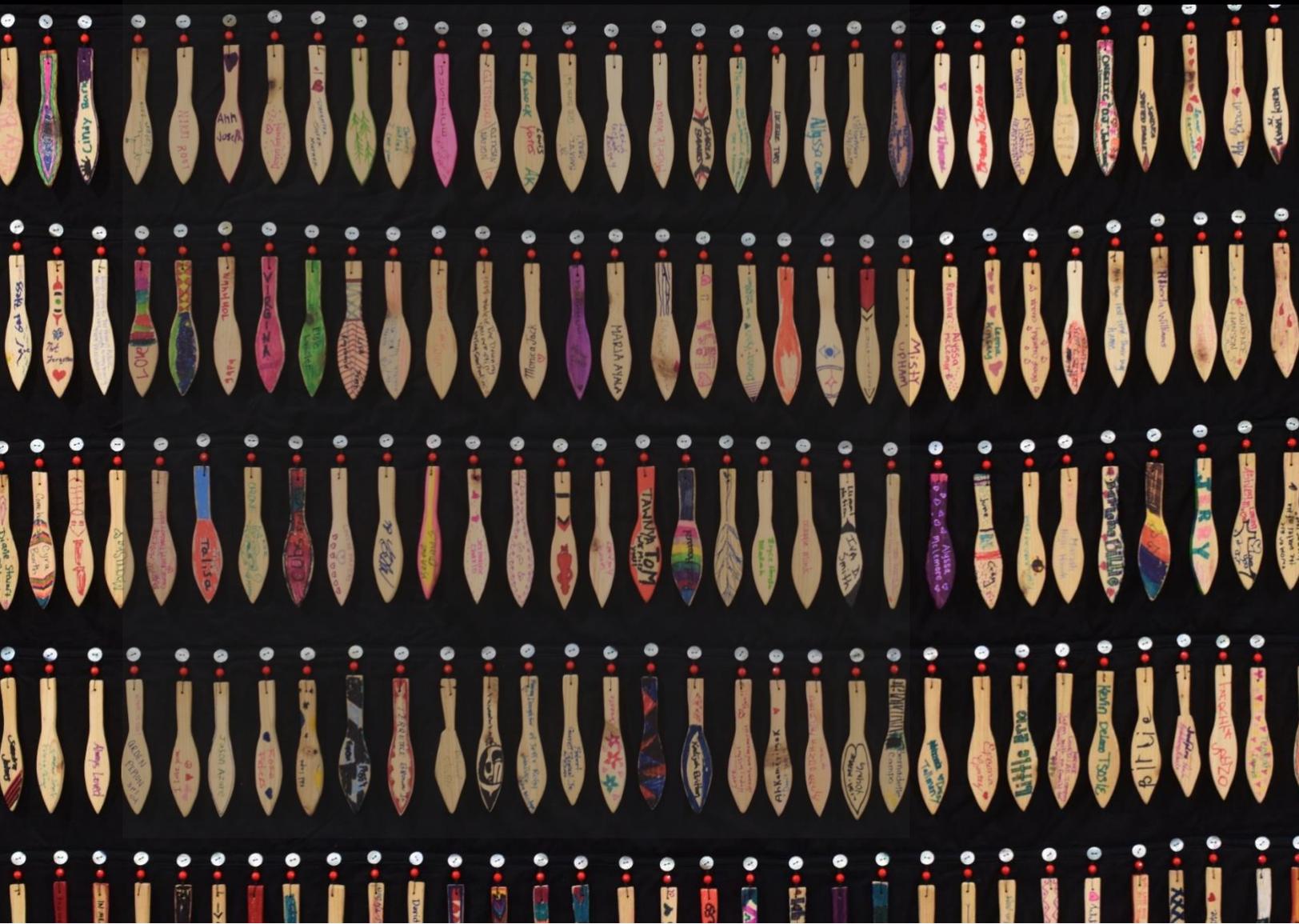


NOVEMBER 1, 2023

# NOT ONE MORE

FINDINGS & RECOMMENDATIONS OF THE NOT INVISIBLE ACT COMMISSION



The Honoring our Medicine Paddle Blanket was created during the 2018 Tribal Journey, Honoring Our Medicine, Power Paddle to Puyallup. At that time, 267 paddles were individually dedicated in memory of our loved ones by members of the Tribal community. The blanket was presented during ceremony and families were invited to the floor as we read all the names and offered prayers. For many of our families, this was the first time their missing loved one had been honored in ceremony.

The blanket carries the stories, and memories of our loved ones and the powerful prayers of those left behind. They were our beloved relatives, our teachers, mentors and caregivers. They hold space in our circles, sang our songs, attended our ceremonies, and they are loved and missed. Where words fall short in conveying the impact of this crisis on our communities the prayers in each paddle powerfully represent those who have been taken.

After Tribal Journey, the paddles were prayerfully sewn to the blanket during women's group. We chose to use one red bead to acknowledge that those who are missing are still in the hearts of those who know and love them.

The Puyallup Tribe Community Domestic Violence Advocacy Program is honored to care for the blanket as it serves as a living memorial and call to action. The blanket has traveled across Coast Salish Territory to community events, pow wows and has been on exhibit at the Tacoma Art Museum for Dia de los Muertos. The blanket has been displayed at the 2019 South Sound Human Trafficking in Indian Country Conference, 2023 Not Invisible Act Hearing in Billings, MT, and at the 2023 National Human Trafficking Prevention Summit in Virginia.

Carolyn DeFord, Puyallup Tribe

The Honorable Charles Schumer  
Senate Majority Leader  
U.S. Senate  
322 Hart Senate Office Bldg.  
Washington, DC 20510

The Honorable Mike Johnson  
House Majority Leader  
U.S. House of Representatives  
2049 Rayburn HOB  
Washington, DC 20515

Dear Senate Majority Leader Schumer and House Majority Leader Johnson:

Pursuant to Section 4 of the *Not Invisible Act of 2019* (Public Law 116-166), we are honored to transmit to you this report with findings and recommendations of the Not Invisible Act Commission (“the Commission”).

As part of its work, the Commission held seven in-person field hearings across the United States and one multi-day virtual national hearing. The Commission received testimony from victims, survivors, family members, advocates, law enforcement officers, and others through in-person and written testimony. In all, almost 600 attended the hearings and 260 individuals gave testimony to the Commission, sharing their expertise, their experiences, their suffering and hope, and their recommendations to address and reduce the tragic consequences of the crisis of missing, murdered, and trafficked American Indians and Alaska Natives.

We sincerely hope that our recommendations will be received with the same sense of urgency that we the Commission feel in delivering them. With each passing day, more and more American Indian and Alaska Native (AI/AN) persons are victimized due to inadequate prevention and response to this crisis. Our recommendations encompass actions that must be undertaken without delay to provide AI/AN people and communities with the same sense of safety and security that other communities in the United States take for granted.

We look forward to your written response to our recommendations.

Respectfully,

***The Not Invisible Act Commission***

cc: Director Neera Tanden, White House Domestic Policy Council  
Secretary Deb Haaland, U.S. Department of the Interior  
Attorney General Merrick Garland, U.S. Department of Justice

## **Honor, Recognition, and Dedication**

The Not Invisible Act Commission Report is dedicated to the victims, survivors, and all those impacted by the crisis of missing and murdered Indigenous persons and human trafficking of Indigenous people (MMIP and HT). We honor your stories and solemnly acknowledge your experiences in the hope of bringing a new path toward healing. Our intention is to end the crisis of violence that plagues the original people of this land so that you will be invisible no more.

Many people traveled great distances to participate in the Commission's field hearings, often with family members they could not leave at home, or who were simply needed as support. They were responsible for their own food and lodging and transportation. They went into a convention room full of strangers, including federal officials, representatives of the government whose laws and policies have caused the MMIP and HT crises or allowed them to continue. Sometimes there were uniformed law enforcement officers (LEOs) present, bringing back memories of traumatizing interaction with police in trying to obtain answers about their loved ones. Then, they went to the front of that large room and spoke into a microphone about the most traumatic thing that had ever happened to them. "I wouldn't wish this on my worst enemy." "No one should have to go through this." "I don't want anyone else to have to live through this nightmare." The same sentiment was expressed again and again. That expression of pain was almost always accompanied with expressions of gratitude to the Commission, for listening in a non-judgmental way, for allowing them to tell their stories. These heart-rending stories were repeated again, and again, and again, in every location the Commission visited. And, the gratitude was expressed again, and again, and again. Gratitude from people who have experienced horrific loss, just for the opportunity to have someone listen to them. It is they who deserve our gratitude, as well as our honor and recognition. For their resilience, their perseverance, and their commitment to justice – these survivors and family members of all those affected by this crisis deserve our respect. We honor and recognize them – the survivors, the families, those left behind, for their tenacity, bravery, and commitment to justice.

All members of the Commission, Federal staff, and contractors who worked for the Commission were humbled by the testimony presented. It took tremendous courage and resiliency for individuals to speak about their painful experiences to a group of strangers. They hoped—sometimes very faintly because their hopes had been dashed so many times—that their stories might help bring about positive change. We are so grateful for the stories, and we honor those who told them. We stand in solidarity with them and their rightful demand for long-overdue justice and change.

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## Executive Summary

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*There is a crisis in Tribal communities. A crisis of violence, a crisis of abuse, and a crisis of abject neglect affecting Indian Women & Men, Indian Children, and Indian Elders. The federal government must act now; not tomorrow; not next week; not next month; and not next year. Once and for all, the federal government must end its systematic failure to address this crisis and react, redress, and resolve this. We call on the federal government to declare a Decade of Action & Healing to address the crisis of missing, murdered, and trafficked Indian people.*

-- The Not Invisible Act Commissioners

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With each passing day, more and more American Indian and Alaska Native (AI/AN) persons are victimized due to inadequate prevention and response to the MMIP and HT crisis. Our recommendations encompass actions that must be undertaken without delay to provide AI/AN people and communities with the same sense of safety and security that other communities in the United States take for granted.

The United States government's failure to fulfill its trust responsibilities to Tribal nations, coupled with historic policies that sought to disconnect AI/AN people from their land, language, and culture, have given rise to a public health, public safety, and justice crisis in Tribal communities. The crisis is most notably reflected in the federal government's failure to effectively prevent and respond to the violence against AI/AN people, particularly in the context of missing, murdered, and trafficked AI/AN people. Despite the best efforts of many individuals across law enforcement (LE), the judiciary, and social services, long-standing institutional failures must be acknowledged and addressed.

Calls for action and funding to address these issues have been made repeatedly.<sup>1</sup> Although there has been a growing awareness of the high rates of missing, murdered, and trafficked AI/AN people in recent years, and several federal initiatives have been launched,<sup>2</sup> addressing the needs in Tribal communities continues to generally be underprioritized by the federal government. Until this changes, violence against AI/AN individuals and on Indian and Alaska Village lands will persist.

The Commission believes that the circumstances that have created the crisis of MMIP and HT are not intractable. In fact, to see them so is to continue the unjust past. With resolve and an appropriate investment of resources, these issues can, and must, be effectively addressed. While it is imperative that the federal government take immediate and concerted action, the

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<sup>1</sup> See Appendix 7, *Past Reports*

<sup>2</sup> For an overview of federal initiatives aimed at addressing MMIP and HT, please see <https://www.justice.gov/tribal/mmip/about> and <https://www.doi.gov/priorities/missing-and-murdered-indigenous-peoples>.

scale and severity of this issue, and the need for long-term healing and justice, also demand a comprehensive and sustained response. Therefore, we call upon the federal government to declare a *Decade of Action and Healing* dedicated to addressing this crisis effectively for future generations. Such a declaration would underscore the urgency of the matter and signify a long-term commitment to combatting the deeply rooted issues that perpetuate continued violence against AI/AN individuals and supporting individuals and communities in their healing as they seek justice. This Decade of Action and Healing must involve partnership with Tribal communities, Tribal governments, and relevant organizations, focusing on improving safety, prevention, justice, support services, and healing for AI/AN communities through increased funding, policy reform, action-oriented programs, and training and technical assistance.

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*“At best we are invisible, at worst, we are disposable.”*

- Lt. Governor Peggy Flanagan,  
NIAC Minneapolis, MN Hearing

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### **Commission Background**

The *Not Invisible Act* directed the Departments of the Interior and Justice to establish the Commission as an advisory body composed of both federal and non-federal members.<sup>3</sup> The make-up of the Commission is unique and includes LE, Tribal leaders, federal partners, service providers, family members of missing and murdered individuals, and survivors of human trafficking.

### **Structure, Purpose, and Membership of Commission**

The Commission was charged with developing recommendations to the Secretary of the Interior and the Attorney General to improve intergovernmental coordination and establish best practices for state, Tribal, and federal LE to combat the epidemic of missing persons, murder, and trafficking of AI/AN persons. Specifically, the Commission was directed to develop recommendations on six key topic areas. The Commission organized itself into six Subcommittees to align with these six topic areas as follows:

- *Subcommittee 1: Law Enforcement & Investigative Resources -- Identifying/Responding to Missing, Murdered, and Trafficked Persons*
- *Subcommittee 2: Policies & Programs – Reporting and Collecting Data on Missing, Murdered, and Trafficked Persons*
- *Subcommittee 3: Recruitment & Retention of Tribal & Bureau of Indian Affairs Law Enforcement*
- *Subcommittee 4: Coordinating Resources - Criminal Jurisdiction, Prosecution, Information Sharing on Tribal-State-Federal Missing, Murdered, and Trafficked Persons Investigations*
- *Subcommittee 5: Victim and Family Resources and Services*
- *Subcommittee 6: Other Necessary Legislative & Administrative Changes*

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<sup>3</sup> Public Law 116-166, Not Invisible Act of 2019, 134 Stat. 766, (2020).

The recommendations formulated by each of the Subcommittees and adopted by the full Commission are included in Chapters 1 through 7 of the report.

### **Commission Field Hearings**

The Not Invisible Act Commission hosted seven in-person field hearings and one national virtual hearing. In all, at least two hundred and sixty (260) witnesses gave testimony to the Commission in the hearings attended by almost six hundred people, sharing their expertise, their experiences, their suffering and hope, and their recommendations to address the MMIP and HT crisis. These hearings are covered in more detail in Appendix 3. Below are just a few of the common themes from the hearings:

- **Funding**: Reliable, consistent base funding for Tribes to battle MMIP and HT is critical.<sup>4</sup> Filling gaps with grants can cause more harm than good, as programs are left unfunded once the grant runs out. The grant process needs reform as well to make it more user friendly and less competitive.
- **Accountability**: Communities need clarity about the extent and the limit of the authority and responsibility of LE, medical examiners and coroners (ME/Cs), and funeral homes. These entities must be held accountable to quality, committed work, and in the absence of such work, negligence and egregious violations of human rights and dignity must be addressed. Many Tribal members deeply distrust LE due to experiences ranging from neglect to outright hostility. Compounded with a history of trauma at the hands of the government, many AI/AN people believe that the system does not care for, nor seek equal justice for, AI/AN people.
- **Returning Jurisdiction to Sovereigns**: PL-280 and other abdications of criminal jurisdiction to the states have had a disastrous effect on the quality and quantity of LE for Tribal communities. Tribes must regain their equal and rightful status as sovereigns, especially around LE, criminal justice, and public safety.<sup>5</sup>

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<sup>4</sup> Tribal priority allocations (TPA) are a collection of programs that provide federal funding for basic Tribal services. TPA gives Tribes the opportunity to further Indian self-determination by establishing their own priorities and reallocating federal funds among programs in this budget category. TPA provides critical funding for Tribal governments, covering such needs as economic development, welfare assistance, and natural resource management. However, Congress has never fully funded TPA, leaving Tribes without sufficient funding to provide basic and essential services to members and their communities.

<sup>5</sup> During the termination era of U.S. Indian policy, Congress passed legislation in 1953 delegating federal criminal jurisdiction over Indians in Indian country to certain state governments through passage of Public Law 280, commonly referred to as “PL-280,” 18 U.S.C. §1162(a). (Eagle Woman and Leeds, *Mastering American Indian Law*, ed., 2019, p. 60.) While PL-280 is the most well-known federal law delegating federal Indian country jurisdiction to certain state governments, there are several other laws that have been enacted that have the same effect for individual Tribes. A comprehensive summary of where PL-280 or similar laws apply can be found here: <https://narf.org/tribal-state-jurisdiction/>. All these mechanisms bestowing criminal jurisdiction upon the States have been criticized by the States as unfunded mandates and represent an attempt to usurp the inherent authority of Tribal nations to enforce the law on their lands. Adding insult to injury, despite seizing jurisdiction on Tribal lands against the wishes of the Tribes, both the federal government and the states have failed to fulfill their basic responsibilities under federal law (this is discussed in more detail in Chapter 6). Throughout this Report, references and recommendations proposed for PL-280 jurisdictions should be read to apply equally to those places where the state exercises jurisdiction over Indians in Indian country pursuant to another law.

- *Alaska requires focused solutions:* The 229 tribes in Alaska are ethnically, culturally, and linguistically diverse nations, occupying a vast area of about 365 million acres, much of which is inaccessible by road and lacks basic infrastructure. Prior to the 2022 Violence Against Women Act (VAWA) reauthorization, Alaska Native Villages were in a legal no-man's land as to Tribal law enforcement authority. The public safety situation in Alaska is dire and requires tailored solutions that recognize the unique legal framework, exceptionally high victimization rates, and historic exclusion of Alaska Tribal justice systems from federal funding.
- *Data and coordination:* Federal, state, local and Tribal law enforcement agencies (LEAs) must coordinate in reporting, investigations, and sharing data. Jurisdictional boundaries and responsibilities must be clarified and understood.
- *Communication:* Authorities at all levels must improve communications with family members, who are too often left in the dark for days, weeks, or months about the investigation. Tragically, a case may be declared “cold” without a family receiving any information about the investigation.
- *Victim and family support:* Victims and families need support from the beginning to the end. This includes information on how processes work, where to go for help, counseling, and connections to other services.
- *Law enforcement shortages:* There are serious shortages and high turnover of Bureau of Indian Affairs (BIA) and Tribal LEOs, who choose state or federal departments for better pay, retirement, and perhaps less stress. Up to date, relevant training, wellness support, pay equity, and benefits can remedy this.
- *Media:* There are endless examples of non-Indian victims and missing persons who receive immediate and widespread media coverage. For the AI/AN victim or missing person, this is the job of the family or advocacy groups. Indigenous missing persons must and should receive the attention and focus that others have.
- *Addressing vulnerabilities:* Human traffickers prey on the vulnerable, often people who are young, homeless or in foster care, dealing with addiction, mental illness, or just depression, anxiety, and loneliness. There must be outreach and help to interrupt this pattern.
- *Trauma and resilience:* The impact of the MMIP and HT crisis on AI/AN communities is intergenerational, a terrible legacy handed down in families. But there is also a deep resilience, an ability to survive, carry on, and even heal, especially with the help of cultural and spiritual practices.

### **Summary of Key Findings and Recommendations**

The following provides an overview of the Commission’s key findings and recommendations. Please note that this is only a summary of some of the many detailed findings and recommendations the Commission developed. This section also provides cross-references to the report sections that contain additional recommendations and more detailed discussion. Please see a full and complete listing of all findings and recommendations by Subcommittee in Chapters 1-7 of the report.

### ***DECADE OF ACTION & HEALING***

The Commission recognizes that our work is just the beginning of what must be a long-term effort to address the crisis of missing, murdered, and trafficked AI/AN people and support justice and healing for AI/AN individuals and communities.

**Finding:** The federal government must take immediate and concerted action to effectively address the crisis of missing, murdered, and trafficked AI/AN people. The scale and severity of this issue demands a response that is both comprehensive and sustained.

**Recommendation:** We call upon the federal government to declare a Decade of Action and Healing dedicated to addressing this crisis effectively. This Decade of Action and Healing should involve partnership with Tribal communities, Tribal governments, and relevant organizations, focusing on improving safety, justice, prevention, support services, and healing for AI/AN communities through increased funding, policy reform, action-oriented programs, and training and technical assistance. [Ch. 6, Rec. H1]

### ***FUNDING***

One of the Commission's most important overarching recommendations is for the federal government to honor its trust obligations and provide sufficient funding to fully address unmet needs in Tribal communities, targeting the most critical public safety, criminal justice, health care, and victim services needs for immediate investment. The BIA acknowledges that Tribal police, courts, and detention facilities are currently funded at a fraction of estimated need.<sup>6</sup> The President's budget, however, has never requested funding sufficient to meet the need in Tribal communities and Congress continues to appropriate funding at levels that virtually guarantee these issues will persist. While nearly 300 billion dollars of foreign aid was given to foreign nations from 2013-2018,<sup>7</sup> domestic Tribal nations continue to be neglected and underfunded. Ultimately, federal funding for Tribal communities should be truly comprehensive and address the buildout of unmet essential utilities and core infrastructure needs in Tribal communities.

