, and that part of this is tied to the historical relationship between settlers and indigenous communities, and that this is a particularly strong barrier in rural communities.

Professor, and I want to say Chief Justice Deer, can you give us some examples of what these historical concerns are, how it plays out in present times and I am particularly interested in the difference between rural and urban communities.

Ms. DEER. Thank you for the questions.

I think the historical mistrust that many Native people have in law enforcement is well founded. I think that the history of law enforcement in Indian Country has not been one of necessarily protection, but one of persecution.

And when you are a Native woman and your sisters and your aunts and your mother and your grandmother and your great grandmother have all been victims of violence and nobody has done anything, why would you come forward?

And I think that trust has to be built, and it is not going to happen in one bill, and it is not going to happen in 1 year. That trust is going to take years and years and years to rebuild.

I think the challenge in the urban environment is that Native women, particularly if she is not the perfect victim like Elizabeth Smart or Dru Sjodin that get on CNN Prime Time. If she has had an addiction problem or she has been homeless or maybe her children have been taken from her, and you go to urban or off-reservation police departments, oftentimes families tell us there is just a shrug and a “well, what did you expect?”

Then, at that point, the family is left feeling as though nobody cares. So, both on-reservation and off-reservation, we need to develop and cultivate a culture of compassion and a culture of understanding, and that is not something you can easily do through legislation.

But I believe with the leadership of Congress we will begin to see a sea change in that problem.

Mr. CARTWRIGHT. Thank you.

Representative Buffalo, you spoke about a couple of issues that I am interested in, data and training. On data, we are interested in ways that these concerns can be overcome. What you said in your testimony, and I wrote it down, "without data there is no clear evidence that a problem exists."

What can we do to improve our data collection systems?

For example, you suggest in your testimony that the language of MMIW be included in the scope of work for the Office on Violence Against Women and the Office for Victims of Crime. What I am after here is: can you give us specific examples of language that you think should be used?

Ms. BUFFALO. Thank you, Mr. Cartwright and members of the Committee.

It is unfortunate that we have to ask to include the language of missing and murdered indigenous women, girls, and people. I will say that first and foremost.

But also, our efforts on the ground level or at the grassroots level are grassroots and for prevention. How can we prevent these tragedies from further occurring?

We do have to address the existing structures and what systems are currently in place. We do need to include, we believe, this language of missing and murdered indigenous people.

At the state level, what we found in digging deeper into the data collection state-wide is that North Dakota does not currently collect any data on missing people.

Mr. CARTWRIGHT. Right. Well, we will talk further about the language.

Ms. BUFFALO. OK.

Mr. CARTWRIGHT. And I thank you for the suggestions.

I also understand you have proposed legislation to conduct training for law enforcement in your legislature. What are some of the topics that you think this training should focus on?

Ms. BUFFALO. Mr. Cartwright and members of the Committee, at the state level with the training we are tapping into existing structures, such as the North Dakota Human Trafficking Commission. That commission is comprised of different experts in the field.

So, this legislation is giving that entity the freedom to provide that training to law enforcement. Within that commission, the Human Trafficking Commission, there are members of the First Nation's Women's Alliance, who have established and built relationships throughout North Dakota and the region.

Some of this training would look at perhaps cultural competency training, understanding the differences within tribes, some that are matriarchal, and just understanding, also trying to find ways to build trust and to work toward healing and justice in our communities.

Mr. CARTWRIGHT. Thank you so much.

I yield back, Mr. Chairman.

Mr. GALLEGO. Thank you, Representative Cartwright.

I would like to now recognize the Chairman of the Natural Resources Committee, Congressman Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman and Ranking Member.

Both of you, this hearing has been very powerful and very necessary, and I want to thank the witnesses for their insight, their expertise and, more importantly, for humanizing what we are talking about today.

It is not merely, as one of the witnesses said, a question on numbers or where they fit in. It is a question of lives, and I appreciate it.

I think one of the things that the Full Committee and that all of us who have participated in it, one of the missions is to bring voices and attention to issues that have not had their voices or garnered the attention that those issues demand.

Your Subcommittee, Mr. Chairman and Ranking Member, have done that, and this is a good example with this hearing. I appreciate it very much. All of us do.

Let me pose just a couple of questions if I may.