**Finding:** Chronic underfunding of Tribal programs,<sup>8</sup> including justice systems, health services, victim services, and other programs, represents a failure to uphold the federal trust responsibility and has contributed significantly to the MMIP and HT crisis.

#### **Recommendations:**

- The federal government must honor its trust and treaty obligations by funding

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<sup>6</sup> Bureau of Indian Affairs – Office of Justice Services. Jul 2020. *Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2018*. Available at: [https://www.bia.gov/sites/default/files/dup/assets/bia/ojs/ojs/pdf/2018\\_TLOA\\_Report\\_Final.pdf](https://www.bia.gov/sites/default/files/dup/assets/bia/ojs/ojs/pdf/2018_TLOA_Report_Final.pdf).

<sup>7</sup> OpenTheBooks. Aug 2021. *OpenTheBooks Oversight Report: Foreign Aid – How and Where the U.S. \$282.6 Billion (Fiscal Years 2013-2018) Plus Updated Covid-19 Aid & Payments to the UN and Other Agencies*. Available at: [https://www.openthebooks.com/assets/1/6/Foreign\\_Aid\\_v15.pdf](https://www.openthebooks.com/assets/1/6/Foreign_Aid_v15.pdf)

<sup>8</sup> U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>

Tribal programs at levels appropriate to meet the needs in Tribal communities for criminal justice, public safety, victim services, public health, and other key infrastructure. [Ch. 6, Rec. A1]

- The federal government must provide consistent and predictable public safety and Tribal justice funding for *all* Tribes, whether located in states where PL-280 or similar laws are in effect or not. [Ch. 6, Rec. B1]
- The Administration must support, and Congress must pass, the “Honoring Promises to Native Nations Act,” (S. 1586/H.R. 9439), which includes large increases in funding for criminal justice and public safety in Tribal communities, including \$1.2 billion for law enforcement and detention activities at the BIA. [Ch. 6, Rec. A2]

**Finding: Federal funding for criminal justice and victim services as it is currently administered is wholly unsuitable to address the MMIP and HT crisis.** The reliance on discretionary funding streams that are scattered among multiple agencies inhibits Tribes’ ability to effectively prevent and respond to MMIP and HT and meet the needs of victims. Increasing available funding alone will not be sufficient; the federal funding process for public safety and justice matters in Tribal communities needs to be overhauled. Grant programs, with limited and competitive funding, are reliant on the annual federal appropriations process and shifting political priorities of Administrations, creating inherent instability for police departments, courts, and victim services and public safety programs. Multiple past reports and commissions have documented the frustrating bureaucracy associated with federal grants and the unnecessary, inefficient, and at times duplicative administrative burdens placed on Tribes, and yet little has changed.

**Recommendations:**

- To bring much needed stability, federal funding for Tribal governments should be made mandatory rather than discretionary and should transition away from competitive grants in favor of more flexible, and reliable formula funding. [Ch. 6, Rec. C1]
- A permanent Native Nations Office at the Office of Management and Budget (OMB) must be established to help coordinate federal funding programs and policies, including those related to MMIP and HT. [Ch. 6, Rec. D1]
- The Administration must create an inventory and single clearinghouse of information regarding MMIP and HT (public safety and needed infrastructure) grants and other kinds of funding, including state pass throughs, across all federal agencies. [Ch. 6, Rec. D2]
- Over the next 12 months, OMB, Department of Justice (DOJ), Department of Health and Human Services (HHS) and Department of the Interior (DOI) must jointly hold meaningful and robust consultation with Tribal nations regarding where and how public safety and justice funds should be administered, including the role of DOJ, DOI/BIA, and HHS. The consultation should result in a concrete

proposal that can be included in the President’s Budget Request for FY 26. If DOJ and DOI fail to initiate such a consultation, Congress should enact legislation requiring them to do so. [Ch. 6, Rec. C2].

*These and many other important, detailed recommendations addressing funding are discussed throughout the subcommittee chapters, and are a focus of Chapter 6.*

#### **JURISDICTION**

A second overarching theme highlighted in the Commission's findings is the need to address the jurisdictional framework in Indian country and Alaska Native villages, which poses significant challenges to public safety and the effectiveness of the MMIP and HT response.<sup>9</sup> These longstanding issues have been extensively scrutinized in previous reports and commissions.<sup>10</sup> The Commission’s recommendations are focused on removing the limitations imposed on Tribal authority by federal laws that hinder Tribes from mounting effective responses. This is particularly important given the historic shortcomings in the responses of federal and state governments.

**Finding:** The jurisdictional framework in Indian country and Alaska Native Villages poses significant challenges to public safety and the effectiveness of the MMIP and HT response.<sup>7</sup> Under federal law, Tribal nations do not have the full authority needed to address all crime on their lands and are reliant on state and federal authorities. This significantly contributes to the MMIP and HT crisis.

#### **Recommendations:**

- Congress must take decisive action to overturn the *Oliphant* decision and address the sentencing limitations of the Indian Civil Rights Act. [Ch. 6, Rec. E1]
- PL-280 must be amended to allow any Tribe, upon their choice, to choose to opt out of state jurisdiction. [Ch. 6, Rec. F1]
- Congress must enact legislation addressing the *Castro Huerta* decision. [Ch. 6, Rec. G1]
- DOJ policy must be changed to require U.S. Marshals to recognize Tribal warrants as they do state, county and local LE warrants to ensure rapid detention of violent suspects. [Ch. 1, Rec. G3]
- DOJ must provide funding and technical assistance to Tribes to update their Tribal law and order codes. [Ch. 1, Rec. G5]

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<sup>9</sup> For a detailed discussion of how jurisdiction is structured in Indian country, see U.S. Government Accountability Office, “Missing or Murdered Indigenous Women: New Efforts are Underway but Opportunities Exist to Improve the Federal Response,” GAO-22-104045, Oct. 2021, p. 9-16.

<sup>10</sup> See, e.g., Indian Law and Order Commission. Nov 2013. *A Roadmap for Making Native America Safer: Report to The President and Congress of The United States*. Available at: [https://www.aisc.ucla.edu/iloc/report/files/A\\_Roadmap\\_For\\_Making\\_Native\\_America\\_Safer-Full.pdf](https://www.aisc.ucla.edu/iloc/report/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf)

- Congress should amend the *Stored Communications Act* to ensure Tribal law enforcement and courts have access to electronic records on a similar basis as their non-Tribal counterparts. [Ch. 6, Rec. K6]

*Jurisdictional challenges and reforms are discussed in more detail in Chapters 1 and 6.*

#### **CRIMINAL JUSTICE COORDINATION**

Notwithstanding previous efforts to increase collaboration and coordination between Tribal, federal, and state investigatory entities, substantial gaps in training, expertise, resources, and meaningful collaboration remain. This negatively affects investigations and services of MMIP and HT. Because jurisdiction to respond to MMIP and HT crimes is shared among Tribal, state, and federal authorities and many jurisdictions alone lack sufficient resources, improving communication, coordination, and pooling of resources across Tribal and non-Tribal jurisdictions is essential. In addition to increased coordination on the ground, there is a need for increased coordination among federal agencies in DC to ensure that grant programs, response, and overlapping federal initiatives are appropriately coordinated.

**Finding: Tribal, federal, and state law enforcement/social service infrastructure lack sufficient coordination and collaboration.** In many cases and in many jurisdictions, the mandates and requirements of *Savanna's Act* are not being implemented.

#### **Recommendations:**

- All Tribal communities (urban and rural) should codify, adopt, and be funded to utilize a Tribal Community Response Plan (TCRP). [Ch. 4, Rec. C1; Ch. 6, Rec. D13]
- DOJ, through *Savanna's Act* authorities, must develop best practices for local, state, and Tribal law enforcement on how to engage with other jurisdictions and be responsive to missing persons reports wherever they might be filed, wherever the missing person may have been last seen, and whoever the missing person may be. [Ch. 1, Rec. E1]
- DOJ, BIA, and Department of Homeland Security (DHS) must utilize, and incentivize for others, cooperative LE tools such as cross-deputization agreements. [Ch. 1, Rec. C3]
- DOJ's Tribal Access Program (TAP) must be expanded and strengthened to improve information sharing. DOJ should undertake a detailed review of TAP to identify concrete actions to increase regular use of TAP and its kiosks and address issues and barriers. [Ch. 1, Rec. B1]
- BIA must advance and accelerate the BIA Special Law Enforcement Certification (SLEC) program and extend eligibility to the Alaska Native Village Statistical Area [Ch. 1, Rec. C1]
- DOJ must create an interstate, interjurisdictional cold case network for the purposes of identifying unidentified, deceased AI/AN peoples and missing AI/AN

peoples wherever the body is found and regardless of where the missing persons' report was filed. [Ch. 1, Rec. C6]

- DOJ must support the expansion of state and local level anti-trafficking task forces to include Tribal MMIP and HT chapters, other community groups, and Tribal LE. [Ch. 1, Rec. C4]
- The BIA Missing and Murdered Unit (MMU) must annually compile, maintain, update, and distribute to the Tribes a listing of all AI/AN individuals who are actively missing and known to the Missing and Unidentified Persons System (NamUs), National Crime Information Center (NCIC), and any other sources. It shall also be distributed to tribally based and AI/AN-led community organizations, US Attorneys' Offices, state LE, and others as appropriate. [Ch. 1, Rec. B4]

**Finding: Impermanent, under-funded federal efforts to serve victims, families, and Tribal communities can do more harm than good. Current federal MMIP and HT initiatives stretch their staff too thin across regions too large for staff capacity.**

**Recommendations:**

- The MMIP Regional Outreach Program through the Executive Office for US Attorneys (EOUSA) should be sustained and expanded with additional personnel [Ch. 5, Rec. S2]
- BIA MMU needs increased authority and resources to effectively carry out their assigned duties. BIA must place MMUs in all regions and include sufficient funding and oversight such that putting MMU staff on details or duties elsewhere does not damage the progress of investigations. [Ch. 1, Rec. A2; Ch. 5, Rec. U1]

**Finding: A lack of coordination and oversight contributes to the insufficiency and ineffectiveness of the federal government's response to the MMIP and HT crisis. When federal agencies fail to coordinate, Tribes lose.**

**Recommendations:**

- The White House, through the White House Council on Native American Affairs (WHCNA) and the White House Tribal Affairs staff, must exercise oversight of the coordination of federal programs addressing MMIP and HT. In addition, a senior policy operating group, like the group created through the Trafficking Victims Protection Act, should be created. [Ch. 6, Rec. H4]
- The Secretary of the Interior must provide adequate staffing resources to fulfill the responsibilities outlined in Sec. 3(a) of the Not Invisible Act. [Ch. 6, Rec. H5]
- The Administration must establish a central MMIP and HT consultation calendar for all details pertinent to federal consultations and hearings on MMIP and HT (public safety and needed justice system infrastructure) and associated documentation

such as framing papers, appointments, and reports. [Ch. 6, Rec. H8]

- DOJ must designate a point person for Tribal matters in either the Attorney General or Deputy Attorney General's Office who has experience working on justice issues with Tribal nations. [Ch. 6, Rec. H6]
- Congress must create in statute a new Assistant Attorney General for AI/AN Affairs tasked with public safety for AI/AN. This position will answer to the Deputy Attorney General and will serve as an ombudsman for AI/AN MMIP families and victims; have oversight responsibility for DOJ personnel, including FBI and U.S. Attorneys Offices, serving AI/AN communities; have oversight over complaints by AI/AN MMIP families and victims regarding alleged civil rights violations by municipal, county and state officials related to MMIP and HT investigations, and monitoring implementation of Savanna's Act and other relevant legislation across DOJ. [Ch. 6, Rec. H7]
- DOI and DOJ must arrange an opportunity for Commissioners to meet with the Secretary's Tribal Advisory Committee (STAC) and the Attorney General's Tribal Nations Leadership Council (TNLC) to brief them on the Commission's recommendations within three months of this Report's submittal. [Ch. 6, Rec. H2]
- DOI and DOJ must provide annually, a publicly available and disseminated update to Congress, the STAC, and TNLC on actions taken and not taken regarding progress toward implementation of the Commission's recommendations, including specifically the total number of Commission recommendations that have been met, partially met, or not met. [Ch. 6, Rec. H3]
- Congress must fund National Indigenous Women's Resource Center (NIWRC) and/or National Congress of American Indians (NCAI) to conduct a review of progress on implementation this Comm. recommend. 18-24 months after submission. [Ch.4, Rec. B2]

*The Commission has developed many additional, important recommendations addressing criminal justice coordination that can be found in Chapter 1. In addition, recommendations addressing coordination of programs and services across federal agencies can be found in Chapter 6.*

#### **INVESTIGATORY RESOURCES**

Any delays in the pursuit of justice, be that for finding a reported missing person to investigating a crime, increases the likelihood of greater harm to the missing person or decreases the likelihood that the perpetrator will be identified, apprehended, and tried with timely due process and well-documented evidence.

**Finding: In too many documented instances, investigations conducted by Tribal, state, and federal agencies following receipt of a missing person report have been impeded by intolerable lag times resulting from a lack of expertise, coordination, cooperation, planning, and forensic follow-through. This negatively impacts both the success of the rescue operation and the interim provision of services to missing persons' families.**

**Recommendations:**

- State, Tribal, and local governments must adopt federal *Savanna's Act* guidelines. [Ch. 1, Rec. D1]
- To address the persistent and unacceptable lack of training and trust among Tribal, BIA, FBI, and state first-responder agencies (and other Tribal officials), they must all be trained in MMIP/violent crime matters, consistent with *Savanna's Act*, through mandatory protocols with, as necessary, funding and equipment incentives attached. [Ch. 1, Rec. C7, Ch. 4, Rec. A1]
- Access to crime laboratories and other investigatory resources must be increased for forensic and other tools in all MMIP and violent crime cases. [Ch. 4, Rec. B1]

**Finding: Timely information sharing to the public and close cooperation with families and family-serving organizations is critical in recovering missing persons, and too often in cases involving AI/AN people this does not happen.**

**Recommendations:**

- State/territory Missing Child/Person Clearinghouses must be standardized. [Ch. 1, Rec. H2]
- Congress must provide additional funding to allow Tribes to access and utilize Integrated Public Alert Warning System (IPAWS)<sup>11</sup>, and the Federal Emergency Management Agency (FEMA) must dramatically increase the number of Tribes who have access to and utilize IPAWS. [Ch. 1, Rec. H3]
- DOJ and DOI must provide training, support and assistance to Tribes and Tribal LE to better use non-Tribal outlets and social media approaches to identify missing persons. [Ch. 1, Rec. H4]
- The federal government must increase broadband and spectrum access on Tribal lands. [Ch. 1, Rec. H6]
- Congress must fund and DOJ must undertake a six-month study to determine the value and impact of a new national notification system for missing AI/AN persons. [Ch. 1, Rec. H1]
- Congress must increase funding for and flexibility in grants to Indian Tribes to improve search and rescue of reported missing or murdered persons. [Ch. 1, Rec. F1]
- DOI and DOJ must accelerate grant programs, cross-chapter sharing, and resources to MMIP and HT chapters across Indian country as MMIP and HT

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<sup>11</sup> Integrated Public Alert and Warning Systems, defined by the Federal Emergency Management Administration “a network of complex systems that lets Federal, State, Tribal, Territorial, and Local Alerting Authorities (AA) send geographically-targeted alerts. IPAWS alerts save lives and protect property by quickly informing the public of impending natural and man-made disasters, or other hazards to public safety and well-being.”

chapters and organizations are key and highly motivated partners who bring powerful networks, data, expertise, cultural sensitivity, and powerful advocacy. [Ch. 1, Rec. I3]

#### **DATA**

Accurate data on AI/AN persons are essential for federal, state, local, and Tribal governments to monitor conditions and make informed policy and spending decisions. Accurately classifying how someone died is critical to both public health and safety. Inaccurate death data negatively impacts mortality surveillance system data that, in turn, inform prevention efforts, policy, and resource allocation.

**Finding:** There is a lack of available data at all levels of government but especially at the national level to ascertain the extent of the problem of (1) missing AI/AN persons, (2) homicides and violent deaths of AI/AN people, and (3) AI/AN individuals who are trafficked.

#### **Recommendations:**

- The White House Domestic Policy Council (with support from OMB) must complete an audit of the entire Executive Branch of all data systems and sources that collect and/or report on: missing AI/AN persons; death investigations, homicides, and homicides charged as murder of AI/AN people; and trafficking in AI/AN people. [Ch. 2, Rec. A2]
- DOJ must encourage and/or incentivize all LEAs (state, county, municipal, and Tribal) to upload their crime data into the National Incident-Based Reporting System (NIBRS). [Ch. 2, Rec. A3]
- DOI's MMU must produce an annual report containing aggregate data on AI/AN missing person active and resolved cases and case outcomes (e.g., referred for prosecution), if available. [Ch. 2, Rec. A4]
- DOJ's [MMIP Regional Outreach Program](#) must produce an annual report on the program that includes information/data on case outcomes and patterns, survivor/family feedback, tracking status of implementation of [Savanna's Act](#) Guidelines in each district within regions, ongoing evaluation that determines program, and operational need. [Ch. 2, Rec. A7]
- The National Institute of Justice (NIJ), in coordination with DOJ Bureau of Justice Statistics (BJS) and the Centers for Disease Control and Prevention (CDC), must conduct a study examining the frequency, nature, and causes of homicide and violent deaths of AI/AN peoples that are focused on in-depth contextual characteristics of these cases (e.g., type of homicide [femicide, firearm, gender-related, intimate partner homicide, suicide], demographic information about the individuals involved, incident characteristics, and situational contexts associated with these cases). [Ch. 2, Rec. C1]
- The CDC's NCHS must develop and implement a nationwide program using different delivery modes to train MEs/Cs, funeral directors, and physicians on the

importance of coding AI/AN decedents correctly and accurately. [Ch. 2, Rec. G1]

- DOJ's Community Relations Service must conduct more outreach regarding their services in responding to race-based tension and conflict, including addressing allegations of racial bias and racialized violence in policing, and barriers to accurate data collection. The federal government should develop and establish a means to track and aggregate data regarding racially biased policing in and around Indian country. [Ch. 2, Rec. P1]

**Finding: The HHS Office of Inspector General (OIG) surveyed state-level foster care systems finding that during an 18-month period, out of 1,016,895 total children in foster care, 43,679 had been reported missing at some point.**

**Recommendations:**

- HHS must conduct a study of AI/AN children missing from foster care to determine if states are appropriately reporting AI/AN children missing from care to LE for purposes of entry into the appropriate databases. [Ch. 2, Rec. B1]
- DOJ must conduct a study examining the context of AI/AN missing children person cases, including the scope and context of cases that are connected to criminal circumstances (e.g., domestic violence, homicide, human trafficking). [Ch. 2, Rec. B2]
- The National Center for Missing and Exploited Children (NCMEC) must conduct a study on the barriers and challenges of (1) engaging with Tribal governments and citizens regarding the use of NCMEC and (2) getting social services staff to report cases to NCMEC (e.g., laws that impede the use of or reporting of missing children). [Ch. 2, Rec. B3]

**Finding: The interoperability of systems such as NCIC, NamUs, and others is key for addressing intergovernmental coordination.**

**Recommendations:**

- The Attorney General (DOJ), in consultation with the OMB, must analyze budgetary and operational deployment considerations to achieve interoperability of NCIC and NamUs. [Ch. 2, Rec. E1]
- The FBI Criminal Justice Information Services (CJIS) Division must update its NCIC Terms and Conditions to ensure users are notified about data-sharing activities (e.g., NamUs). [Ch. 2, Rec. E2]
- Congress must enact legislation deeming NamUs an official LE database such that the FBI's CJIS program can issue DOJ's NIJ an originating agency identifier (ORI) so NamUs program staff can access and exchange data. [Ch. 2, Rec. H1]
- Congress must require NCMEC to regularly share data with NamUs, with compliance contingent upon annual appropriations. [Ch. 2, Rec. H3]

- Congress must require (as part of their appropriations) a permanent, dedicated NCMEC position to assist with AI/AN case processing, including building trust with Tribal LE and AI/AN families. [Ch. 2, Rec. M3]
- Congress must appropriate funds to establish an *AI/AN Data Interagency Working Group* (IWG) to share expertise and develop and improve systems and methodologies that federal government agencies could replicate to collect accurate and disaggregated crime, missing person, and victimization data on AI/AN persons. [Ch. 2, Rec. K1]

*These and numerous other important recommendations addressing data are covered in more detail in Chapter 2.*

### ***VICTIM AND FAMILY RESOURCES AND SERVICES***

There has been a historic lack of services for AI/AN victims and families of MMIP and HT that are Native-led, culturally specific, and trauma informed. Often, there are barriers to accessing the services that are available, such as distance, conditions for care, and racist or biased care environments. In very rural areas, such as from Alaska to the Southwest, AI/AN victims, and families of MMIP and HT face even more barriers to access. Likewise, service providers in urban areas bear the burden of providing culturally-relevant resources to an extremely diverse population—70 % of AI/AN people live in urban areas. Victims and their families are routinely re-traumatized by the justice and health systems. Systems-based and community-based victims' advocates are critical, but there are too few advocates.