Counsel, Ms. Nagle, at yesterday's Violence Against Women's Act markup, at that Committee, an amendment was offered that would strip tribes of their inherent authority to prosecute non-Indian domestic violence offenders.

I bring that up. It failed, unfortunately on a party-line vote, which on an issue of this significance, as the Ranking Member indicated, it requires that everybody be involved in it, and if there is a bipartisan issue this Congress can find, it is certainly here and it is certainly at this Subcommittee.

I want to know how is that going to impact the issue of missing and murdered indigenous women, if you don't mind?

Ms. NAGLE. Thank you, Chairman.

Yesterday's proposed amendment was very disappointing to see. The reauthorization of VAWA in 2013 with the restoration of tribal criminal jurisdiction over crimes, non-Indian perpetrated crimes and domestic violence, gang violence, and criminal violation of protection orders was a huge step to saving more lives.

There are Native women today who have stated publicly, and will continue to do so, that since the restoration of tribal criminal jurisdiction over those three crimes in 2013, their lives have been saved. And had that jurisdiction not been restored, their tribal government would not have been able to intervene and prosecute the domestic violence crimes or the violations of their protection order and save their lives.

We know that. We know that tribal jurisdiction, giving the government closest to the ground to Native women, to prosecute these crimes and to protect them and their children is the best form of security a Native woman can have.

So, it is very disappointing to see, in addition to it just being disappointing that anyone would even suggest rolling back this progress that has happened in the last 5 or 6 years. And the only statement that was made in support of the amendment was that

simply tribal jurisdiction and prosecuting of non-Indians in tribal courts is unconstitutional.

That was the same rhetoric that was given in 2013 against VAWA. That is based on a prejudicial view that tribal courts must be incompetent and cannot fairly adjudicate the rights of non-Indian defendants.

The 5-year NCI report which came out documenting the first 5 years of the implementation of 2013 restored criminal jurisdiction shows that in that first 5 years not a single non-Indian defendant, despite numerous cases from numerous tribes, filed a *habeas corpus* petition or lodged any formal complaints about any rights violations in tribal court.

These are prejudicial beliefs that are not founded on any actual facts in reality, and at the end of the day, the concern is just if the tribal jurisdiction is stripped away, that will put more——

Mr. GRIJALVA. I wondered what the motivation is, but that is another question.

Ms. Deer, all of the witnesses in their own way referenced the fact that the urban residents, indigenous folk, tribal affiliation and their role in this process.

Urban Indian centers, like the Tucson Indian Center where I am from, and a tribal center, as pieces of legislation related to the issue we are talking about, are they important conduits, important affiliations?

Anybody can answer, anybody who wants to.

Ms. DEER. I believe, yes, that urban centers, urban Indian centers should be included in all of our discussions around this.

I grew up in Wichita, Kansas, and my father was on the board of the first American Indian center there in Wichita, and I know that was sort of a place of refuge for many people and a place where people could find one another.

And I think if we are talking about who is going to be eligible for funding should funding be appropriated for this crisis, I think we should consider the possibility that urban Indian centers be provided with funding so that they can support the families in the urban areas.

Mr. GRIJALVA. Thank you.

And thank you for the indulgence, Mr. Chairman. I yield back.

Mr. GALLEG0. Thank you, Mr. Chairman.

Now it is my pleasure to pass to Representative Haaland for her questions.

Ms. HAALAND. Thank you very much, Chairman. Thank you so much for having this hearing. It is extremely important.

Before I get started, I just wanted to ask you to explain the significance of the cloth that you have on the table.

Ms. BUFFALO. Representative Haaland and members of the Committee, this skirt was handmade by an individual by the name of Agnes Woodward. She is originally from Canada and is married to a citizen of the Mandan, Hidatsa, and Arikara Nation. She has made, I believe, a handful of these skirts globally, and they represent our missing and murdered indigenous women and girls, our sisters.

She was directly impacted by her aunt, who is among the missing and murdered indigenous women, and so we wear these ribbon skirts in honor of our missing and murdered indigenous women.

The ribbon skirts also are a sign. They represent prayer because we are a prayerful people.

Thank you.

Ms. HAALAND. Thank you. Thank you so much.

The silent crisis of missing and murdered indigenous women has been my top priority since long before being sworn into Congress, and I am appreciative that I am here today to hear your testimony, to help find solutions to this long overdue issue in Indian Country.