**Finding: Victims and survivors do not have sufficient access to culturally competent services to meet their needs after criminal victimization.**

#### **Recommendations:**

- Services should be provided through an integrated care model utilizing a public health and safety approach, and include Native-led, culturally specific practices and care. Baseline funding to implement, strengthen, and seek technical assistance to provide continuum of care models for survivors and families of MMIP and HT must be provided. [Ch. 5, Rec. A2]
- Comprehensive, culturally relevant services should be: 1) available to families and survivors as long they are needed; 2) provided based on family/survivor disclosure; 3) not based on case investigation status; and, 4) available both in-person and through tele-health options. [Ch. 5, Rec. A3]
- Congress must fully fund the creation, training, and sustainability of Healing and Response Teams (HRT) that will be available to all Indigenous-led community based organizations, Indian Tribes, and urban Indian organizations. [Ch. 5, Rec. E1]
- DOI must fund Tribal nations' response plan liaisons to ensure equity in representation considering the work of grassroots organizations. [Ch. 4, Rec. C4]
- DOI and DOJ must ensure that grants for victim services programs serving American

Indians and Alaska Natives should go to Tribal governments or community-based Tribal organizations that have demonstrated cultural competency, are Native led, and have the trust and confidence of community members. [Ch. 6, Rec. D12]

- Financial support for families must be available for search costs, costs of replacing lost income, costs for bringing deceased relatives home, and burial costs. [Ch. 5, Rec. A4, F1]
- HHS should make funding available for hotlines serving MMIP and HT victims and families to have crisis advocates and counselors available, so that they can provide more than referrals to callers. [Ch. 5, Rec. J1]

*The Commission has developed many additional, important recommendations addressing advocacy, services, and resource needs of MMIP and HT survivors and families that can be found throughout the subcommittee chapters, and in Chapters 4 & 5.*

#### **CRIMINAL JUSTICE COMMUNICATION WITH FAMILIES AND VICTIMS**

Competent, culturally informed, and empathetic communication between criminal justice and public safety professionals, from first responders to investigation agents to coroners and medical examiners, and families and victims is essential to a human-centered approach to violent crime.

**Finding: There is an unacceptable lack of communication among LEAs, medical examiners, victim service providers, and advocates in MMIP and HT cases, which harms victims, survivors, and their families.**

#### **Recommendations:**

- Prosecutors, LE, and victim advocates must meet with families on an ongoing basis and maintain ongoing interagency communication to improve information sharing. [Ch. 4, Rec. H3; Ch. 1, Rec. I4]
- DOJ must support all LEAs to create policies that employ and provide victim specialists or embedded social workers. [Ch. 1, Rec. I1]
- DOJ, DOI, HHS, Department of Housing and Urban Development (HUD), and DHS must create an Ombudsperson's Office to, among other things, address the needs of MMIP and HT families and victims desiring information about the status of the investigation and or prosecution of their case. [Ch. 5, Rec. O2; Ch. 6, Rec. H7]
- Within 90 days, BIA and the FBI must review existing policies and practices to make sure that family members and victims are easily able to access police reports, understanding that some information may be redacted in a released report. Federal LEAs must also develop guidelines to ensure that the process for requesting police reports, autopsy reports, and other similar records is clearly communicated to victims and families in writing. [Ch. 4, Rec. I1]

**Finding: Enormous stress is imposed on families by lengthy delays in obtaining autopsy**

**reports and findings. Families are often traumatized by how their deceased relative's remains and possessions are handled and returned.**

**Recommendations:**

- DOJ/DOI must develop an identification report to be made available to the families of homicide victims, which would include descriptions of height, weight, clothing, and a summary of manner of death. [Ch. 4, Rec. J2]
- The DOJ's Office for Victims of Crime (OVC) and DOI's BIA must develop and provide resources to assist families with interpretation of autopsy results. [Ch. 4, Rec. J3]
- Congress must enact legislation requiring all relevant LEAs to notify family members when human remains are collected for evidentiary purposes. Legislation should also mandate respectful return of human remains from autopsy (and as ashes) and person's belongings. [Ch. 4, Rec. J4 and J5]

*The Commission has developed many detailed, important recommendations addressing communication with families and victims that can be found throughout the chapters, and in particular Chapters 1 and 4.*

**PREVENTION AND WELLNESS**

While much of the focus of the Commission was on all the actions that happen after a crime or a missing person's report is filed, the Commission recognizes the importance and centrality of preventing MMIP and HT through preventative programs, activities, and resources.

**Finding: The intentional and systematic disconnection of AI/AN peoples from their land and identity has resulted in increased acts of violence, and decreased pathways to healing and development across the lifespan.** Many MMIP and HT cases are inextricably bound up with domestic violence, physical and sexual assault, and child abuse and compounded by the impact of multi-generational trauma. Wellness and prevention of violence for AI/AN people can begin to stem the tide of this history by centering on connection to land, language, and culture, as well as numerous other protective factors.

**Recommendations:**

- Grant programs related to addressing MMIP and HT must permit the use of funding for prevention efforts. [Ch. 6, Rec. D10]
- Culturally specific, trauma informed, integrated care prevention programs for youth who have been exposed to violence must be established. Runaways and foster youth facing risk of trafficking, violence, and criminal justice system involvement should be specifically addressed. [Ch. 5, Rec. K1]
- Congress must fully fund Section 3209 of the Indian Child Protection and Family Violence Prevention Act, which gives DOI and HHS authority to start Indian Family Justice Centers for every region. [Ch. 5, Rec. K2]

*The Commission has developed many detailed, important recommendations addressing prevention that can be found throughout the chapters.*

### **HUMAN TRAFFICKING**

Human trafficking is unfortunately bound up with the foster care system, missing persons, domestic violence, and ultimately, deeply intertwined with MMIP. Too often, the victims of human trafficking are treated as criminals themselves and treated in such a way as to induce embarrassment, shame, and silence.

**Finding: Survivors of trafficking have experienced trauma that is compounded when system actors and victim service providers are not knowledgeable about how to support them and there are systemic barriers on their pathway to healing and justice.**

#### **Recommendations:**

- DOJ's OVC and the HHS's Office on Trafficking in Persons (OTIP) must support, offer, and ensure culturally appropriate services are available to survivors of human trafficking. Trafficking survivors should have the same access to the range of grants and programs available to victims of other violent crimes and crimes against women. [Ch. 1, Rec. I2]
- All federal programs addressing MMIP and HT must require grantees/program beneficiaries to create policies to decriminalize persons coerced or forced into criminal acts by their traffickers. All federal programs addressing MMIP and HT should offer resources and training and technical assistance (TTA) to expunge records for criminalized victims. [Ch. 5, Rec. L1 and L2]
- DOJ must ensure federal LEOs are appropriately trained to work with trafficking victims. [Ch. 5, Rec. L3]

**Finding: Children and youth in the foster care, child welfare, and juvenile justice systems face increased risk for being trafficked.**

#### **Recommendations:**

- DOJ and DOI must support implementation of the recommendations made by the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States. [Ch. 4, Rec. B3]
- DOJ must (1) convene agencies that have equities in this issue and create policy to address decriminalization of runaway behavior; and (2) leverage formula and discretionary funding for state juvenile justice systems to encourage those systems to decriminalize runaway behavior. [Ch. 5, Rec. M2]
- HHS must leverage formula and discretionary funding for child welfare systems to (1) encourage those systems to develop specialty wraparound services for repeat runaway/missing children and youth and (2) to remove restrictions on social workers disseminating materials on missing and runaway foster children. [Ch. 5, Rec. M4, M5]

*The Commission has developed many detailed, important recommendations addressing trafficking that can be found throughout the Report.*

#### **LAW ENFORCEMENT RECRUITMENT AND RETENTION**

Without qualified, capable, and healthy BIA and Tribal LEOs to fill all positions, the LE system fails in its responsibility to keep Tribal communities safe and secure. In addition, the understaffed LEA suffers, with overworked, underpaid officers who do not have the support they need to deal with a frustrated, angry, and often grief-stricken public. The relationship between community and LE is strained and can become dangerously hostile.

**Finding: Tribal LEOs often leave Tribal agencies for state or federal agencies because of inequities in pay and retirement benefits. High turnover and frequent vacancies in LE undermine the response to missing persons and crimes.**

#### **Recommendations:**

- Congress must amend federal retirement law to make Tribal police officers eligible for the same retirement benefits that a federal employee performing the same job would be eligible for. [Ch. 3, Rec. A2]
- The Office of Personnel Management (OPM) must update Part 831 regulations for Law Enforcement Officers and Firefighters retirement to ensure employees moving from BIA and Tribal LE positions are credited as continuously employed and that the move is not considered a break in service. [Ch. 3, Rec. A3]
- Pay scales for Tribal LE and courts need to be reviewed to ensure they offer pay for the positions advertised that is competitive with DOJ and BIA LE, which has already achieved parity through BIA's Office of Justice Services (OJS). [Ch. 3, Rec. A4]
- The federal government must establish an education assistance program for BIA and Tribal LEOs. [Ch. 1, Rec. F1-F4]

**Finding: Addressing the physical, mental, and spiritual needs of BIA and Tribal LE will lead to better retention of officers, as well as more stable, productive departments. Healthy officers, practicing self-care, can be models for their communities.**

#### **Recommendations:**

- Federal agencies, including BIA, DOJ, Indian Health Service (IHS), and others must create a Task Force or other entity mandated to 1) develop a model Holistic Health Program for BIA and Tribal LE departments; 2) disseminate this model with training and support for establishing a program; 3) monitor and evaluate the success of each program, adjusting as needed. [Ch. 3, Rec. B2]
- HHS and DOJ must coordinate with BIA to ensure federal training materials and culturally appropriate mental health and wellness programs are locally or regionally available to LEOs working for BIA or Tribal LE and who are experiencing

occupational stress. [Ch. 3, Rec. B4]

- Federal LE agencies and training academies need to revise and reinvent training programs for recruits as well as established LEOs. Recruits need to understand what is expected in terms of lifestyle changes, stress and how to deal with different cultural contexts. Appropriate training can ensure that officers are able to contribute to a healthy work environment where recruits want to work and stay. [Ch. 3, Rec. C1]
- Congress must pass HR 1292, *BADGES Act for Native Communities Act*, calling for BIA and Tribal LEO counseling resources and interdepartmental coordination. [Ch 3, Rec. B4]

**Finding: Distrust and tension between LE and communities is a significant barrier to recruitment and retention of officers. Community-based policing is a successful model that should be utilized in Tribal communities.**

**Recommendations:**

- Develop a national outreach strategy in coordination with BIA and Tribal LE, Tribal nations and communities, and federal agencies to recruit and retain BIA/Tribal LE. This outreach should target both potential candidates and communities and should emphasize the principles of community-based policing. [Ch. 3, Rec. D1]
- Develop outreach programs to Tribal communities where LE can tell their stories, why they joined, what the experience has been like, what are the challenges and rewards. Development of the strategies for outreach and recruitment will be in the hands of a collaboration of BIA and Tribal LE, federal agencies, Tribal Nations, and communities. [Ch. 3, Rec. D2]
- Support and fund the replication of the BIA Tribal Youth Police Program and other successful models throughout Tribal communities as a way of educating and recruiting potential LE candidates. [Ch. 3, Rec. D3]
- Support and fund the recommendations in National Institute of Justice *30x30 Initiative to Advance Women in Policing*. [Ch. 3, Rec. E1]

*These and other important recommendations addressing officer recruitment and retention are covered in more detail in Chapter 3.*

**ALASKA**

The challenges of distance, poverty, governmental structures, lack of technology and transportation, and a traumatic history set Alaska Tribal nations apart. Federal governmental support afforded other Tribal governments is either not available or deficient in Alaska. Most Alaska Native villages do not have LE presence. If they do, they do not have the same access to quality training, up to date equipment and technology, or support for mental and physical health. Like the issue of LE, all the issues in this report must be addressed through a different

lens, one that highlights the lack of basic resources and services to protect the public health of Alaska Natives. To highlight the scope of the violence impacting Alaska Natives and the unique challenges addressing public safety in Alaska Native villages, the Commission has consolidated all its recommendations for Alaska in Chapter 7, *Alaska: History, Issues, and Recommendations*.

**Findings: The unique legal, historical, geographic, and cultural context of Alaska requires uniquely tailored solutions.**

**Recommendations:**

- DOJ and the DOI must—within one year—conduct an equity assessment of LE, court, and related governmental services for every Alaska Tribe. [Ch. 6, Rec. J1]
- The federal government must work with Alaska Tribes and the State of Alaska to improve coordination and collaboration on a broad range of public safety measures that include a 5-year and 10-year plan for building needed infrastructure that can address Alaska Native children and adults’ exposure to high rates of violence. [Ch. 6, Rec. J10]
- All statutory and administrative language in public safety and justice related grant programs must expand the definition of “Indian country” to include the definition of “Village” used in VAWA 2022. [Ch. 6, Rec. J5]
- Congress must appropriate recurring base funding for Alaska Tribes and compacting models, like the Alaska Tribal Health Compact, should be utilized. [Ch. 6, Rec. J2]
- Congress must provide funding for MMIP and HT response teams with dedicated staff positions in hub communities. [Ch. 6, Rec. J3]
- Congress must provide a tribally driven option for removing state jurisdiction over Alaska Native Village lands. [Ch. 6, Rec. J14]

*These and other important recommendations addressing Alaska are covered in more detail in Chapter 7.*

## Preamble and Context

### Centering Family and Survivor Voices

The Not Invisible Act Commission was designed to take a family- and survivor-inclusive approach to MMIP and HT. By listening directly to the stories of individuals impacted by MMIP and HT, this Commission strived to ensure that its work was responsive to and included the voices of persons with lived experiences, while also taking into account critical information from subject matter experts and program staff working on these issues. The resulting recommendations reflect the on-the-ground realities faced every day by AI/AN communities throughout the United States.

The Commission focused on the traumatic experiences of victims and survivors in developing its recommendations but did so with a recognition of the resiliency that also exists within Tribal communities and members. With this resilience in mind, the Commission puts forth its recommendations to address MMIP and HT, understanding that the strongest responses to these issues are those responses that are grounded in Tribal knowledge, culture, and lived experience.

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*"I know how we can die from this; and I know how we can live through this, too."*

-NIAC Anchorage, AK Witness

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### Acknowledging Historical Context

The Commission acknowledges the significant role that the history and ongoing legacies of colonization and violence perpetrated by the United States government play in contributing to the current issues faced by AI/AN people. The Commission acknowledges the painful truth that the U.S. government, at times, was directly involved in acts of violence against AI/AN communities, including targeting AI/AN women specifically, resulting in profound and lasting impacts.

The colonization of AI/AN lands by European settlers, and later harmful policies and actions by the United States government, brought forth a legacy of dispossession, forced removals, and broken treaties, accompanied by widespread violence and trauma.<sup>12</sup> The U.S. government, through policies such as forced assimilation, boarding schools, widespread removals of Indian children from their families, and attempts at the deliberate destruction of AI/AN cultures, inflicted generations of harm on AI/AN communities. This ongoing pattern of violence and oppression continues to inflict deep wounds that affect AI/AN peoples to this day.

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<sup>12</sup> Many scholars have documented the horrific violence that was perpetrated against American Indian and Alaska Native communities, often specifically targeting Native women. See, e.g., Sarah Deer, "The Beginning and End of Rape: Confronting Sexual Violence in Native America," Univ. of Minn Press, (2015).

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*“When the earliest colonizers talked about ‘civilizing us’--this is what they were talking about...this violence.”*

-NIAC Anchorage, AK Witness

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### **Diversity Among Tribal Communities**

Overall, Tribal communities throughout the U.S. do not have adequate or equitable access to resources that their non-Indian counterparts often take for granted.<sup>13,14</sup> The Commission recognizes, however, that all Tribes are unique. Challenges arise due to geographic isolation, lack of economic development, cultural differences, and complex relationships with states and the Federal government. Likewise, the experiences of AI/AN people, whether living in or near their Tribal communities or in urban areas, are remarkably diverse. This Commission sought to acknowledge and integrate this diversity in its work, understanding that no single commission or report could ever adequately encompass the distinctive conditions faced by every Tribe nor the life experience of every AI/AN person.

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*“Healthy communities require healthy people.”*

- NIAC Anchorage, AK Witness

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In addition, Alaska is unique and therefore has an additional focus to the Commission’s recommendations. See Chapter 7, *Alaska: History, Issues, and Recommendations* for further description of Alaska-specific issues.

### **A Renewed Demand for Action**

Importantly, Commissioners acknowledge that many of the findings and recommendations arising from the work of the Commission are not new. Since at least the American Indian Policy Review Commission in the 1970s, federal, state, and Tribal commissions, task forces, and working groups have been convened every few years and have made many of the same recommendations presented by this Commission, which demonstrates the depth and longevity of the issues and the consensus as to the nature and type of responses that are needed to address these issues. Reports such as *A Quiet Crisis*,<sup>15</sup> *Broken Promises*,<sup>16</sup> and *A Roadmap for*

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<sup>13</sup> U.S. Commission on Civil Rights. Jul 2003. *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*. Available at: <https://www.usccr.gov/files/pubs/na0703/na0204.pdf>

<sup>14</sup> U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>

<sup>15</sup> U.S. Commission on Civil Rights. Jul 2003. *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*. Available at: <https://www.usccr.gov/files/pubs/na0703/na0204.pdf>

<sup>16</sup> U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>

*Making Native America Safer* (Indian Law and Order Commission)<sup>17</sup> have emphasized the high rates of crime impacting Tribal communities; the significant underfunding of Tribal justice systems; the byzantine process for administering funds that are available; the limits on Tribal jurisdiction; and the unsatisfactory response by state and federal justice systems who have the authority to address many crimes on Tribal lands. This report reiterates many of the findings and recommendations of these reports. The Commission understands, and shares, the frustration that arises when it seems that repeated calls for action yield little change, but it is our sincere hope that the continued and resounding call for improvements in public safety for Indian country and Alaska Native villages will finally be heard and this Report will serve as a catalyst for change.

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*“These sessions may be helpful, yet they are a re-trigger for the people that must open the wounds over and over again. They should be healing. They should be moving on. Yet here we are sitting, beating the dead horse yet again. Where’s the permanent resolution? When is that day coming?”*

-NIAC Northern California Witness

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<sup>17</sup> Indian Law and Order Commission. Nov 2013. *A Roadmap For Making Native America Safer: Report To The President And Congress Of The United States*. Available at: [https://www.aisc.ucla.edu/iloc/report/files/A\\_Roadmap\\_For\\_Making\\_Native\\_America\\_Safer-Full.pdf](https://www.aisc.ucla.edu/iloc/report/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf)

## Commission Background

### The Commission

#### ***Legislative background and statutory charge***

The *Not Invisible Act*,<sup>18</sup> which was authored by then-Rep. Deb Haaland and passed into law in October 2020, directed the Departments of the Interior and Justice to establish the Commission as an advisory body composed of both federal and non-federal members including: LE, Tribal leaders, federal partners, service providers, family members of missing and murdered individuals, and survivors of human trafficking.<sup>19</sup>

#### ***Hearings: locations and purpose***

As the cornerstone of its information gathering, the Commission held seven field hearings across the United States,<sup>20</sup> inviting victims, survivors, advocates, Tribal leaders, and other interested stakeholders to testify about their experiences and recommendations. The Commission received testimony (oral, written and private) from over 260 witnesses.

Several themes emerged from the testimony. In every hearing, regardless of location, Commissioners heard deep frustration from family members and survivors about their interactions with LE. Witnesses described not being taken seriously when they reported a loved one missing and not receiving information or updates for long periods of time. The same sentiments were echoed when dealing with the murder of a loved one. Family members and survivors also discussed the lack of victim services for individuals impacted by MMIP and HT, from legal services to counseling and support services. Further, witnesses at each hearing cited having to repeat their story over and over again, each time with no action being taken by listening authorities. Finally, witnesses discussed feelings of invisibility – that no one truly cares about or pays attention to what is happening to AI/AN peoples and communities. A more detailed summary of the Commission’s hearings can be found in Appendix 3.

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*“I went... to the DAs office ...to demand that I see some progress in my son’s case. They couldn’t even find my son’s case. No [one] in the office knew my son’s name... [not even] the victim witness office. It was heartbreaking...The fact that they didn’t know his name says that I’m not good enough.”*

- NIAC Northern California Witness

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<sup>18</sup> Public Law 116-166, Not Invisible Act of 2019, 134 Stat. 766, (2020)

<sup>19</sup> U.S. Department of Justice. Feb 2023. *Deputy Attorney General Lisa Monaco And Secretary Deb Haaland Meet With Not Invisible Act Commission* (Press Release). Available at: <https://www.justice.gov/opa/pr/deputy-attorney-general-lisa-monaco-and-secretary-deb-haaland-meet-not-invisible-act>

<sup>20</sup> Tulsa, OK; Flagstaff, AZ; Anchorage, AK; Blue Lake, California; Minneapolis, MN; Billings, MT; Albuquerque, NM; and a two-day virtual hearing for those who were unable to attend one of the in-person hearings.

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*“Communicate with us! Give us the information, reach out to us. Us families need to know that you actually care about us. I wouldn’t wish this on my worst enemy, this pain. No one should have to go through this pain.”*

-NIAC Albuquerque, NM Witness

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### **Commission Limitations**

While the purview of the Commission was broad, the Commission was nonetheless limited in its authority and ability to address and respond to these issues adequately. First, the Commission was informed in its work by subject matter experts (SMEs), victims, survivors, and advocates who represented only a small fraction of the experiences of MMIP and HT victims and survivors. Thus, this report cannot be read as a comprehensive accounting of the issues. Second, not all Commission seats were filled in a timely manner, turnover in personnel at times created vacancies, and Commissioners from some federal agencies were restricted in their participation. Further, the Commission operated under constraints of time and resources. It started its work late and was interrupted by a three-month shutdown in the fall of 2022 and an abrupt resumption of its work once Congress acted to extend the Commission. The statutory deadline for the Commission to submit its final recommendations provided very little time to conduct and conclude field hearings that the Commission felt were instrumental to its work. All Commissioners took on Commission work on top of their regular full-time jobs and the non-federal Commissioners received no federal compensation for their time. Funding was also unavailable to victims and survivors to support their travel to participate in field hearings. As a result, only victims and survivors with means to travel and attend field hearings or who were able to secure support from non-governmental organizations or tribes were represented.

### **Building on Past Work**

The Commission follows many prior commissions and reports that have studied related issues and made similar recommendations, which have been instrumental in helping identify the significant reforms that are needed. Our findings and recommendations build upon the foundation laid by prior these prior efforts, which have been instrumental in helping identify the significant reforms that are needed. See more in the Preamble and Appendix 7.

### **Unique Status and Complexity of American Indian and Alaska Natives Peoples**

To understand many of the recommendations made in this Report, it is necessary to understand the unique political and legal status of American Indians and Alaska Natives. Native Americans, American Indians, Alaska Natives, Native Hawaiians – these are all terms used to describe the Indigenous peoples whose homelands are located within what is now the United States of America. The *Not Invisible Act*, which established this Commission, however, uses the term “Indian” to describe those Indigenous people who are members of a federally recognized

Tribe.<sup>21</sup> Federally recognized Indian Tribes have a unique relationship with the United States government that exists nowhere else in United States law. It comes not from ethnicity or color, but from the complex legal and political relationship between the United States and Indian Tribes as sovereign governments.

Today, that relationship has two core tenets. First, Tribal nations are sovereign governments that pre-date the United States and possess the inherent right to govern their own people and lands. Secondly, the United States has a trust responsibility based upon binding treaties and laws, which include a legal obligation to protect the rights, lands, resources, and welfare of Indian Tribes.

### ***The Complexity of “Indian” Status***

For myriad historical and legal reasons that are beyond the scope of this report, not all Indigenous peoples within the United States are formally recognized by the United States as members or citizens of federally recognized Indian Tribes. There are many persons who are descended from a U.S. Indigenous group but who are not eligible to be Tribal citizens because of membership criteria unique to each Tribe. This can limit access to education, housing, mental health care, and rehabilitative services; all services which can limit the likelihood of an individual falling prey to the MMIP and HT crises.

Additionally, some states recognize groups that the federal government has not; however, members of those “State Recognized Tribes” are not generally entitled under U.S. law to any of the trust protections that the U.S. government has with federally recognized Tribes and Tribal citizens.

It is essential to acknowledge that while treaty rights and the federal trust responsibility have often been interpreted as applying to federally recognized Indian Tribes and their members, the United States government has obligations to all Indigenous peoples within its borders. These obligations are based on international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which sets out a framework for the protection of the rights and well-being of Indigenous peoples worldwide. Under the UNDRIP, the United States government has a responsibility to respect and uphold the rights of all Indigenous peoples and individuals.

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<sup>21</sup> As a legal term “Indian” is used in the United States Constitution and countless federal statutes. Art. I, §8, cl. 3 of the U.S. Constitution, known as the Indian Commerce Clause, requires Congress “[t]o regulate Commerce . . . with the Indian Tribes.” The U.S. Department of Justice defines “Indian” thus: “As a general principle, an Indian is a person who is of some degree Indian blood and is recognized as an Indian by a Tribe and/or the United States. No single federal or Tribal criterion establishes a person's identity as an Indian. Government agencies use differing criteria to determine eligibility for programs and services. Tribes also have varying eligibility criteria for membership. It is important to distinguish between the ethnological term “Indian” and the political/legal term “Indian.” The protections and services provided by the United States for Tribal members flow not from an individual's status as an American Indian in an ethnological sense, but because the person is a member of a Tribe recognized by the United States and with which the United States has a special trust relationship.”

<https://www.justice.gov/otj/about-native-americans>.

## MMIP and HT: Cross-Cutting Findings

### Data: What we know, do not know, and could not obtain

A 2021 report from the Government Accountability Office concluded that baseline data on the rates of murder or the number of missing persons from AI/AN communities is difficult to obtain and the full scope of the problem remains unknown.<sup>22</sup> There is widespread recognition, however, that AI/AN people are at a higher risk of experiencing these events than their non-Indian counterparts and there is a need for better data.<sup>23</sup> While sometimes intertwined, murdered, missing, and trafficked are distinct circumstances.

In general, MMIP and HT data lacks a cohesive and well-defined system designed to capture all elements of MMIP and HT incidents that are relevant to the person, Tribe, and the justice system, which impacts the types of services and response that are deployed.

The Commission's work was focused on developing recommendations on specific topics. A detailed background and overview of the issues surrounding MMIP and HT, including past and current Federal efforts to address these issues, can be found in Congressional Research Service's *"Missing and Murdered Indigenous People (MMIP): Overview of Recent Research, Legislation, and Selected Issues for Congress"* (2022) and the U.S. Government Accountability Office *"Report on Missing or Murdered Indigenous Women: New Efforts are Underway But Opportunities Exist to Improve the Federal Response"* (2021) cited in Appendix 7.

### Interconnectedness

MMIP and HT cannot be fully understood without acknowledging the centuries of ongoing trauma that have been inflicted upon AI/AN peoples. This trauma, while sometimes historic, is intergenerational, with the consequences of past violations against AI/AN populations still felt by current generations. This was stressed again and again by hearing witnesses.

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*"When the issue of missing and murdered Indigenous women started to come to the forefront less than 10 years ago, it wasn't a new issue, it has been an act of violence against my ancestral grandmothers since colonization began... It has been an act of war that has been used on women that has weakened nations and we in our tribal nations are still feeling those acts."*

-NIAC Billings, MT Witness

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Beginning with colonialism and the extermination of entire Tribes, AI/AN peoples have

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<sup>22</sup> U.S. Government Accountability Office. Oct. 2021. *Missing or Murdered Indigenous Women: New Efforts are Underway but Opportunities Exist to Improve the Federal Response*. GAO-22-104045, p. 17.

<sup>23</sup> U.S. Government Accountability Office. Oct. 2021. *Missing or Murdered Indigenous Women: New Efforts are Underway but Opportunities Exist to Improve the Federal Response*. GAO-22-104045.

experienced trauma through forced relocation, the creation of the reservation system, federal and parochial Indian boarding schools aimed at systematically erasing culture and language, forced sterilization, and other atrocities.

Unaddressed trauma has been found to significantly increase the risk of substance use,<sup>24</sup> which in turn increases the risk of experiencing violent crimes, including trafficking.<sup>25</sup> Alcohol and drugs, while non-existent prior to European contact, are prevalent in many Tribal communities and are often used by victims and survivors. Indeed, stereotypes involving AI/AN persons and communities and alcohol are the direct result of these coping mechanisms and have been weaponized against Tribal communities. Alcohol and substance use is also intergenerational and contributes to learned behavior such as violence and abuse. The lack of adequate housing, access to healthcare, LE response, and victim services only exacerbate the use of maladaptive coping mechanisms, creating a cycle of violence that is perpetuated by the very systems put in place to assist AI/AN persons in their time of crisis.

### **Risk and Protective Factors**

AI/AN persons face unique risk factors for MMIP and HT victimization. At the individual level, AI/AN persons face discrimination and bias in their everyday activities that adversely affect their interactions with others. For example, hearing witnesses described not being taken seriously by LE<sup>26</sup> and other authorities, often being met with negative stereotypes, such as being told that their loved one was probably “just out partying.” Some witnesses noted that they grew up in households where trauma and traumatic responses (e.g., substance use, domestic violence) were common among parents and grandparents and were a direct result of the traumas these older generations had endured themselves. Institutions are not generally set up to include AI/AN culture, traditions, and customs necessary to provide the appropriate and tailored prevention and intervention strategies required. Multiple witnesses testified about the difficulties they experienced trying to receive services at mainstream organizations that did not understand their culture and unique experiences as AI/AN people. Finally, AI/AN persons face an increased risk of victimization due to laws and policies that have diminished Tribal authority to hold accountable individuals who harm Tribal citizens, including the inability of most Tribes to prosecute non-Indian offenders for crimes perpetrated on Tribal lands against Tribal citizens. Prosecution of crimes perpetrated by non-Indians often falls to the federal or state government. This contributes to many crimes going uninvestigated and unpunished and an overall diminution of public safety in Tribal communities.<sup>27</sup> Positively, the expanded Special Domestic Violence

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<sup>24</sup> Substance Abuse and Mental Health Services Administration. 2014. *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*. DHHS Publication No. (SMA) 14-4884. Rockville, MD: Substance Abuse and Mental Health Services Administration.

<sup>25</sup> U.S. Dept of Health & Human Services, Office on Trafficking in Persons. Oct. 31, 2022. *Supporting Individuals at the Intersection of Human Trafficking and Substance Use*.

<sup>26</sup> The Commission also heard from multiple witnesses about allegations of police misconduct and violence committed by law enforcement against Native people. We are deeply concerned by what we heard and recommend that DOJ/DOI and Congress initiate a process to examine this issue.

<sup>27</sup> See Indian Law and Order Commission. Nov. 2013. *A Roadmap For Making Native America Safer: Report To The President And Congress Of The United States*. Page ix states that, “Ultimately, the imposition of non-Indian criminal justice institution in Indian country extracts a terrible price: limited law enforcement; delayed

Criminal Jurisdiction that was part of the VAWA reauthorization of 2013 affirmed the inherent right of Tribal nations to hold accountable non-Indian perpetrators who commit domestic and dating violence crimes against Tribal citizens on Tribal lands. Widely considered a success,<sup>28,29</sup> Congress recently amended the law to allow Tribal nations to address additional categories of crime including sexual violence, sex trafficking, and violent crimes against children.

However, AI/AN persons also benefit from distinct protective factors. Culture serves as an important protective factor for AI/AN persons, providing AI/AN persons with language, customs, traditions, and spirituality that, when engaged with, can strengthen ties to the communities and communal bonds between community members. Witnesses spoke about the importance of traditional practices in helping them heal. This strengthening can decrease MMIP and HT victimization through strong support networks that ensure not only prevention but healing from victimization.

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*“Culture is a type of prevention—it is resilience and resiliency.”*  
- NIAC Anchorage, AK Commissioner

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### **Complexity across Geographies, Tribes, Cultures**

The 574 federally recognized Tribes are not a monolithic entity that can be treated the same across all contexts. Individual Tribes have a unique set of customs, language, traditions, history, and geography. These differences, among others, manifest themselves in differential access to resources (e.g., presence of LE, culturally appropriate victim services, etc.). Thus, solutions to MMIP and HT that do not recognize the inherent differences between Tribes and allow for local responses and solutions will not adequately address MMIP and HT across all Tribal nations. It is only through specific Tribally tailored responses that each Tribe can truly address the MMIP and HT crisis in a way that is consistent with its beliefs and practices.

### ***Alaska Issues***

Alaska is home to 11 distinct and diverse Native cultures, including numerous subcultures with differences in dialect, cultural activities, and traditional ways of life. Alaska has over 20 distinct Native languages and includes 229 federally recognized tribes - almost half of all federally recognized tribes in the United States. Alaska tribes are ethnically, culturally, and linguistically diverse nations, occupying an area of about 365 million acres - more than double the size of the State of Texas and more than the combined area of Texas, California, and Montana. In addition,

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prosecutions, too few prosecutions, and other prosecution inefficiencies; trials in distant courthouses; justice system and players unfamiliar with or hostile to Indians and Tribes; and the exploitation of system failures by criminals, more criminal activity, and further endangerment of everyone living in and near Tribal communities.”

<sup>28</sup>National Congress of American Indians. Mar 2018. *VAWA 2013’ S SPECIAL DOMESTIC VIOLENCE CRIMINAL JURISDICTION FIVE-YEAR REPORT*. Available at: [https://www.ncai.org/resources/ncai-publications/SDVCJ\\_5\\_Year\\_Report.pdf](https://www.ncai.org/resources/ncai-publications/SDVCJ_5_Year_Report.pdf)

<sup>29</sup> See *Findings and Purposes* from Violence Against Women Reauthorization Act of 2022 as passed in Public Law 117-103, Consolidated Appropriations Bill of 2022. Mar 2022.

Alaska is unique in that the majority of its Native communities are located off the road system and accessible only by boat or plane – the road system is minimal at best.

Further, the challenges of distance, poverty, governmental structures, lack of technology and transportation, and a traumatic history set Alaska Tribal nations apart. Federal governmental support afforded other Tribal governments is either not available or deficient in Alaska. Most Alaska Native villages do not have a LE presence. If they do, they do not have the same access to quality training, up to date equipment and technology, or support for mental and physical health. Alaska is also subject to PL-280, giving the state jurisdiction over crimes instead of the federal government. This issue is described in greater detail by Subcommittee 6. Like the issue of LE, all the issues in this report must be addressed through a different lens, one that highlights the lack of basic resources and services to protect the public health of Alaska Natives. Please see Chapter 7, *Alaska: History, Issues, and Recommendations* for further information on Alaska’s unique needs.

### **Institutional Failures, Constraints, and Limitations**

LEAs lack the personnel to adequately patrol and ensure the proper responses to MMIP and HT cases. States that have been given primary jurisdiction on Tribal lands by federal law have been handed an unfunded mandate to provide services to Tribes. Granting agencies have failed to put forth equitable and stable funding for Tribes and Tribal organizations. Victim service organizations are limited in the types of assistance that can be provided to victims and survivors. These examples are but a few examples of the institutional deficiencies that have not only allowed MMIP and HT to reach crisis levels but have actively hindered – or prohibited – proper and sufficient response.

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*“I just wish law enforcement would take us seriously, listen to these people that are reporting people that are missing. Every moment matters.”*

-NIAC Albuquerque, NM Witness

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### **A Failure of Trust Responsibility**

The federal trust responsibility requires the federal government to provide essential services and programs to improve the lives of Indian people. While strides have been made, the federal government continues to fail to meet its obligations to Indian people. In its most recent discussion of that legal relationship, the U.S. Supreme Court reiterated that:

...the Federal Government has “‘charged itself with moral obligations of the highest responsibility and trust’” toward Indian Tribes.<sup>30</sup>

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<sup>30</sup> *Haaland v. Brackeen*, 599 U.S. \_\_\_\_ (2023), slip op. p. 12, citing *United States v. Jicarilla Apache Nation*, 564 U. S. 162, 176 (2011); *Seminole Nation v. United States*, 316 U. S. 286, 296 (1942) (“[T]his Court has recognized the distinctive obligation of trust incumbent upon the Government in its dealings with these dependent and

The creation of this Commission stems from that trust relationship, and it is that trust responsibility which demands that the U.S. Government act to address the MMIP and HT crisis.

Although Indian Tribes maintain a government-to-government relationship with the U.S. federal government, the trust responsibility of the federal government is often unfulfilled or poorly carried out. For example, remote Tribal communities often lack adequate resources to ensure livable conditions and public safety. Basic infrastructure is often lacking, including a lack of adequate housing, health, and educational programs and facilities for Tribal members. LE, when present, is often understaffed and without adequate technology to carry out its duty to protect the Tribal members they serve. The majority of Alaska Native villages do not have *any* LE presence. As noted in the 2018 report *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* from the United States Commission on Civil Rights:

“Due at least in part to the failure of the Federal government to adequately address the wellbeing of Native Americans over the last two centuries, Native Americans continue to rank near the bottom of all Americans in terms of health, education, and employment. Many Native Americans face unique challenges and harsh living conditions resulting from the United States having removed their tribes to locations without access to adequate resources and basic infrastructure upon which their tribal governments can foster thriving communities.”<sup>31</sup>

Specific to law enforcement, the Report stated that “...in 2009, BIA found that then-current funding met only 42 percent of need for law enforcement personnel in Indian country,”<sup>32</sup> and that “BIA 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.”<sup>33</sup>

Jurisdiction for crimes committed on Tribal lands can be complicated and has been described in detail elsewhere.<sup>34</sup> Federal or state governments often have the responsibility to arrest and prosecute offenders; however, these duties are not always carried out (e.g., lack of

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sometimes exploited people”).

<sup>31</sup> U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>

<sup>32</sup> See U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON INTERIOR, ENVIRONMENT, AND RELATED AGENCIES, Law Enforcement Issues in Indian Country (Apr. 22, 2009), <http://www.gpo.gov/fdsys/pkg/CHRG-111hhr52296/html/CHRG-111hhr52296.htm>

<sup>33</sup> See National Congress of American Indians. 2015. *Fiscal Year 2016 Budget Request*. Available at: [https://www.ncai.org/policy-issues/tribal-governance/budget-and-appropriations/FY2016\\_NCAI\\_Budget\\_Booklet.pdf](https://www.ncai.org/policy-issues/tribal-governance/budget-and-appropriations/FY2016_NCAI_Budget_Booklet.pdf)

<sup>34</sup> For a detailed overview of how criminal jurisdiction is distributed on tribal lands, see U.S. Government Accountability Office. Oct. 2021. *Missing or Murdered Indigenous Women: New Efforts are Underway but Opportunities Exist to Improve the Federal Response*. GAO-22-104045, , p. 9-16.

investigations or arrests, or declinations). This failure of the federal government puts Tribal citizens at direct risk for victimization, particularly from offenders who cannot be prosecuted under Tribal law and in Tribal courts (e.g., non-Indian perpetrators). The abridgment of the Federal trust responsibility cannot be allowed to continue, and only through its restoration can federally-recognized Tribes fully achieve the same levels of public safety that are felt by non-Tribal communities throughout the U.S.

### **The Need for Action at Different Levels and Scales**

MMIP and HT are not only violence against an individual, they are a perpetration against families and entire communities. When an individual is victimized, the trauma extends to the family of the victim and impacts the victim's community by decreasing perceptions and the actual safety of individuals within the community. As such, the responses to address MMIP and HT require a multi-pronged set of actions aimed at the individual, family, and community levels. To not address the MMIP and HT crisis at these different levels would be an act of negligence, perpetuating the circumstances and systems that have allowed MMIP and HT to reach crisis level. Solutions must be found that can benefit the individual victim or survivor in healing, assist families in remaining strong and cohesive in the face of trauma, and allow communities to come together to engage in collective wellness that restores the community to fullness.

## **CHAPTER 1**

### **Subcommittee 1: Law Enforcement & Investigative Resources – Identifying/Responding to MMIP and HT**

#### **Subcommittee Charge and Priority Areas**

The Not Invisible Act asked the Commission to address Identifying, reporting, and responding to instances of missing persons, murder, and human trafficking on Indian lands and of Indians (i.e., across state-Tribal-federal jurisdictions), including comparing and contrasting available communication tools and general resources at the state and federal levels and what technology updates and platforms are needed for BIA-Office of Justice Services (OJS) and Tribally operated agencies to support current tools/technologies.

Given this broad charge, the Subcommittee identified three priority areas to organize their work and one important cross-cutting theme. These areas included:

1. How do we improve initial reporting and responding of missing persons and crimes?
2. How do we improve access to equipment and technology that would aid initial reporting and investigation?
3. What innovations like improved case management, victim advocates and multi-disciplinary teams can be instituted to aid investigations across jurisdictions?
4. And, cross-cutting across these priority areas, and in conjunction with the work of Subcommittees Four and Five, how we improve communication between LE and families?