I am wearing red today in honor of missing and murdered indigenous women. I wanted to mention that.

Indigenous women deserve to be protected just like anyone else in this country. This is why I have been working diligently with my colleagues on bills to provide basic protections for women and programmatic support for tribal public safety, including the Survive Act, which increases resources for tribal victims' assistance through the Crime Victims Fund; the Native Youth and Tribal Officer Protection Act, to extend the protections to children and law enforcement personnel involved in domestic violence incidents on tribal lands; and Savanna's Act, to protect Native American women by increasing communication and accountability among state, tribal, and Federal lines and address the issue of missing and murdered indigenous women.

I would like to personally thank each and every one of our witnesses here today who have provided testimony to move this conversation forward to protect our women.

Yesterday, we had a prime example of how Native women have historically lacked representation and protections in the U.S. Congress and how we must continue to fight for basic protections that are afforded to other groups of people.

Our Chairman mentioned this. As many of you know, during the Violence Against Women reauthorization markup hearing in the House Judiciary Committee yesterday, Representative Sensenbrenner attempted to amend the bill to wipe out tribal jurisdiction, to exclude tribes from prosecuting non-Indians who commit violence against women-related crimes against women on tribal lands.

Although this corrosive amendment was rejected, the vote was split across party lines and speaks exactly to the issue we are working to highlight today.

For any congressional leader to attempt to take away protections for not only women, but indigenous women, at a time when we are just beginning to understand how deep rooted and serious of an issue the severe lack of protections is for Native women is an abomination.

As a Member of the U.S. Congress, we all take an oath that we are bound by to support and defend the Constitution, a Constitution that acknowledges that tribal governments are sovereign nations, and I take this oath seriously because every congressional leader has a responsibility to uphold the Federal Government's trust responsibility.

I just want to say thank you, Professor Deer, for raising the issue of colonization because it has wreaked havoc on our people. My Pueblo people are also matrilineal, and at times it seems that we are still living in colonization because women are excluded from so many things.

Thank you, Representative Ruth Buffalo, for running and winning your seat. You were meant to serve, and I am inspired by the vast amount of work that you have already done since you have been in your seat. So, thank you so much for that.

All of your work is so important, and I am grateful for every single thing all of you have done to raise this issue, and I want you to know that I stand behind you 100 percent.

Mr. GALLEGO. I yield Representative Haaland as much time as she deserves.

Ms. HAALAND. Thank you, Chairman.

I will start out with a question for Ms. Jerue.

Ms. Jerue, you also spoke of the jurisdiction issues concisely referring to it as the “jurisdictional maze.” Do you feel this jurisdictional uncertainty often emboldens criminals to commit and recommit crimes on tribal lands without the fear of being held accountable?

Does this criminal activity bleed over into urban areas as well?

Ms. JERUE. I believe so, and this is my opinion. I believe that our jurisdiction, because of the land issue which is extremely complicated and we do not even have weeks and months to talk about, is extremely complicated in Alaska.

But in urban areas, there is an underlying, I think, culture that Native people, because of what was referred to earlier in terms of some of them not being perfect victims, end up finding themselves in situations that they are vulnerable, homeless, have addiction, lack of jobs and housing.

And, oftentimes, Native people in our communities are being brought into the urban areas because there is a lack of jobs and housing, law enforcement, and addiction types of services or medical services in our communities. So, they end up finding themselves in situations that they do not plan to be in.

And because law enforcement and justice systems are overburdened with just the vast number of Native people that are in those systems, our child welfare systems, our court systems, our jail systems, and law enforcement systems are overburdened with Native citizens in Alaska in urban areas.

And because of their vulnerability and because of what I spoke to, oftentimes those vulnerabilities also speak to the fact that they are not being investigated, I think, appropriately.

And when we talk about data, the data is not being collected on these issues because we know that data drives a lot of the funding that would help to mitigate some of the problems. And unfortunately, it is not my favorite subject, but it is a reality that we have to deal with.

I don’t know if that answered your question.

Ms. HAALAND. Thank you so much.

And this question is for Professor Deer.

In December, I attended the Senate oversight hearing on missing and murdered indigenous women and heard from a young woman

that law enforcement agencies and the FBI have continuously failed at investigating these crimes.