#### **How the Subcommittee Worked**

The subcommittee held sixteen (16) meetings via Zoom on an approximate every three-to-four-week schedule from July 7, 2022, until late September 2023. The subcommittee co-lead two of the seven hearings: One in Tulsa, Oklahoma on April 11 through 13, 2023, including site tours at the Osage Tribal Headquarters, the Muskogee Nation, the U.S Attorney's Office, and the Indian Health Care Center of Tulsa; and the second in Flagstaff, Arizona on May 9 through May 11, 2023, including site tours of the Navajo Nation Judicial Complex and the Hopi Tribe's Courthouse. The Subcommittee sought testimony from families, survivors, LE, ME/C offices, advocates, and Tribal, state, and federal prosecutors and investigators.

#### **Overall Subcommittee Findings**

Overall, Subcommittee One on Law Enforcement and Investigative Resources finds the following:

1. MMIP and HT are acronyms that represent thousands of unique, AI/AN persons with family, friends, grief and tragedy, a unique, complex context and background. Each has a history and future either erased or forever changed.
2. Many MMIP and HT victims are vulnerable and subject to targeting due to a variety of factors including racial and gender identity, homelessness, substance use, mental health,

past sexual assault or abuse, sex work, that result in either intentional or unintentional investigatory neglect or apathy and involvement in the child welfare system.

3. Many MMIP and HT cases are inextricably bound up with domestic violence, physical and sexual assault, and child abuse and are compounded by the impact of multi-generational trauma.
4. Missing persons today are likely to become crime victims tomorrow. In missing persons cases, each minute lost brings a greater risk of greater harm to that individual— greater risk of homelessness, sexual abuse, physical assault, human trafficking, or murder.
5. Despite the best efforts of many individuals across law enforcement, the judiciary, and social services, long-standing institutional failures must be acknowledged and addressed.
6. Responses to MMIP and HT cases are unfortunately too often characterized by neglect, apathy, and outright prejudice.
7. Tribal LE and judiciary systems still struggle to be treated with dignity and respect, and with parity to their federal, state, and local counterpart agencies.
8. Many service providers and LEOs across jurisdictions are not trained in trauma-informed care in interacting with families of the murdered or missing or trafficked Indigenous people.
9. Public Law 280 is failed legislation as it is an unfunded mandate for mandatory states and has created unequal public safety funding among tribes as Tribes located in PL-280 have been left out or not prioritized to receive these funds, which has contributed to disproportionate rates of violence when compared to other populations, as especially documented in Alaska.
10. Underfunding of Tribal LE programs represents a failure to uphold the federal trust responsibility and has contributed to the MMITP crisis.
11. The US provides extensive funding across the world to support and defend democracy. American Indian Tribes and Alaska Native Villages deserve the same level of commitment to preserving their governments and communities. The federal government needs to step up to this challenge to develop meaningful funding for tribally lead, sovereignty-based solutions to MMIP and HT.

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*“One day we need to eliminate the pain that a dad feels when he thinks of his missing daughter, that a mom feels when she thinks of her missing best friend. Communities are made up of interlocking networks. Each time someone is plucked and stolen, it hurts the community and its ability to thrive.”*

– Congresswoman Teresa Leger Fernandez,  
NIAC Albuquerque, NM Hearing

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### **Specific Subcommittee Findings and Recommendations**

The following are specific findings and the recommendations that follow based on the knowledge, expertise, and wisdom of the Commission members and witnesses.

#### **FINDING A**

**There is woefully insufficient funding to support public safety in Indian country and Alaska Native Villages (*see also Subcommittee 6 recommendations and other funding recommendations in additional sections of this Chapter*).**

Financial resources must be increased and made mandatory across all aspects of the LE and victim assistance response to MMIP and HT. Insufficient LE resources mean cases must be triaged, leads left behind, crime scenes not investigated sufficiently, missing persons reports not investigated, perpetrators of crimes emboldened, Tribal and community leaders left alone become first responders, to name only a few of the adverse consequences of this neglect. However, funding LE adequately alone is not enough. Increased investigators and prosecutors can lead to more indictments but if court systems are not commensurately supported, courts become a bottleneck to criminal accountability. If LE is increased without support of victim services, families and victims lack access to the short and long-term support they need to heal. In short, justice is not being served, rather, is it being meted out in varying degrees across differing jurisdictions, with AI/AN people bearing the brunt of this failure.

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*“There’s a \$1 billion shortfall for law enforcement, \$1 billion for Tribal courts, \$222.8 million for detention services. That’s probably increased now. What happens is that most Tribes receive funding for about 20% for what they need to operate to keep their communities safe. If Tribes can supplement that income, they pick up 70-80% of the costs to keep communities safe.”*

– Alfred Urbina, Attorney General, Pascua Yaqui Tribe,  
NIAC Flagstaff, AZ Hearing

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As but one of many funding problems, DOI does not receive appropriations from Congress to provide any “base” funding for Tribal LE, detention and corrections, or Tribal Courts. The money appropriated to DOI to support those systems is distributed through grants, training, and technical assistance opportunities that are intended to boost innovation. But because overall funding for Tribes is so far below what they need to meet basic operating costs, many Tribes use DOI funding to supplement “base” amounts received by other agencies such as DOJ. To make matters even worse, for tribes located in PL-280 states, there is no “base” funding for public safety or courts. For overall funding recommendations, please see Chapter 6.

*In the interim, until such time as tribal and Alaska Native village public safety achieves fully funded base funding, the following shall occur.*

**Recommendation A1:** A cross-agency, federal and non-federal, committee or commission must be involved in review of public safety budgets by all federal agencies in an ongoing and regular manner to inform and advice on the President’s annual budget request and Congressional appropriations. While the Secretary of the Interior’s Tribal Advisory Committee and the Tribal Interior Budget Council do provide this review for DOI, a single entity across BIA, DOJ, and HHS is needed to fully understand and make recommendations for improvements to federal money flows for public safety across Tribes and Alaska Native Villages (*see Chapter 6 for further elaboration*).

**Recommendation A2:** BIA must permanently establish, make mandatory, and sufficiently fund the BIA MMUs and place MMUs in all regions and include sufficient funding and oversight such that putting MMU staff on details or duties elsewhere does not damage the progress of investigations.

**Recommendation A3:** Congress must appropriate, and DOJ must then increase the number of Special Assistant U.S. Attorneys (SAUSA) throughout Indian country and Alaska.

**Recommendation A4:** The Federal agencies must make more grants eligible for the 477 programs without a required match. The 477 program has agreements with 12 agencies and is seeking to cut down on the grant administration burden. Furthermore, sister agencies must remove barriers that prevent other agencies from working cooperatively with BIA to administer the program.

#### **FINDING B**

**In order to improve initial reporting of and responding to missing persons and crimes, including murder and trafficking, records of both victims and perpetrators must be improved (*see also Subcommittee 2 recommendations*).**

*“We must make sure that members of our community get the same response as someone with blonde hair and blue eyes in the city would receive. Our responders need the same level of training and tools that those in the cities have. Reporting is complicated, because so many of our members live off or between reservation and the city. Reporting goes both ways and must get the same amount of attention on the reservation and the city.”*

- Delegate Amber Crotty, Navajo Nation,  
NIAC Flagstaff, AZ Hearing

**Recommendation B1:** The DOJ Tribal Access Program (TAP) provides support for systems installed and usable at and with tribes. However, many tribes and almost all Alaska Native villages do not have such systems. There are numerous challenges. There are multiple databases for different kinds of data (*see FBI chart on the next page*).

<b>National Crime Information Center (NCIC)</b>	<b>Next Generation Identification (NGI)</b>	<b>Combined DNA Index System (CODIS)</b>
Maintained by FBI Criminal Justice Information Services (CJIS) Division	Maintained by FBI Criminal Justice Information Services (CJIS) Division	Maintained by FBI Laboratory Division
Gathers information from and is accessed by law enforcement agencies, the National Center for Missing & Exploited Children (limited read-only access), and some medical examiner/coroner offices.	Gathers information from and is accessed by law enforcement agencies and some medical and coroner offices.	Receives physical samples from and is accessed by law enforcement agencies and medical/coroner offices.
Houses criminal justice information (including arrest warrants, missing persons, etc.) and biographical information (name, race, tribal affiliation, date of birth, etc.).	Houses biometric fingerprint indexed criminal history record information and includes fingerprints, palm prints, iris scans, photographs, as well as scars, marks, and tattoos.	Houses DNA computer software program that operates local, state, and national databases of DNA profiles from convicted offenders, unsolved crime scene evidence, and missing persons.
Is a communication system used by law enforcement agencies.	Is accessed by law enforcement agencies and by non-criminal justice agencies for authorized purposes.	The system has participants and is access by all 50 states, the District of Columbia, federal government, the U.S. Army Criminal Investigation Laboratory, and Puerto Rico.

Participation in FBI CJIS systems is ‘voluntary’, and states often have their own criminal justice databases. Sec 211 of the Tribal Law and Order Act charged DOI BIA – not DOJ - with providing technical assistance and training to Tribal LE officials to utilize the NCIC and

other national crime information databases (such as Next Generation Identification (NGI) pursuant to 28 USC §534. Training about the use of TAP to access FBI CJIS systems is currently being provided by DOJ TAP staff. Since NCIC and other databases are DOJ-run and managed, agency responsibility has been bifurcated between the system itself and training and operations by Tribes. Furthermore, many Tribes do not have their own detention programs and may rely on MOUs with local or state-detention programs. There have also been issues where Tribes should have had access to NCIC and other FBI CJIS systems but were blocked or restricted by some states which limited Tribal access to federal and/or state data. Some state/local jurisdictions do not enforce Tribal arrest warrants. TAP staff works with participating Tribes to ensure that the system is fully utilized in accordance with federal law and policy and Tribal prerogatives.

*Therefore,*

1. First and foremost, responsibility for both training and management of TAP must reside at DOJ.
2. To ensure TAP and its kiosks are fully utilized and available across Tribes, DOJ must continue to monitor program usage and identify concrete actions to increase regular use of TAP and to address issues and barriers.
3. DOJ must hold Tribal consultations, including funding for travel for Tribal leaders and Tribal subject matter experts to participate, for ensuring the success of the TAP program as part of this DOJ review.
4. DOJ must continue to provide on-going, regular training for TAP users given frequent changeover in Tribal personnel.
5. DOJ must continue to identify Tribes that utilize TAP successfully and develop and disseminate lessons learned and best practices in trainings.
6. Tribal LE with direct access to NCIC should adhere to the same 2-hour mandatory reporting in NCIC as other LE entities for missing persons under the age of 21 as required by the Adam Walsh Act and Suzanne's Law.
7. The TAP system must continue to be used for the Sex Offender Registration and Notification Act (SORNA) and should also be used to include the input of missing persons, as well subject fingerprints.
8. Participating Tribal LEAs should be strongly encouraged to use TAP to conduct background checks on potential LE hires. In support of the National Crime Prevention and Privacy Compact Act of 1998 (34 U.S.C. § 40316), which requires that subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for authorized noncriminal justice purposes; it is recommended that NGI be utilized to conduct background checks on prospective Tribal employees who would have access to children and for prospective foster parents. In today's transient society, national background checks based on fingerprints reduce the risks of associating a person with someone else's criminal history record or failing to find a criminal history record of a person who uses a false name.
9. DOJ must continue to provide training on how to upload fingerprints and other identifiers of arrestees and persons convicted of serious offenses into the NCIC and

NGI even when custody of the alleged perpetrator may be transferred to non-Tribal jurisdictions such as counties or municipalities.

10. DOJ must continue to provide DNA kits to Tribes and to assist them through training and technical resources to manage DNA data through CODIS.
11. DOJ must continue to make funding available and inform Tribal criminal justice agencies of that funding to employ and maintain records management and data entry personnel. Understanding that some Tribes may lack the resources (physical, technical, personnel) to receive and maintain TAP access, it is also recommended: the DOJ Office of Tribal Justice (OTJ) in conjunction with the FBI CJIS must explore establishment of an optional regional based model for TAP access for Tribal criminal justice agencies. For Tribal criminal justice agencies opting to use the regional model, DOJ OTJ shall provide funding, compliant facilities, equipment, and staffing for regional CJIS Centers that will serve as 24-hour operations centers for multiple Tribal criminal justice agencies. The operations center will be responsible for entering and receiving information with FBI CJIS systems and will maintain law enforcement records for the participating Tribal criminal justice agencies. The *National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP)* and the *National Criminal History Improvement Program (NCHIP)* grant program Request for Proposals shall be reviewed and revised to meet the records management and data entry personnel needs of Tribal criminal justice agency programs.

**Recommendation B2:** The DOJ and BIA must encourage, incentivize, and ensure that domestic violence criminal and civilian restraining orders and criminal convictions are entered into NCIC/NGI so that repeat offenders who move through multiple Tribal jurisdictions to evade accountability can be tracked, restrained, and prosecuted, as warranted. Tribes must use NCIC to access information about individuals. Both LE and Tribal courts, including family courts, will require training and support to do so. BIA audits, which are administered for 638 grant programs, include this in their reviews but for self-governing Tribes, court evaluations and other tools will need to be used to monitor compliance. Furthermore, a single entity must lead, track, and follow up to ensure every Tribe has such capabilities, regardless of their kind of LE program. Smaller tribes will need a central clearinghouse or means to utilize given highly constrained resources. Lastly, with these changes, Tribal data sovereignty must be respected.

**Recommendation B3:** Unlike most LEAs in the United States, many death investigators and ME/Cs around the country do not have access to NCIC and do not upload data into NamUs. To date, states have controlled who has access to NCIC. NCIC and NamUs have demonstrated that they are essential tools for solving missing person, unidentified person, and unclaimed person cases. The lack of access to these systems is a barrier. If the systems put in place are used to their fullest potential, the unidentified stands a much better chance of being resolved. Congress must enact legislation authorizing death investigators and ME/C offices to access NCIC. The legislation must also require using NamUs for long-term missing and unidentified cases (over 120 days).

**Recommendation B4:** The BIA MMU must annually compile, maintain, update, and distribute to the Tribes a listing of all AI/AN individuals known through NamUs, NCIC, and any other sources who are actively missing. It shall also be distributed to Tribally-based and AI/AN-led community organizations, US Attorneys' Offices, state LE, and others as appropriate. BIA MMU shall provide clear and effective means, in return, for receiving additional information or data from non-governmental sources, such as MMIP and HT chapters. In addition, BIA MMU must explore if, when, and how to do a similar sharing with those who are human trafficked while addressing the need for privacy and protection. Finally, BIA MMU must provide quarterly reports to local Tribes and Tribal agencies, and the local United States Attorney's Office (USAO) data on the number of victims served, number of open cases and number of closed cases during the quarter, victim demographics, types of victimization, and types of services provided, etc. by creating within 90 days an MMU specific report form similar to the OVC Victim Assistance Formula Grant Program Performance Measures ([OVC Performance Measures](#)).

#### FINDING C

**In order to improve initial reporting of and responding to missing persons and crimes, LE and other public safety personnel must achieve cooperative LE through pooling, training, and coordination across jurisdictions and entities (*see also Subcommittees Four and Five recommendations*).**

Neither the Federal government nor Tribes have the full ability to investigate Tribal and Alaska Native village members across all jurisdictions. 25 USC §2803 states BIA jurisdiction is limited to "a crime committed in Indian country". As a federal LEA, BIA's ability to investigate extends across the US but must be tied to a crime in Indian country. 25 USC §2803 (8) authorizes BIA to, when requested, assist (with or without reimbursement) any Federal, Tribal, State, or local law enforcement agency in the enforcement or carrying out of the laws or regulations the agency enforces or administers. However, BIA's MMU must be requested to assist and absent the request, BIA lacks jurisdiction for offenses that occur outside Indian country, including 228 of the 229 villages in Alaska. Thus, communication, coordination, and pooling of resources across Tribal and non-Tribal jurisdictions is not merely desirable but essential.

**Recommendation C1:** BIA must advance and accelerate the BIA Special Law Enforcement Certification (SLEC) program to ensure greater access to trained staff across state, local, and Tribal LE to help meet the MMIP and HT need and enforce federal law, including across state lines. Alaska Villages must be included in the definition of Indian country more generally (*see Subcommittee 6 recommendations*) and then and therefore SLEC must be expanded to include Alaska Villages and as recommended elsewhere.

**Recommendation C2:** To improve mutual assistance, the BIA must encourage memoranda of understanding between Tribes and non-Tribal jurisdictions (e.g., counties, municipalities), the use of liaisons to connect Tribal and non-Tribal police, engagement in experiential training such as ride-alongs and listening sessions with Tribal police with certification in teaching and instruction to break down barriers. One example of a MOU is:

<https://walkingoncommonground.org/files/CT%20Mashantucket%20Pequot%20MOU%20re%20Investigative%20Responsibilities.pdf>

**Recommendation C3:** The DOJ, BIA, and DHS must support cooperative LE. One tool to achieve this is cross-deputization across all jurisdictions (local, state, tribal, federal). Cross-deputization shall be encouraged whenever possible to extend the resources for MMIP and HT cases across jurisdictions while also ensuring such cross-deputization includes responsibilities to as well as rights with signing jurisdictions. Local and state agencies that enter into cross-deputization agreements with Tribes should receive priority with federal grants and funding applications. Another tool to achieve this is engagement with and participation in joint task forces, a force multiplier for addressing MMIP and HT. Joint task forces allow the sharing of resources, relationship building, and joint focus on key issues. Several task force models exist but those that are most successful have dedicated, on-going funding to allow for adequate coordination and participation by both Tribal and local LE officials, such as the Internet Crimes Against Children Task Force.

**Recommendation C4:** DOJ must support the expansion of state and local level anti-trafficking task forces to welcome and integrate into the work Tribal MMIP and HT chapters, other community groups, and Tribal LE. DOJ's OVC must require that funded anti-human trafficking task forces in geographic areas where Tribes are present must invite the participation of MMIP and HT chapters and other Tribal community groups as well as Tribal law enforcement.

**Recommendation C5:** BIA MMU must build and maintain effective partnerships with local Tribal organizations in their area of jurisdiction and support. This partnership would enhance case investigation and resolution by combining resources of the partner organizations to better address cases, including through data and information sharing. Partner organizations play a vital role in connecting families to LE resources that they may not otherwise have contacted. Such partnerships benefit not only families but also LE. Furthermore, DOJ and BIA must encourage Tribal, local, state, and federal LEAs to build relationships with Tribally-based organizations, in part, to leverage social media access and distribution of missing persons information.

**Recommendation C6:** DOJ must create an interstate, interjurisdictional cold case network for the purposes of identifying unidentified, deceased AI/AN peoples and missing AI/AN peoples wherever the body is found and regardless of where the missing persons' report was filed.

**Recommendation C7** (*see also Subcommittee 4 recommendations*): DOJ and DOI must expand training resources to all LE at all levels and provide clear accountability mechanisms for implementation regarding the following:

1. Best practices for conducting missing persons investigations, including establishing after-action-reports to confer and check in with the families and missing person, if living, and identify lessons learned for continuous improvement of the LE response to such cases.
2. Understanding legal responsibilities toward MMIP and HT, including such matters as timely entry of information into the NCIC and how to take and enter a missing

- person's report, and other matters.
3. How to handle culturally appropriate notifications of death and be encouraged to partner with victim specialists, MMIP and HT chapters, and others to do so in a sensitive and culturally appropriate way that does not further increase trauma of a traumatic event.
  4. What questions to ask and evidence to gather when human remains are identified to increase the chances of identifying the victim later.
  5. Cultural and legal awareness and competence training for those who touch Tribal communities including training in Indian law, role of various agencies and programs, and critiques of such including TLOA and Broken Promises Report (and this Commission's final Report).
  6. DOJ's National Indian Country Training Initiative (NICTI) must develop and implement a five-year training plan involving forensic training for federal and Tribal LE, ME/Cs, and death investigators. In addition to substantive information on missing persons, homicides, and trafficking in person, the curriculum must provide information on how to investigate and prosecute these cases effectively.
  7. Increase training resources for young people regarding internet safety, stalking, domestic violence, runaways, trafficking, and other matters to help instill self-agency in keeping themselves safer.