I also heard this issue again from a young woman who visited my office.

What should Congress do to ensure the FBI and local law enforcement are properly investigating these crimes and acting timely on the cases?

And before you answer, I would just like to raise the issue that the FBI got its start solving murders in Indian Country, the Osage murders, so it seems to me that it is perfectly logical for them to dig in on this issue and find a solution to it.

So, please answer.

Ms. DEER. Thank you. It is an honor to be asked a question by you right now.

I think the transparency is needed, and we need to require Federal law enforcement agencies to track the number of MMIW reported in their jurisdiction and include that in the required annual Tribal Law and Order Act reports that are already required.

I think we should require our Federal law enforcement agencies to share information about missing and murdered indigenous women with tribal nations so if a Native person goes missing in a city or outside tribal jurisdiction, then we would ask the respective tribal Nations, as sovereigns, are entitled to know that their citizens are missing, and so that communication happening into the tribal leadership.

We need Federal law enforcement agencies, including the FBI, to start accurately logging race and tribal affiliation in their database of missing persons.

And I think any new funding for Federal agencies must require that they develop protocol for responding to missing persons cases with meaningful consultation with the tribal nations that they serve.

Thank you.

Ms. HAALAND. Thank you so much.

And, Chairman, I yield.

Mr. GALLEG0. Thank you, Representative, and thank you to our witnesses.

We are near the end of our hearing. Votes have also been called, and this is why some Members have left, just out of abundance of caution and not to be insincere. I wanted to make sure to say that.

I hope we all gained very valuable insights into the epidemic of missing and murdered indigenous women, its tragic effects on indigenous people and their communities, and what is being done or not done to combat this issue. We need to find real world legislative solutions.

It is clear indigenous women and girls and Native American communities are not receiving the support, attention, and resources long overdue to them to actualize both awareness and tangible solutions that they have been calling for.

The Federal Government, us, must live up to its trust responsibility and work toward real legislative solutions in true partnership with indigenous women on local, regional, and national levels to fully address what we have heard here today.

In closing, let me again thank the expert witnesses for their valuable testimony and Members for their questions. The members of this Committee may have some additional questions for the witnesses and we will ask you to respond to those in writing.

And just for my personal note, I am deeply sorry that we in Congress have not addressed this for so long. It is a tragedy. It is a sin that we have done, and we need to do everything we can to fix this.

Under Committee Rule 3(o), members of the Committee must submit witness questions within 3 business days following the hearing, and the hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 10:12 a.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submission for the Record by Rep. Gallego

AMNESTY INTERNATIONAL USA,
WASHINGTON, DC

March 15, 2019

Hon. RUBEN GALLEGO, *Chairman,*
House Subcommittee on Indigenous Peoples of the United States,
1324 Longworth House Office Building,
Washington, DC 20515.

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

Dear Chairman Gallego, Ranking Member Cook, and members of the House Subcommittee:

On behalf of Amnesty International USA (AIUSA) and our more than one million members and supporters and members nationwide, we submit this statement for the record.

Since 2007, Amnesty International has documented alarming rates of violence against Native American and Alaska Native women and girls, particularly in regards to sexual violence. Our report, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*, documented the alarming rates of sexual violence against Native American and Alaska Native women. We detailed how sexual violence against Indigenous women is the result of a number of factors and continues a history of widespread human rights abuses against Indigenous peoples in the United States.¹ We also documented the failures of the U.S. government to adequately prevent or respond to such violence, and the many barriers that faced Native American and Alaska Native women and girls in ensuring their right to safety and freedom from violence, including sexual violence; right to the highest standard of care, including after a sexual assault; and their right to justice. These barriers include chronic underfunding of tribal law enforcement and the Indian Health Service, complex jurisdictional issues, lack of appropriate training in all police forces, and limited and outdated data regarding the scale and scope of violence against Native American and Alaska Native women and their ability to access services (like basic post-rape care) or law enforcement or judicial engagement. We are concerned about the same failures of protection and barriers facing Indigenous communities in regards to missing and murdered Indigenous women and girls.