**Recommendation C8:** The Tohono O'odham Nation, Tactical Enforcement Officer Unit, commonly known as "Shadow Wolves", was established by Congress, in 1974. As a specialized tracking operational unit, the Shadow Wolves partner with Homeland Security Investigations in the interdiction of human and drug smugglers and tracking a wide variety of illicit activities throughout the rugged terrain of the Sonoran Desert. Under legacy authority, Shadow Wolves were only able to be hired as Tactical Officers in a lower paygrade, even though the majority of current Officers in the Unit have completed Special Agent training. This resulted in pay and mobility limitations. In addition, Shadow Wolves who want to become HSI Special Agents must apply like public candidates who do not possess the requisite skill set and experience. Due to these limitations, the Shadow Wolves program is at risk of becoming nonoperational as officers retire, and other retirements are planned soon. Currently, the Shadow Wolves are within Schedule A hiring which places them in an expected service position thus limiting their career opportunities.

*Therefore*, the President must give Homeland Security Investigations Schedule A hiring authority amended to authorize their conversion to career conditional service after a period of satisfactory performance of three years. This change will bring them in parity with other DHS LE positions and enable HS to expand the Shadow Wolves program to serve other Tribal nations throughout the United States.

#### **FINDING D**

**In order to improve initial reporting of and responding to missing persons and crimes, states must adopt federal Savanna's Act Guidelines.**

**Recommendation D1:** DOJ must incentivize states to abide by DOJ Savanna’s Act guidelines, understanding that each U.S. Attorney’s Office maintains its own public guidelines. This recommendation aims to induce states to abide by the guidelines Federal and Tribal governments must follow in missing, murdered, and trafficking case investigations. Uniformity of guidelines across jurisdictions will result in more systematic and effective investigations and case resolutions. Furthermore, sufficiently funding MMIP and HT DOJ staff at the district level will help advance this work.

#### FINDING E

**The lack of clarity on how and when missing person’s reports are filed, in what jurisdiction, and who assumes responsibility creates great confusion for family members and friends and often delays the response to missing persons which in turn increase the missing person’s risk of harm.**

**Recommendation E1:** No LEA should impose jurisdictional restraints for taking a missing person’s report to ensure a response for all, including transient individuals. The process for filing of a missing person’s report and the follow up by LE is highly variable, confusing to families and friends, and often leads to confusion between jurisdictions if not abject failure for a LE entity to assume responsibility. LE shall be accountable for clarifying for community members how the investigation of cases in which the jurisdiction where a missing person was last seen differs from the location where the missing person is from/resides. LE should be communicating consistently with families about where ultimate jurisdiction lands after initial reporting. The onus should be on LE to take a report if there is any possibility that it might touch on their jurisdiction rather than place the burden on the reporter to find the right jurisdiction.

*Therefore*, DOJ, through Savanna’s Act authorities, must develop best practices for local, state, and Tribal LE on how to engage with other jurisdictions and be responsible to missing persons reports wherever they might be filed, wherever the missing person may have been last seen, and whomever the missing person may be (age, race, ethnicity, substance abuse status, past criminal record, and so forth). Furthermore, DOJ must create a process for local LE to reach out to DOJ/FBI on MMIP and HT. Tribal LE shall be treated equally and involved actively in Fusion Centers to share information, which are owned by the state, designated by a governor, and funded by Department of Homeland Security. (<https://www.dhs.gov/fusion-center-locations-and-contact-information>). DOJ must establish a shared and common protocol such that when someone calls in a missing person, it is on the LEA to do the work on the backend to figure out if any other agencies need to be involved and to contact them – this process must not rest on the victims or their families. This recommendation would help to determine from the outset the agency or agencies to which an individual should report missing persons case by detailing the agency with responsibility for the case, which may lead to improved or quicker initiation of case investigation and overall improved response to missing persons cases. This recommendation is particularly pertinent to cases in Indian country where there is “checkerboard” jurisdiction and to Alaska with numerous remote villages.

**Recommendation E2:** The National Child Search Assistance Act of 1990 requires each federal, state, and local LEA to have no mandatory waiting period for reporting a missing juvenile and to report each case of a missing child under age 18 to the NCIC of the DOJ. It also directs the Attorney General to publish an annual summary of such reports. In addition, more states are addressing the problem of missing adults by passing legislation that requires reporting of missing adults. Furthermore, recognizing the need for expedited investigation, most states have abolished the mandatory minimum waiting period to report a missing.

*Therefore,* Congress must enact a statute similarly to ensure no mandatory waiting period for all adult Tribal and Alaska Native village members. This recommendation aims to remove barriers of initial missing persons case reporting by eliminating any waiting periods before a report can be made and acted upon by a LEA. In doing so, individuals wishing to initiate such cases may find it easier, and thus be more likely, to report missing persons cases for investigation. This enhanced reporting, in turn, may result in better case resolution by initiating investigations earlier.

**Recommendation E3:** HHS must mandate that any foster care agencies receiving federal funding report immediately any missing Tribal juvenile to their corresponding Tribe.

**Recommendation E4:** Recovery of juveniles reported as missing by families, especially across state lines, is quite complicated and fraught with problems. State or Tribal social services in any jurisdiction may not have the authority to hold a juvenile who was reported missing and was found for a limited period while the family is recovering the child. Families may not have access to resources to help the family recover a child who is found far away. Additional issues are raised for young adults who were found and were missing but have a mental health challenge that may cause poor interaction and those who are or may have been human trafficked.

*Therefore,* Congress must amend the Interstate Compact on the Placement of Children to allow for immediately returning children found in a jurisdiction outside of their home jurisdiction when there is no indication of abuse or neglect by the parent or guardian. The current law creates substantial barriers to return a child to their home when a state entity becomes involved, which is not in the best interests of the child. Furthermore, through additional appropriations and the amendment of statutory language as needed, Congress shall ensure sufficient funds that families can ensure the safe return of their child, whether the child was a victim of crime or not. Finally, since many AI/AN youths may be repeat runaways, each case should have an after-action report, including an interview with that child, to understand the underlying causes to prevent or mitigate future risks.

**Recommendation E5:** LE has highly constrained abilities to obtain search warrants or subpoenas for internet service providers and telecommunication records for missing person investigations that are not initially or obviously criminal in nature but where there is a concern about risk, threat, or harm for the missing person. Currently, an investigator must show an indication of criminal activity to get a warrant.

Therefore, DOJ must undertake a report to determine if there are ways to increase LE's tools, like warrants or subpoenas to ensure public safety and advance missing persons searches to avoid imminent harm or danger, while protecting Constitutional prerogatives about unwarranted search and seizure. DOJ might explore the Commission on Accreditation for Law Enforcement Agencies' (CALEA) "imminent danger" standard, which may provide more leeway to interpret to whom and when access to such information shall be granted.

**FINDING F**

**Insufficient resources for search and rescue of missing persons leads many families and communities to "foot the bill" and undertake their own search and rescue with little to no support.**

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*"We need better search and rescue teams. People show up and don't seem to know what they're doing, but if they say a place is "clear" the state does not revisit it. They'll even show up with drug dogs, who can't find human remains. Grassroots organizations are filling the gap. Grassroots are the frontlines of this work and have learned a great deal along the way. We need to respect them, involve them and provide them resources."*

- NIAC Tulsa, OK Witness

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**Recommendation F1:** Congress must increase funding for and flexibility in grants to Indian country and Alaska Villages for search and rescue to improve search and rescue of reported missing or murdered persons. Grants to Tribes and MMIP and HT groups must be flexible to allow for the needs and innovation on the ground from funding Port-a-Potties during searches to flyers and internet ads to many other necessary goods and services essential to address missing persons more robustly. BIA must have the authority and funding to act outside Tribal lands for search and rescue activities. This work needs to build from and integrate extensively the role and work families and community members have and will play in the search for their loved ones. When LE gets involved, there needs to be strong communication back to families, including when various search efforts may be conducted by different entities. Because jurisdictional issues remain off Tribal land, this may require MOUs or MOAs between jurisdictions.

## FINDING G

**Tribal LE and courts are hobbled by unfair and restrictive limitations by federal law that treats Tribes and Alaska villages as second-class citizens and ensures unequal treatment and lack of parity across Tribal and non-Tribal jurisdictions.**

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*“Tribes need the ability to get a warrant for Facebook or other internet providers. They need that parity with the states and feds. We’re regarded as second rate. Our law enforcement requirements are higher than the state’s. At every level, our officers have almost double what the state officer has. We need a greater ability to access resources.”*

- Shannon Buhl, Cherokee Nation Marshal,  
NIAC Tulsa, OK Witness

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**Recommendation G1:** The Stored Communications Act (SCA), 18 U.S.C. §§ 2701 et seq., governs access to stored wire and electronic communications such as emails and other online messages held by service providers, but it does not currently include Tribal courts, thus inequitably withholding from Tribes a necessary and essential tool in today’s electronic world (*see Subcommittee 6 for more detail*).

*Therefore*, Tribal courts should be included in the Stored Communications Act, just as military courts were added recently, to ensure expedited and warranted access to phone and social media records.

**Recommendation G2:** The Department of Transportation (DOT) and National Telecommunications and Information Administration (NTIA) must require that all 911 calls -- or emergency LE calls where 911 is not available -- prioritize reports of violent crimes and missing individuals ahead of property crimes and must treat all callers equally regardless of Tribal or ethnic status. In remote areas, 911 may not exist (such as in Alaska) and thus this recommendation is limited by these system constraints.

**Recommendation G3:** DOJ policy must be changed to require that US Marshals recognize Tribal warrants as they do state, county and local LE warrants to ensure rapid detention of violent suspects.

**Recommendation G4:** Given that non-Tribal courts are not always accessible or friendly to AI/AN peoples, DOJ and BIA must explore more ways that Tribal Courts can be used by victims of domestic violence.

**Recommendation G5:** DOJ must provide funding to tribes for the purpose of updating their Tribal law and order codes to ensure that they can do their part in fulfilling the spirit and intent

of these recommendations.

**Recommendation G6:** First, federal and state courts must and Tribal courts should follow the US Sentencing Commission’s guidelines on aggravating factors regarding victims of crimes, USSG Section 3A1.1, Hate Crime Motivation or Vulnerable Victim: “If the finder of fact at trial or, in the case of a plea of guilty or nolo contendere, the court at sentencing determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property as the object of the offense of conviction because of the actual or perceived race, color, religion, national origin, ethnicity, gender, gender identity, disability, or sexual orientation of any person, increase by 3 levels.” Second, the US Sentencing Commission should add the following “aggravating factors,” if not otherwise included in the guidelines, for victims who suffer from: chronic substance use; mental health conditions; homelessness; engagement in sex work; disabilities; and/or any infirmity or vulnerability due to age, physical, or mental condition. In determining the sentence for a crime committed against an individual with one or more of the aggravating factors, the court shall weigh these factors as significant indicators of malevolent intent by the convicted criminal and heightened vulnerability and a heightened risk of harm for victims of crime. The presence of aggravating factors should result in enhanced penalties, including but not limited to increased fines, longer sentences, or stricter probationary terms, as deemed appropriate by the court. To ensure this recommendation’s success, judges, prosecutors, and law enforcement personnel shall receive training and education on the unique vulnerabilities and challenges faced by individuals with the identified aggravating factors to ensure fair and equitable application of this policy. Lastly, relevant federal agencies shall collect data on the application of this policy to monitor its effectiveness and identify areas for improvement.

#### FINDING H

**Tribes and Alaska Native Villages lack sufficient access to equipment, technologies, and broadband to support initial reporting and investigation of crimes and missing persons.**

*“The fact is many Tribes in Alaska have no access to internet to even just access grant applications. So many of them don’t apply. We know there’s a lot of federal grants out there that Tribes can apply for, but the gap is that we don’t have access to internet, so how can we even apply to those?”*

- NIAC Anchorage, AK Witness

**Recommendation H1:** Congress must fund and DOJ must undertake a six-month study to determine the value and impact of a new national notification system for missing AI/AN persons (legally defined as a political classification not racial under [Morton v. Mancari](#)<sup>35</sup>) and/or those

<sup>35</sup>417 U.S. 535 (1974)

specific improvements to the AMBER Alert<sup>36</sup> or Ashanti Alert Systems<sup>37</sup> to amplify state-Federal-Tribal response times and the equitable treatment of AI/AN persons. The study should consider the challenges of maintaining and using multiple alert systems, the challenges of “alert” fatigue by first responders and the public, and the ability of any existing or new system to operate across state lines given missing person often travel across multiple jurisdictions.

**Recommendation H2:** Timely information sharing to the public is critical in recovering missing persons. The state/territory Missing Child/Person Clearinghouses (<https://www.missingkids.org/gethelpnow/clearinghouses>) vary throughout the country. As such, the Commission recommends the following to standardize the Clearinghouses:

1. Expanded from "Missing Child" to "Missing Person" Clearinghouses to share information on missing persons of all ages.
2. The public facing state Clearinghouse access must be dynamic to include searchable fields for race, age, sex, name, city/county, and investigating agency. See Montana's Missing Persons Clearinghouse for an example, <https://app.doj.mt.gov/apps/missingPersonDatabase/search/search.php>.
3. DOJ must fund a one-time grant to Clearinghouses to update their systems as recommended above.
4. DOJ (and its subagencies) in concert with the National Center for Missing and Exploited Children will collectively build an advertisement campaign to increase the understanding and use of the Clearinghouses.

**Recommendation H3:** IPAWS is a powerful tool to broadly communicate emergency information. IPAWS, managed by FEMA, is a single entity that can allow an origination of a message from LE to send one message through IPAWS system to be disseminated across multiple downstream systems (e.g., TV, radio, etc.). IPAWS has connections into approximately 26,000 broadcasters, 67 wireless carriers, and digital sign board companies. NCMEC uses the IPAWS system for the AMBER Alert Program. To be an alerting authority, a Tribe must: 1) Take IPAWS training offered by EM Institute, free, online (IS247 for alerting originators, IS251 for alerting administrators); 2) Select an alert origination software; 3) Apply for MOU with FEMA; and 4) Enter into second agreement to establish public alerting permission within system for geographic area you’re requesting access to.

*Therefore,* Congress must provide additional funding to allow Tribes to access and utilize IPAWS and FEMA must dramatically increase the number of Tribes who have access to and utilize IPAWS. Provide support funding to allow Tribes to utilize IPAWS.

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<sup>36</sup> The [Ashlynnne Mike AMBER Alert in Indian Country Act](#) was enacted in 2018 making federally recognized Tribes eligible for AMBER Alert grants and permits the use of grant funds to integrate state or regional AMBER Alert communication plans with Tribes across the nation.

<sup>37</sup> The Ashanti Alert Act of 2018 (Pub L. 115-401) was signed into law on December 31, 2018. It authorizes the U.S. Attorney General to establish a national communications network to enable and help facilitate regional and local search efforts for missing individuals who fall outside the scope of America’s Missing: Broadcast Emergency Response (AMBER) Alerts and Silver Alerts.

**Recommendation H4:** DOJ and DOI must provide training, support and assistance to Tribes and Tribal LE to better use non-Tribal outlets and social media approaches to identify missing persons. Such approaches include but are not limited to:

- 1) Using Tribally based organizations and their social media presence to amplify cases, needs, and information sharing;
- 2) Establishing regional text message systems to notify of missing persons while focusing the messages to the appropriate catchment area to avoid alert fatigue;
- 3) Utilize schools' notification mechanisms where available that already notify parents of various issues;
- 4) Provide listing of MMIP and HT chapter contacts, MMU contacts, and others to help contact and then distribute flyers or other information on missing persons; and,
- 5) Collaborate with the Corporation for Public Broadcasting (CPB) on announcements regarding MMIP and HT cases and assist with outreach of grants supporting access to CPB.

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*“Social media is really important. Social media is an investigative tool and a flyer tool. Having access and use to these tools is crucial. Just one example, we had a missing girl in Tulsa who was found here within four hours due to the use of social media.”*

– NIAC Tulsa, OK Witness

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**Recommendation H5:** DHS must expand its attention to and focus on MMIP and HT. DOJ and DOI shall work with DHS on their existing programs and how they can benefit the MMIP and HT crisis:

- 1) regarding their Operation Stone Gardens and LPR systems (License Plate), identify cameras and placement to expand to Tribes more uniformly, especially for those located in border states;
- 2) identify Vigilant Solutions to disseminate through the reservations; and,
- 3) broaden the scope of Savanna's Act for data collection and reporting to include DHS.

**Recommendation H6:** Building on recommendations elsewhere in DOI, the Federal government must increase Broadband and Spectrum Access on Tribal Lands. This must include the following:

1. The White House must acknowledge Electromagnetic Spectrum (EMS) as a “limited natural resource” supporting long-standing scientific findings of the National Aeronautics and Space Administration (NASA) and direct DOI to assist Tribal Nations in managing EMS as natural resource/asset on Tribal lands.
2. The United States must formally recognize EMS sovereignty on Tribal Lands so Tribal Nations have unencumbered access to spectrum licenses to either setup their own broadband networks or create new leasing opportunities in furtherance of the federal trust responsibility.
3. The Federal Communication's Commission (FCC) must stop all EMS auctions for licenses on Tribal Lands until compensation and consent is obtained from the

- respective Tribal government.
4. Federal agencies must support the full requests included in the August 2023 STAC and Coalition of Large Tribes (COLT) letters to the White House regarding Broadband and Electromagnetic Spectrum Access on Tribal Lands.
  5. The Government Accountability Office must conduct a review of the federal self-governance services provided by the Departments of the Interior and Health and Human Services (i.e. BIA, IHS, and other services) to determine whether their broadband and wireless network connectivity rates, hardware requirements, data management systems, and technological equipment meet “industry standard” speeds and offer compatible/updated equipment to provide a “meaningful level” of self-governance services to tribal citizens receiving the services. Currently, the Federal Communications Commission (FCC) broadband capability requires consumers to *at a minimum* have access to actual download speeds of at least 25 Mbps and actual upload speeds of at least 3 Mbps to meet “industry standards”. The Commission recommends Tribal Lands networks support the accepted 100/20 Mbps speeds.
  6. The GAO must review and provide recommendations on what improvement or enhancements to broadband, computer hardware and software and technology be implemented to increase case response time, basic wireless communications, and/or access to investigative other federal-state-Tribal LE data systems, and compare how the current technological systems utilized by the BIA-OJS compare/contrast to the current systems used by the FBI and Homeland Security and what additional federal resources are needed.
  7. The GAO must update “Broadband Internet: FCC’s Data Overstate Access on Tribal Lands” GAO-18-630 (September 2018).

**Recommendation H7:** Today, Tribes lack access to permanent and annual reoccurring annual federal funding for broadband and wireless network sustainability on Tribal Lands. This is an issue since telecommunications carriers serving Tribal Lands have higher costs than serving non-Tribal Lands that include costs related to: infrastructure, maintenance, equipment upgrades, operating costs, and other general sustainability funding requirements amounting to higher reoccurring costs that will outlive this administration’s broadband infrastructure investments.

*Therefore*, the federal government must establish permanent funding for sustainable broadband networks on rural Tribal lands and in Alaska Native Villages. In addition, Congress must enact a new 5% Tribal set aside in the Universal Service Fund (USF) for Tribes and Alaska Native Villages to support and maintain sustainable broadband infrastructure.

#### **FINDING I**

**Innovations like improved LE case management, victim advocates, and multi-disciplinary teams must be instituted to aid investigations across jurisdictions and support families from initial report on through investigation and prosecution.**

**Recommendation I1:** There are currently many limitations to ensuring adequate victim specialists are available to families in coordinated and continuous fashion across the life of a case. There is insufficient funding and budgets across agencies and a lack of clarity on who can and does assist when multiple jurisdictions are involved. Grant resources are lacking, including in their award amount and their competitive nature. Smaller LEAs are seeking to fill basic patrol positions and cannot afford victim specialists. Victim specialists are often tied to specific crimes, such as domestic violence, making it more difficult for them to broaden their scope of work to include MMIP and HT.

Therefore, DOJ must support through whatever means possible all LEAs to create policies that employ and provide victim specialists or embedded social workers. Following a report of MMIP and HT, the victim specialist shall contact the victim’s family and guide the family through the investigative process and facilitate access to available resources. If jurisdiction changes throughout the investigation, the victim specialist must ensure that the family is aware of the changes and is introduced to the new agency’s victim specialist. DOJ and DOI must also improve coordination across victim advocates and specialists among Tribal, state, DOJ, FBI, and others through joint task forces, conferences, work groups, and other means to ensure clear roles, support of families and survivors across the life of their case in judicial systems. The agencies must also explore assigning a missing persons advocate, like how domestic violence advocates are assigned.

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*“We must increase victim services, mental health treatment, shelters. We need to invest in victims. We need to hold and train officers and agencies accountable for trauma-based services. We need to recognize victims. We need to reward agencies that are doing well at dealing with victims. We must reward good behavior and address bad behavior. Lastly, funding should not be competitive for victim services.”*

- NIAC Tulsa, OK Witness

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**Recommendation I2:** The DOJ OVC and the HHS OTIP must support, offer, and ensure culturally appropriate services are available to survivors of human trafficking.

**Recommendation I3:** DOJ and DOI must harness the power, expertise, and commitment of non-governmental MMIP and HT chapters across numerous states to be a “force multiplier” for working with families and addressing missing and murdered cases by the following.

1. DOJ and DOI must utilize MMIP and HT chapters, and others to not only notify families of the murdered, but to support them in culturally appropriate funeral planning including interfacing with coroners and others who may not have cultural knowledge to tend to the dead appropriately.
2. DOI and DOJ must accelerate grant programs, cross-chapter sharing, and resources to MMIP and HT chapters across Indian country as MMIP and HT chapters and

organizations are key and highly motivated partners who bring powerful networks, data, expertise, cultural sensitivity, and powerful advocacy.

**Recommendation I4:** DOJ and DOI must work to ensure all law enforcement agencies identify and implement strategies and practices to improve communication and transparency with family members in MMIP and HT cases. This must include that LE entities:

1. At all levels comply with legal requirements about communication with victims and their family members.
2. Take complete and detailed reports including relevant information regarding the missing person and speak to family members to ensure accurate demographic information is collected.
3. Facilitate requests from family members to correct racial classification information in missing persons reports or law enforcement databases.
4. Communicate regularly and consistently with families and advocates, including providing the name and details of their role in the investigation and when there are changes in personnel or in the status of the investigation.
5. Require that all personnel complete cultural competency training.
6. Communicate, collaborate, and consult with the missing person's Tribal leadership and LE, when requested; and,
7. Embed behavioral health officers in police forces to both assist LE personnel and individuals the law enforcement unit may encounter. As an example, the Choctaw Nation implemented this approach to change the mindset and reduce the stigma of mental health issues within public safety.

## CHAPTER 2

### Subcommittee 2: Policies & Programs – Reporting and Collecting Data on Missing, Murdered, and Trafficked Persons

#### Subcommittee Charge and Priority Areas

The Commission's Policies and Programs Subcommittee (Subcommittee 2) was created to study and make recommendations regarding the reporting and collecting of data on missing, murdered, and trafficked AI/AN persons. The Subcommittee organized these efforts by first separating these three priority areas – missing, murdered, and trafficked persons.

The Subcommittee agreed that their approach to better understanding these issues needed to be conducted separately because the environments in which these issues occur and their influence on the prevalence of the problems being investigated vary widely. For example, not every missing person has been or will be the victim of a violent crime, nor are all missing persons murdered. Similarly, AI/AN women face high rates of intimate partner homicide, which would not necessarily result from a missing person event. Further, missing person cases are dynamic; thus, the number of cases in any jurisdiction changes daily. Therefore, any count of missing person cases must be understood as a point-in-time count that is likely only accurate on the date that the count is conducted.

Homicide and murder are both terms used to describe the unlawful killing of a person. Still, there are key differences between the two, which is why the Subcommittee expanded its review to death investigations, homicide, and murder. For example, homicide is a broader term that simply refers to the killing of a person by another person, regardless of whether the act was intentional or not. Murder, on the other hand, is a type of homicide that involves the intentional killing of another person with malice aforethought. Generally, the primary responsibility for classifying a death investigation falls on the ME/C office in the jurisdiction where the death occurred. These professionals are trained to investigate the cause, manner, and circumstances of deaths that fall within their jurisdiction, and they use a variety of tools and techniques to determine whether a death was natural, accidental, suicidal, or the result of homicide.

Accurately classifying how someone died, called the manner of death, is critical to both public health and safety. Inaccurate death data negatively impacts mortality surveillance system data that, in turn, inform prevention efforts, policy, and resource allocation. From a public safety perspective, the determination of death impacts investigations and potential criminal justice charges. In cases where a death has been deemed a homicide, LEAs or other investigative bodies may also be involved. Ultimately, however, the final determination of how a death is classified rests with the ME/C office responsible for issuing an official report outlining its findings and conclusions. Moreover, death investigations leading to a homicide designation that are prosecuted as murder can vary widely depending on the jurisdiction and the case's specific circumstances. The exact definitions and criteria for classifying a homicide as murder vary by state and jurisdiction. Additionally, the decision to prosecute a case of murder may depend on factors such as the strength of the evidence and the discretion of the prosecutor handling the case.

Subcommittee 2 acknowledged that understanding system responses and interactions with the systems is vital to addressing these issues. When issues are conflated, the nuances and complexities that make each unique are lost, leading to an oversimplification and misrepresentation of the extent of the problem. Misconceptions resulting from conflation can result in essential resources being diverted from where they are most needed. Therefore, these distinctions highlighted above demonstrate why it was imperative to disentangle and not conflate these different types of cases and why they were studied separately.

Guiding Subcommittee 2's efforts were the following questions:

1. What changes are needed in the current federal data systems to support data collection better and reporting missing AI/AN persons?
2. What data on missing AI/AN persons exists, where are the gaps, and how can those gaps be addressed?
3. What are the state, federal, and Tribal policies and programs for data collection and reporting on missing AI/AN persons?
4. What policy or programmatic changes are needed to support better data collection and reporting of missing AI/AN persons?
5. What changes are needed in the current federal data systems that will better support data collection and reporting on violent deaths and homicides of AI/AN persons?
6. What data on violent deaths, homicides, and murders of AI/AN persons exists, where are the gaps, and how can those gaps be addressed?
7. What are the state, federal, and Tribal policies and programs for data collection and reporting on violent deaths, homicides, and murders of AI/AN persons?
8. What policy or programmatic changes are needed to support data collection and reporting on violent deaths, homicides, and murders of AI/AN persons?
9. What changes are needed in the current federal data systems to support data collection better and reporting on the trafficking of AI/AN persons?
10. What data on trafficking of AI/AN persons exists, where are the gaps, and how can those gaps be addressed?
11. What are the state, federal, and Tribal policies and programs for data collection and reporting on trafficking of AI/AN persons?
12. What policy or programmatic changes are needed to support data collection and reporting on the trafficking of AI/AN persons?

### **How the Subcommittee Worked**

Subcommittee 2's process for answering these questions involved compiling and analyzing data

and information. The Subcommittee requested that the DOI and DOJ issue a data call to all federal agencies regarding data systems and sources available on all three topics. Unfortunately, the information the Subcommittee requested was never provided. To obtain much-needed information to make informed recommendations, Subcommittee 2 members sought out SMEs from the field to participate in several virtual engagement sessions. Participants included federal LE (i.e., the BIA, DOI's MMU, the FBI, the Office of the United States Attorney; DHS), federal program staff (i.e., DOJ's NamUs, FBI's CJIS), federal scientists (i.e., BJS, CDC, NIJ), practitioners (fatality review members, medical death investigators, ME/Cs, missing person clearinghouse personnel), academics (forensic anthropologist), and federally-funded program staff NCMEC, AMBER Alert Program). The Subcommittee's recommendations are based on input from these SME engagement sessions, testimony from the NIAC field hearings, a limited review of existing information and data published in government reports and literature, and the expertise and experiences of the Subcommittee 2 commissioners.

### **Specific Subcommittee Findings and Recommendations**

Subcommittee 2 proposals are based on the Commission's directive to recommend, in an advisory capacity, solutions, remedies, and best practices to combat violent crimes against Indians and on Indian lands. These recommendations impact the federal government, Congress, state, Tribal, and local governments and are presented and organized to reflect the objectives described in Public Law 116–166 (October 10, 2020). Subcommittee 2 offers these recommendations as a roadmap to specific actionable, feasible, and viable steps in practice, policy, and research that will effectively advance efforts to address public health and safety issues impacting AI/AN communities wherever that may be.

***Identifying, Reporting, and Responding to Instances of Missing Persons (MPs), Violent Deaths, Homicide and Murder, and Human Trafficking (HT) on Indian Lands and Indians.***

#### **FINDING A**

**Accurate data on Native Americans are necessary for federal, state, local, and Tribal governments to monitor conditions and make informed policy and spending decisions. Unfortunately, there is a lack of available data at all levels of government but especially at the national level to ascertain the extent of the problem of (1) missing AI/AN persons, (2) homicides and violent deaths of AI/AN people, and (3) AI/AN individuals who are trafficked. Understanding these issues and determining how best to address them requires accurate accounting that can inform the development and implementation of solutions and the appropriate allocation of resources.**

#### **Federal Government:**

**Recommendation A1:** The [Indian Law and Order Commission](#) (ILOC) recommended that the federal government generate accurate crime reports for Indian country, especially in Tribal areas subject to P.L. 83-280. The Commission concurs with this recommendation.

**Recommendation A2:** The White House Domestic Policy Council (with support from OMB) must complete an audit of the entire Executive Branch of all data systems and sources that collect and/or report on:

1. Missing AI/AN persons.
2. Death investigations, homicides, and homicides charged as murder of Native peoples.
3. Trafficking in AI/AN people.

The comprehensive audit should include the following information:

- 1) The data sources and the type of information collected (age, ethnicity, gender, race, sex, tribal affiliation/membership), the strengths and weaknesses of each data system/source, and the data's quality and reliability.
  - a) Of the data sources/systems identified:
    - i) A description of the systems/sources' mission and purpose.
    - ii) An explanation of the representativeness of the data captured about the overall population and Native peoples specifically.
    - iii) A listing of
      - (1) Data/variables captured by the systems/sources. Including the source of case information (e.g., public self-reports, criminal justice data) and how the data are reviewed and/or validated for quality control.
      - (2) Important/vital data not captured in these systems (e.g., tribal membership/enrollment/affiliation).
      - (3) Interoperability capabilities of the sources to exchange/share data/information with other systems.
      - (4) Data exchanges/sharing activities and in what form.
      - (5) Data publications (e.g., annual reports) and dissemination schedule to include both internal-use-only and public dissemination products.
    - iv) An explanation of how the data is used and who has or can access the data (publicly available, restricted LE sensitive data, protected health information). For data that is available, how can it be accessed? If the data are unavailable, an explanation of why they are not accessible (statute)?
- 2) A summary of data/sources, missing or lacking, making understanding these problems challenging.

**Recommendation A3:** DOJ must encourage and/or incentivize all LEAs (state, county, municipal, and Tribal) to upload their crime data into the National Incident-Based Reporting System

(NIBRS). These data requirements must also encompass federal law enforcement (e.g., Bureau of Alcohol, Tobacco, Firearms and Explosives [ATF], BIA, Customs and Border Protection [CBP], Drug Enforcement Administration [DEA], DHS, FBI, Immigration and Customs Enforcement [ICE], Marshals Service [USMS], and United States Park Police).

**Recommendation A4:** DOI's MMU must produce an annual report containing aggregate data on AI/AN missing person active and resolved cases and case outcomes (e.g., referred for prosecution), if available.

**Recommendation A5:** DOJ must implement, as intended, the [Death in Custody Reporting Act of 2013](#) (DCRA) to include developing and executing a plan to determine states' compliance (see [GAO-22-106033](#) report).

**Recommendation A6:** DOJ must fulfill the Executive Order on *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* ([EO 14074](#), May 25, 2022) by developing, deploying, and maintaining the National Law Enforcement Accountability Database (NLEAD). Moreover, the database structure must include the capability to capture AI/AN identity and Tribal citizenship data (Tribal nation affiliation/enrollment). The Commission further recommends that the NLEAD be publicly accessible for ease of public access, research, and advocacy, with documents and information about all AI/AN deaths in federal custody and federal officer-involved cases. The Commission further recommends that the EO 14074 mandated report include aggregate data on the race of victims and decedents with specific analyses (if possible) involving AI/AN and Tribal citizenship cases. Moreover, the Commission recommends that the DOJ must encourage and incentivize federal, state, local, and Tribal LE agencies to voluntarily submit similar documentation of cases within their jurisdictions to NLEAD.

**Recommendation A7:** DOJ's [MMIP Regional Outreach Program](#) must produce an annual report on the program that includes information/data on case outcomes and patterns, survivor/family feedback, tracking status of implementation of [Savanna's Act](#) Guidelines in each district within regions, ongoing evaluation that determines program, and operational need.

**Recommendation A8:** Federal science agencies that direct or support national victimization studies must ensure the inclusion and representativeness of AI/AN peoples to include special studies (e.g., AI/AN oversamples, reservation-level victimization data) appended to ongoing national data collection efforts (e.g., BJS's National Crime Victimization Survey [NCVS], CDC's National Intimate Partner and Sexual Violence Survey [NISVS], NIJ's National Baseline Study [NBS]), including question(s) regarding murdered, missing, unidentified, and trafficked persons, families of such, if such case were resolved, and other pertinent questions.

**Recommendation A9:** Primary data collection studies (e.g., protective, risk, and safety factors) and secondary data analyses on missing AI/AN persons, death investigations and homicides of AI/AN peoples, and on HT of AI/AN individuals must be conducted in an ethical, culturally relevant manner and led by subject matter experts with lived experience.

**U.S. Congress:**

**Recommendation A10:** Congress must appropriate the necessary funds to deploy and maintain

the National Law Enforcement Accountability Database (NLEAD).

**Recommendation A11:** Because LEA NIBRS participation is voluntary, Congress must enact legislation that requires or strongly incentivizes LEAs to report their crime and missing person data annually to NIBRS.

**Recommendation A12:** Congress must require, as acceptance of appropriations, that NCMEC collect Tribal enrollment and affiliation data for all cases.

**Recommendation A13:** In accordance with the findings in the Government Accountability Office (GAO) [Report GAO-22-106033](#), titled "*Deaths in Custody: Additional Action Needed to Help Ensure Data Collected by DOJ Are Utilized*", Congress should amend the Death in Custody Reporting Act (DCRA) to ensure that any future state data provided under the act are utilized for recurring study and reporting by DOJ to Congress and the public. Any amendments must also ensure the data includes the factors contributing towards violence against AI/AN people, AI/AN deaths and how these forms of violence may intersect with MMIP. This study and its reporting should and must inform future action.<sup>38</sup>

#### **State, Tribal, and Local Governments:**

**Recommendation A14:** As a best practice, state, Tribal, and local governments should mandate or strongly encourage LEAs under their jurisdictions to report crime and missing person data to NIBRS.

These recommendations – improved data capture of LEA crime data, missing person cases, and self-reported victimization data – will provide a more comprehensive understanding of the experiences of AI/AN people in the United States. These efforts will also ensure the production of data and reports required by the [Tribal Law and Order Act of 2010](#), which are vital to Tribes as they seek to increase the effectiveness of their LE and justice systems.

#### **FINDING B**

**The HHS Office of Inspector General (OIG) surveyed state-level foster care systems to determine how many children in foster care went missing over an 18-month period. The survey found that during that period, out of 1,016,895 total children in foster care, 43,679 had been reported missing at some point. The average time a child was missing before they were found was 34 days. This is an informative study to guide future research about the nature of the problem of AI/AN children missing from care.**

**Recommendation B1:** HHS must conduct a study of AI/AN children missing from foster care to determine if states are appropriately reporting AI/AN children missing from care to LE for purposes of entry into the National Crime Information Center Computer's Missing Person File (NCIC-MPF), NCMEC when required, and NamUs for long-term (120 days missing) unresolved AI/AN child cases.

**Recommendation B2:** DOJ must conduct a study examining the context of AI/AN missing

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<sup>38</sup> A commissioner dissented to this recommendation. Please see end of chapter for their dissent. Per the Commission's Terms of Reference, Section 12, 4 c

children person cases, including the scope and context of cases that are connected to criminal circumstances (e.g., domestic violence, homicide, human trafficking) to understand better how these issues intersect with going missing – either intentionally or unintentionally. The study should consider the context of missing AI/AN youth and whether or not system-involved youth go missing “slip through the cracks” due to policies or decisions by case workers or probation officers regarding reporting them as missing. The report should identify where reporting gaps exist and identify areas to develop or improve reporting and training for staff.

**Recommendation B3:** NCMEC should conduct a study on the barriers and challenges of (1) engaging with Tribal governments and citizens regarding the use of NCMEC and (2) getting social services staff to report cases to NCMEC (e.g., laws that impede the use of or reporting of missing children) and what states are and are not compliant with federal reporting laws. The study should include a strategic plan to address these barriers/challenges.

#### FINDING C

**There is a commonly held belief that violent crimes and the deaths that result from them are notoriously underreported among AI/AN people. Underreporting and misclassifying crimes and people contribute extensively to the lack of available data on this topic. A better understanding of mortality rates and homicides that occur in Indian country and Alaska is needed to get an accurate number of AI/AN deaths. Acquiring accurate and up-to-date analyses of homicides and mortality data will be essential for determining and implementing resources moving forward.**

**Recommendation C1:** NIJ, in coordination with BJS and CDC, must conduct a study examining the frequency, nature, and causes of homicide and violent deaths of AI/AN peoples that are focused on in-depth contextual characteristics of these cases (e.g., type of homicide [femicide, firearm, gender-related, intimate partner homicide, suicide], demographic information about the individuals involved, incident characteristics, and situational contexts associated with these cases). Of particular importance are analyses that provide the distribution on a demographic and geographic basis (e.g., Native vs. non-Native, national, state, regional, county, reservation/non-reservation). Separate analyses should be conducted on AI/AN death investigations where the causes of death are classified as ‘Undetermined.’ These analyses must also provide in-depth contextual characteristics of these cases (e.g., demographic information about the individuals involved, incident characteristics, and situational contexts associated with these cases).

**Recommendation C2:** HHS must establish regional AI/AN maternal and child mortality/death review boards.

#### FINDING D

**HIPAA, the Health Insurance Portability and Accountability Act, is a U.S. federal law enacted in 1996 to address various aspects of healthcare, including health insurance coverage, medical privacy, and security of protected health information (PHI). While there are exceptions to HIPAA that allow for disclosure in situations involving public health, safety, and emergency**

circumstances, such as missing person cases, it is unclear if the Act is impeding the reporting of missing person cases (i.e., Jane/John Doe patients).

**Recommendation D1:** HHS must assess how HIPAA impedes or facilitates the reporting of unidentified person cases (i.e., Jane/John Doe) by healthcare providers (and other entities handling protected health information) to LE and families. The assessment must include a review of laws and regulations regarding the application of HIPAA under these specific circumstances. The study should survey healthcare providers to assess the number of missing person cases they could have and did file with law enforcement.

**Recommendation D2:** DOJ must assess LE acceptance of missing person reports from healthcare providers and other entities handling PHI regarding admitted Jane/John Doe cases and if those cases are entered into NCIC, NamUs, and other databases.

***Legislative and Administrative Changes Necessary to Use Programs, Properties, or Other Resources Funded or Operated by the Departments of the Interior and Justice to Tackle the Crisis of Missing, Murdered, and Trafficked Indians.***

**FINDING E**

**NCIC and NamUs are first and foremost operational databases. They are dynamic and not historical databases. Their primary purpose will always be to assist users (i.e., LEA, ME/C offices, forensic scientists) in managing and resolving cases. Also, interoperability of systems is key in addressing intergovernmental coordination. Considerations should be given to structuring data to be compatible with one another, which will expedite the sharing of data related to active cases. Analyses of information on data import capabilities are important to address interoperability and assist with mapping key investigative fields.**

**Federal Government:**

**Recommendation E1:** The Attorney General (DOJ), in consultation with the OMB, must analyze budgetary and operational deployment considerations to achieve interoperability of NCIC and NamUs, making seamless data sharing possible to improve justice system response and resolve cases. The analysis must be provided to Congress for consideration regarding appropriations to support this compatibility of systems.

**Recommendation E2:** The FBI Criminal Justice Information Services (CJIS) Division must update its NCIC Terms and Conditions to ensure users are notified about data-sharing activities (e.g., NamUs).

**FINDING F**

**Section 10 of the Native American Graves Protection and Repatriation Act (NAGPRA) authorizes the Secretary of the Interior to make grants to museums, Indian tribes, and Native Hawaiian organizations to assist in consultation, documentation, and repatriation of Native American cultural items," including human remains, funerary objects, sacred objects, and**

**objects of cultural patrimony.**

**Recommendation F1:** DOI's NAGPRA office must actively engage with tribes and the DOJ's NamUs program staff to identify unclaimed Tribal members to repatriate these persons to their Tribal communities.

**Recommendation F2:** DOI must actively work with Tribes who have unclaimed Tribal members to obtain funding (grants) to cover costs associated with transferring Native American human remains to their tribal community. Grant funds should be used to support repatriations.