The crisis of missing and murdered Indigenous women and girls is a human rights crisis. Indigenous women and girls are disappeared or murdered each year

¹Amnesty International USA, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*. 2007. <https://www.amnestyusa.org/wp-content/uploads/2017/05/mazeofinjustice.pdf>.

at alarming rates in the United States. Because there is no consistent and standardized reporting on the issue, tribal epidemiology center, the Urban Indian Health Institute (UIHI) compiled 506 cases of missing and murdered American Indian and Alaska Native women across 71 cities in their 2018 report, *Missing and Murdered Indigenous Women and Girls*.²

The Center for Disease Control and Prevention has reported that murder is the third-leading cause of death among American Indian and Alaska Native women and that rates of violence on reservations can be up to ten times higher than the national average.³ However, no research has been done on rates of such violence against American Indian and Alaska Native women living in urban areas despite the fact that approximately 71% of American Indian and Alaska Natives live in urban areas.

Though there are critical issues regarding jurisdiction of Missing and Murdered Indigenous Women and Girls (MMIWG) cases on reservations and tribal lands, lack of prosecution, lack of proper data collection, prejudice, and institutional racism are factors that also occur in urban areas. UIHI filed FOIA (Freedom of Information Act) requests with municipal police departments in all 71 cities included in the survey. The FOIA process requires intensive follow up and resources from the requesting agency. In response to its FOIA requests, UIHI received invoices requesting payments for this information.

Nine cities (13% of total) reported the inability to search for American Indian, Native American, or Alaska Native in their data reporting systems despite the commonly expected practice of classifying victims by race. Of the agencies that did provide data, nine (23%) located data prior to 1990, 18 (45%) located data prior to 2000, and 29 (73%) located data prior to 2010. The oldest case UIHI identified happened in 1943, but approximately two-thirds of the cases in UIHI's data are from 2010 to 2018.⁴ This suggests the actual number of urban MMIWG cases are much higher.

The barriers in accessing data on this issue from law enforcement impede the ability of communities, tribal nations, and policy makers to make informed decisions on how best to address this violence.

In October 2017, former U.S. Senator Heidi Heitkamp (D-ND) introduced Savanna's Act (named after Savanna LaFontaine-Greybird, a Native American woman from North Dakota who was murdered), as the first piece of major legislation specifically addressing Missing and Murdered Indigenous Women and Girls. It passed the U.S. Senate unanimously in December 2018. In early 2019, U.S. Senators Lisa Murkowski (R-AK) and Catherine Cortez Masto (D-NV) reintroduced Savanna's Act.

Savanna's Act requires the Department of Justice (DOJ) to update the online data entry format for federal databases relevant to cases of missing and murdered Indians to include a new data field for users to input the victim's tribal enrollment information or affiliation.

Savanna's Act will also require that the DOJ:

- make standardized law enforcement and justice protocols that serve as guidelines with respect to missing and murdered Indigenous women,
- meet certain requirements to consult with tribes, and
- provide Tribal governments and law enforcement agencies with training and technical assistance relating to the development and implementation of the law enforcement and justice protocols.

AIUSA recommends:

- Requiring the DOJ, Interior, and HHS (Health and Human Services) to solicit recommendations from Tribal nations on enhancing the safety of missing Native American and Alaska Native women and girls and improving access to crime information databases and criminal justice information systems during the annual consultations mandated under the Violence Against Women Act.

²Urban Indian Health Institute, *Missing and Murdered Indigenous Women and Girls*. 2018. <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>.

³Petrosky E, et al. *Racial and Ethnic Differences in Homicides of Adult Women and the Role of Intimate Partner Violence—United States, 2003–2014*. MMWR Morb Mortal Wkly Rep 2017;66:741–746. <http://dx.doi.org/10.15585/mmwr.mm6628a1>.

⁴Urban Indian Health Institute, *Missing and Murdered Indigenous Women and Girls*. <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>.

- Requiring the creation of standardized guidelines for responding to cases of missing and murdered Native Americans and Alaska Natives, in consultations with Tribal governments, which will include guidance on inter-jurisdictional cooperation among tribes and federal, state, and local law enforcement.
- Requiring statistics on missing and murdered Native American and Alaska Native women and girls, and recommendations on how to improve data collection, to be included in an annual report to Congress and passage of the Savanna's Act.

For more information, please contact Tarah Demant by phone at: 202-509-8180 or email at: tdemant@aiusa.org.

Sincerely,

TARAH DEMANT, DIRECTOR,
Gender Sexuality and Identity Program.