**FINDING G**

**There are more than 18,000 federal, state, county, Tribal, and local LEAs in the U.S., all of which have their standard operating procedures and guidelines for data collection and entry in their agency's case management systems as well as others they may use to help solve cases (e.g., NamUs, NCIC). The Federal Government does not dictate specific classifications or verify race or ethnic origin in the data. In many cases, LE relies on family and friends of the individuals (if known) who go missing to specify race/ethnicity. Similarly, in cases where it is determined that the cause of death was homicide, family, friends, and loved ones are depended on to discern race/ethnicity. Without some form of identification from the missing person (i.e., Tribal enrollment ID card, Certificate of Degree of Indian Blood, or some other government document with demographic information) and for those individuals who are presented to ME/C offices, public safety, and health professionals are left with exercising visual verification practices or not indicating race or ethnicity at all.**

The misclassification of unknown decedents' race has been an ongoing significant issue. Misclassification can occur for several reasons, including inadequate resources, lack of proper training, lack of coordination and standardized procedures, and communication challenges among different agencies. In addition, the condition of the remains may preclude an assessment of race or interject the possibility of an incorrect assessment (e.g., severely decomposed or skeletal). These issues can lead to missing or incomplete data. The misclassification of AI/AN has been studied and reported on, including incongruence in data collection processes/sources for collecting race and ethnicity information via death certificates. A common practice of funeral directors is to complete the demographic portion of death certificates. Previous studies have reported that funeral directors tend to record a decedent's race through personal knowledge of the family or via visual observation of the deceased. In the United States, each state has its own regulations for death certificate registration and completion, and the National Center for Health Statistics (NCHS) provides guidance to encourage data consistency within the National Vital Statistics System in the form of a Funeral Director's Handbook.

**Recommendation G1:** CDC's NCHS must develop and implement a nationwide program using different delivery modes to train MEs/Cs, funeral directors, and physicians on the importance of coding AI/AN decedents correctly and accurately. The CDC must document the training plans and implementation, the number of training sessions convened, types of engagements or services provided, and the number of and professions of those completing the training. The training efforts must also be evaluated for effectiveness, including an analysis of AI/AN data pre-

training implementation and post-implementation.

#### FINDING H

**Federal statute prohibits data exchange between NCIC – the United States’ central database for tracking crime-related information – and the DOJ’s NamUs. “Billy’s law,” also known as the “Help Find the Missing Act,” is federal legislation that aims to close loopholes in United States missing person systems. While Billy’s Law requires data sharing, it does not address the legal entanglements of sharing law enforcement-sensitive data and technology, data validation, and data ownership challenges.**

#### **U.S. Congress:**

**Recommendation H1:** Congress must enact legislation deeming NamUs an official LE database such that the FBI’s CJIS program can issue DOJ’s NIJ an originating agency identifier (ORI) so NamUs Program staff can access and exchange data.

**Recommendation H2:** Congress must appropriate funds to allow NCIC and NamUs interoperability.

**Recommendation H3:** Congress must require NCMEC to regularly share data with NamUs, with compliance contingent upon annual appropriations.

#### **State, Tribal, and local Governments:**

**Recommendation H4:** As a best practice state, Tribal, and local governments should encourage death investigators and ME/C offices to upload data into NCIC and, for long-term, unresolved missing, unidentified, and unclaimed person cases, upload data to NamUs.

#### ***Tracking and Reporting Data on Instances of MPs, Homicide and Murder, and TIP of Indians.***

#### FINDING I

**Collecting data on AI/AN using race and ethnicity questions is problematic. Predominantly, race and ethnicity are social constructs typically based on physical traits and cultural backgrounds, which do not account for the political and legal status of federally recognized tribal (FRT) citizens and affiliates. The Supreme Court has held that members of FRTs must be considered political rather than racial groups if the law or action is based on longstanding legal responsibilities toward Native American interests and promotes tribal self-governance. Since Tribal Sovereigns deem who is and is not Indian, capturing tribal enrollment is the most appropriate means for capturing AI/AN citizen information. Because of the Federal Government’s trust responsibility and its legally enforceable fiduciary obligations (i.e., providing essential basic social, medical, and educational services for tribal members), the Federal Government must have accurate data on tribal citizens.**

#### **Federal Government:**

**Recommendation I1:** DOI and DOJ must consult with the Chief Statistician of the United States regarding the formal review to revise OMB’s Statistical Policy Directive No. 15 (*Standards for*

*Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity*). Directive No. 15 provides minimum standards that ensure the ability to compare information and data across federal agencies and understand how well federal programs serve their citizens. The Commission recommends separating AI/AN identity from Tribal citizenship.

**Recommendation I2:** DOI and DOJ must consult Tribes about engaging with the Census Bureau regarding the data collection of AI/AN Tribal citizenship and other data regarding MMIP and trafficking for the upcoming 2030 Census as well as the American Community Survey (ACS), including potential question(s) regarding murdered, missing, unidentified, and trafficked persons, families of MMIP, unidentified and trafficked persons, if such case were resolved, and other pertinent questions.

**Recommendation I3:** Standalone Tribal citizenship question on all federally authorized data collection efforts, especially for data collection efforts requiring the approval of the OMB (i.e., Paperwork Reduction Act [PRA] Information Collection Reviews [ICR]) must be included.

**Recommendation I4:** DOJ TAP must conduct a data-gathering activity that involves surveying all Tribal LEAs to determine their willingness to participate in the TAP and their eligibility status, as well as those Tribal LEAs eligible but who are not willing to participate in the TAP. For the latter group, the TAP program must gather information about their data exchange/information sharing needs and document the challenges or barriers of not participating in TAP and what alternate resources may be needed.

#### FINDING J

**Generally, there is a lack of available funds for Tribal law enforcement to develop, implement, and enhance their own data collection and sharing ventures. Tribal law enforcement needs access to the NCIC to help in the investigation and resolution of missing persons cases as well as implement best practices for case processing (e.g., making immediate entries into NCIC when a missing child is reported to law enforcement). The DOJ's TAP for National Crime Information is a vital resource that provides much-needed tools (e.g., the ability to upload restraining orders and fingerprints and more sophisticated identifiers of alleged perpetrators, including training, education, and technical assistance).**

#### U.S. Congress:

**Recommendation J1:** Congress must fully fund annually the DOJ's Tribal Access Program (TAP) for all eligible and willing Tribal LEAs to enhance the ability of Tribal governments and their enforcement agencies to access, enter information into, and obtain information from national criminal information databases. The program could be modeled after the Crime Victims Fund for a Tribal Victim Services Set-Aside Formula Grant Program (TVSSA) and the Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

#### FINDING K

**Interagency groups are designed to bring agencies together to plan, develop, and implement coordinated activities. They allow public officials to communicate with each other on initiatives and programs within their agencies, the needs of their stakeholders, and best practices learned from agency activities.**

**Recommendation K1:** Congress must appropriate funds to establish an *AI/AN Data Interagency Working Group (IWG)* to share expertise and develop and improve systems and methodologies that Federal Government agencies could replicate to collect accurate and disaggregated crime, missing person, and victimization data on Native Americans. The AI/AN Data IWG should be housed at HHS and should comprise representatives from the following agencies: BJS, CDC, Census Bureau, Labor, National Center for Health Statistics, NIJ, National Institutes of Health, National Science Foundation, the OMB, and the Chief Statistician of the United States (or designee). To ensure AI/AN interested parties' voices are included in these discussions, the IWG must participate in meaningful engagement with the people with lived experience, including, but not limited to, at least two Indigenous data sovereignty experts, Tribal justice practitioners, community members, crime victims, service providers, and individuals who have experienced justice system involvement.

#### FINDING L

**No federal statute requires ME/C offices to obtain biometrics and samples of unknown decedents (i.e., John and Jane Doe cases) before the disposition of human remains (i.e., cremation, burial, donation for medical education, or scientific research).**

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*"We want families to report an individual as a missing person and law enforcement to get the right information. I need DNA and dental records – weight and hair color does not help if I only have skeletal remains. What were they last wearing?"*

-Angela Berg, Forensic Anthropologist,  
NIAC Tulsa, OK Witness

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**Recommendation L1:** Congress must enact legislation requiring all ME/C offices to obtain biometrics and samples of all John and Jane Doe cases before the disposition of unidentified human remains. At a minimum, legislation should require that:

- 1) Human remains of unknown, unidentified persons are not destroyed (i.e., cremated)
- 2) Biometric data is collected (as available) and tested to aid with identification and
- 3) MEs/Cs enter cases into NCIC and NamUs with all known demographic and biometric data.

**Recommendation L2:** Congress must appropriate funds for state, Tribal, and local governments to cover the cost of gathering, processing, and maintaining biometric data samples.

**State, Tribal, and Local Governments:**

**Recommendation L3:** As a best practice, Federally Recognized Tribes should consider participating in DOJ’s TAP to develop, implement, and enhance their own data collection and sharing ventures.

**Recommendation L4:** As a best practice, ME/C offices should obtain biometrics and samples of all John and Jane Doe cases before the disposition of unidentified human remains.

***Addressing Staff Shortages and Open Positions Within Relevant Law Enforcement Agencies.***

**FINDING M**

**Few tools support the investigation of missing and unidentified persons on Tribal lands. Helping Tribes become aware of tools and support takes a focused effort. The NCMEC is a free tool but involves building trust and understanding with families of the missing and investigating agencies. Similarly, NamUs is a free tool, and it has added new data fields to provide context and help describe active AI/AN case information.**

**Federal Government:**

**Recommendation M1:** Upon appropriations, the Federal government must ensure NCMEC has a permanent, dedicated NCMEC position to assist with AI/AN case processing, including building trust with Tribal LE and AI/AN families and loved ones.

**Recommendation M2:** Upon appropriations, the Federal government must ensure NamUs has a permanent, dedicated NamUs position to assist with AI/AN case processing, including building trust with Tribal LE and AI/AN families and loved ones.<sup>39</sup>

**U.S. Congress:**

**Recommendation M3:** Congress must require (as part of their appropriations) a permanent, dedicated NCMEC position to assist with AI/AN case processing, including building trust with Tribal LE and AI/AN families and loved ones. The NCMEC AI/AN specialist will enter data into NCMEC’s database and be available to respond to training requests from Tribal communities and help raise awareness of available services while being sensitive to community rituals surrounding the missing and deceased. The AI/AN specialist will also liaise with DOJ’s NCIC and NamUs programs.

**Recommendation M4:** Congress must require (as part of their appropriations) a permanent, dedicated NamUs position to assist with AI/AN case processing, including building trust with Tribal LE and AI/AN families and loved ones. In addition, the AI/AN specialist will enter data into NamUs, collect biometric information (i.e., dental charts, fingerprints), and obtain family reference samples for entry into the national DNA database. Moreover, the dedicated staff will be available to respond to training requests from LEAs and Tribal communities and help raise awareness of available services while being sensitive to community rituals surrounding the missing and deceased. Examples of training include DNA family samples, how they are used to

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<sup>39</sup> This request may be addressed with S.465 - BADGES for Native Communities Act.

match cases, what the DNA cannot be used for, and the importance of capturing Tribal affiliation. The addition of this specialized position will result in increased identification of unknown AI/AN decedents and augment case file data to help resolve cases.

**State, Tribal, and Local Governments:**

**Recommendation M5:** As a best practice, state, Tribal, and local governments should encourage LEAs and community members to use the resources available to them through NCMEC and NamUs.

**FINDING N**

**The current need for forensic analysis within Indian country outpaces the capacity of forensic science service providers (FSSP). Delays in analyzing evidence impact criminal investigations, putting community safety at risk. Investing in the workforce pipeline and training and resources for FSSPs can assist with the current and growing crime lab backlog. The 2019 Report to Congress, *Needs Assessment of Forensic Laboratories and ME/C Offices*, noted the following needs:**

- 1. Further systems-based assessments of the forensic evidence collection and testing needs of tribal communities and a roadmap for forensic evidence analysis.**
- 2. Increased training and resources for investigative and forensic needs.**

**Federal Government:**

**Recommendation N1:** NIJ must conduct a systems-based review to understand the forensic evidence collection and testing needs of tribal communities.

**Recommendation N2:** The Federal science enterprise must develop programs and initiatives that are pathways (e.g., internship, mentorship, and sponsorship programs) for AI/AN teens and young adults to learn about career opportunities in public health and safety and the forensic sciences that could ultimately address critical staff shortages.<sup>40</sup>

***Increasing Information Sharing with Tribal Governments on Violent Crime Investigations and Prosecutions in Indian Lands Terminated or Declined.***

**FINDING O**

**Some Tribes have cultural and religious beliefs that require special mortuary rituals or practices when a Tribal member passes away that the Tribes would like the ME/C offices to honor. ME/C offices are not always equipped to support these rituals and may only**

<sup>40</sup> Enterprise includes all federal science agencies located throughout the Executive Branch (e.g., Bureau of Justice Statistics, Centers for Disease Control and Prevention, Directorate for Science and Technology, Networking and Information Technology Research and Development Program, National Institute of Justice, National Institute of Standards and Technology, National Institutes of Health, National Science Foundation). Programs should provide opportunities for those in primary, secondary, and post-secondary education (undergraduate and graduate students) as well as early career professionals (post-docs).

sometimes know what customs the surviving family members require. ME/C offices can create a mutually trusting relationship with the community by fostering communication and respect. For example, in North Dakota, the foundation of such a relationship was laid when the state university supported educational work with Native American students in the medical, health science, and graduate/STEM programs. This academic work created a known and trusted environment for the Tribal communities before the provision of forensic science services. Relationships can be strengthened by routinely inquiring whether there are any special rituals or practices the tribe or the decedent's relatives would like the ME/C office to honor or by working together to identify ways of designing the morgue to accommodate different and diverse groups.

**Federal Government:**

**Recommendation O1:** CDC must implement a new grant program that offers grants or cooperative agreements to ME/C offices to hire and pay a Tribal coordinator for jurisdictions with a significant number of Tribal cases.

**Recommendation O2:** HHS must promote the adoption of ME/C Tribal coordinators for jurisdictions with a significant number of Tribal cases. The recommendation builds trust between the ME/C offices and the Tribal communities, allowing the ME/C to conduct a full medicolegal death investigation and collect evidence properly, meanwhile allowing the Tribal community to practice traditional rituals surrounding death. This recommendation will also ensure that ME/C offices abide by the Native American Graves Protection and Repatriation Act (Pub. L. 101-601, 25 U.S.C. 3001 et seq., 104 Stat. 3048).

**Recommendation O3:** When Tribal Sovereigns request it, medical examiners' offices (not coroners) should be included in repatriating AI/AN children to their Tribal communities.

**U.S. Congress:**

**Recommendation O4:** Congress must appropriate funding for a new grant program for ME/C offices to hire Tribal coordinators in jurisdictions with a significant AI/AN population.

**State, Tribal, and Local Governments:**

**Recommendation O5:** As a best practice, state, Tribal, and local governments should encourage ME/C offices to hire Tribal coordinators to support medicolegal death investigations and collect evidence properly while supporting Tribal communities that wish to practice traditional rituals surrounding death.

**Finding P**

**The Commission heard from several witnesses who voiced concerns about actual or perceived racially biased policing within law enforcement agencies towards Indians. While there are individual city or state reports, there is little to no aggregated federal data regarding racially**

biased policing in or around Indian country.<sup>41424344454647</sup> It is clear, however, that there is significant mistrust of law enforcement among tribal communities and this undermines reporting and investigations of missing persons and crime.

#### **Federal Government:**

**Recommendation P1:** The Department of Justice's Community Relations Service must conduct more outreach to Indian country and AI/AN communities regarding their services in responding to race-based tension and conflict, including addressing allegations of racial bias and racialized violence in policing, and barriers to accurate data collection. The federal government should develop and establish a means to track and aggregate data regarding racially biased policing in and around Indian country, of Indians in urban areas, and in Alaska.

#### **State, Tribal, and Local Government:**

**Recommendation P2:** As a best practice, Tribal and urban Indian communities should insist on establishing community oversight boards to independently review police data related to the use of force, review policies, conduct independent investigations, and convene on other areas of community concern. These boards must be independent of governments or their political processes and be empowered to hold law enforcement accountable and ensure transparency.

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<sup>41</sup> Selective Enforcement and Stereotypes Drive Racial Disparities in the Arrests of Native Americans in Flagstaff Arizona, Southwest Center for Equal Justice, 2023, at [https://swcej.org/mt-content/uploads/2023/07/racial-disparities-in-arrests-in-flagstaff\\_64bf2571d70f5.pdf](https://swcej.org/mt-content/uploads/2023/07/racial-disparities-in-arrests-in-flagstaff_64bf2571d70f5.pdf).

<sup>42</sup> Center for Policing Equity, "The Science of Justice: Seattle Police Department," Jan. 2021, [https://www.documentcloud.org/documents/21015602-spd\\_cityreport\\_final\\_11121-1](https://www.documentcloud.org/documents/21015602-spd_cityreport_final_11121-1)

<sup>43</sup> U.S. DOJ Civil Rights Division, "Investigation of the City of Minneapolis and the Minneapolis Police Department," June 16, 2023, <https://minnesotareformer.com/wp-content/uploads/2023/06/DOJ-MPD-report.pdf>, finding that MPD unlawfully discriminates against Black and Native American people when enforcing the law.

<sup>44</sup> CDC and FBI data have generally shown that Natives are killed by police at a higher rate than any other racial or ethnic group. Here is an article that discusses that: <https://www.urban.org/urban-wire/native-americans-deserve-more-attention-police-violence-conversation>

<sup>45</sup> Why are so many Indigenous People in Montana incarcerated, American Civil Liberties Union, 2018: <https://www.aclu.org/news/smart-justice/why-are-so-many-indigenous-people-montana-incarcerated>

<sup>46</sup> *Rapid City Police Department and the Native Community in Rapid City: Examining Policing Trends, Community Opinions and Best Practices*, 2016. Braunstein and Tobias Schantz of the Government Research Bureau at the University of South Dakota. In [https://rapidcityjournal.com/news/local/yearlong-study-natives-feel-profiled-by-rapid-city-police-based/article\\_4e38af3e-61f7-5272-bff1-40c24cfa7b16.html](https://rapidcityjournal.com/news/local/yearlong-study-natives-feel-profiled-by-rapid-city-police-based/article_4e38af3e-61f7-5272-bff1-40c24cfa7b16.html)

<sup>47</sup> Jonelis, J. Oct 2021. *Report: South Dakota's Obsession with Incarceration*. ACLU South Dakota. Available at: <https://www.aclusd.org/en/news/report-south-dakotas-obsession-incarceration>

## **Commissioner Dissent to Chapter 2, Recommendation A13**

I, Commissioner Annita Lucchesi, object to Recommendation A13, Chapter 2, and advocate for the original language adopted by Subcommittee 2, below:

*The government Accountability Office (GAO) must conduct a study of AI/AN deaths in custody (federal, state, tribal, and local) and officer-involved AI/AN deaths that includes reporting mechanisms that are in place or needed to inform the public of the number of circumstances, and outcomes of these types of cases including tribal citizenship and affiliation. Specifically, this GAO study must include information on the frequency, dynamics, and factors contributing towards LE violence against AI/AN people. LE-involved AI/AN deaths, and AI/AN deaths in custody, as well as how these forms of violence intersect with MMIP and HT (including how law enforcement violence may become a barrier to reporting and investigation MMIP and HT cases, how AI/AN trafficking victims may experience victimization by LE and how experiencing LE violence or wrongful criminalization may increase likelihood of further victimization of AI/AN people). The study must include formerly incarcerated AI/AN people, AI/AN victims of police violence, families of AI/AN victims of officer-involved deaths, and AI/AN victims of trafficking who have been involved in the criminal justice system.*

This language was drafted collaboratively by members of Subcommittee 2. A commissioner objected to this language in the final full commission meeting and offered an alternative adopted only by the commissioners present at that meeting.

There is an abundance of information available supporting the original recommendation (above). (See citations in Recommendation P, Chapter 2). Furthermore, the commission received frequent testimony in multiple field hearings from both families and survivors and subject matter experts on the issue, and there were clear intersections between this issue and MMIP and HT of AI/AN people.

It is my belief as a Commissioner, a scholar with a doctorate specializing in legal geographies and violence in Indian Country, as an advocate for MMIP families and Indigenous trafficking survivors, and a trafficking survivor who has experienced police violence herself, that the original language of A13 is stronger, and that Congress must ask the GAO to complete the described study within it. The original language is more detailed and with a more clear path to substantive action and additional information on the issues described. It is my feeling that the language that replaced it (which I could not weigh in on due to unavoidable travel that I noted to facilitators in advance) does not honor the spirit of the initial recommendation, does not require any meaningful action moving forward, and does not honor the families and survivors that begged us as a Commission to hold law enforcement accountable for the deaths and assaults that occur at their hands. I never felt safe reporting to law enforcement when I was being trafficked, because I was terrified of them due to the rampant police violence and neglect I and my peers were experiencing – the original language of A13 could have provided a path to addressing that so that other survivors are potentially able to seek life-saving help from LE in the future safely.



## CHAPTER 3

### Subcommittee 3: Recruitment & Retention of Tribal & BIA Law Enforcement

#### Subcommittee Charge and Priority Areas

The charge for Subcommittee 3 was to “address staff shortages and open positions within relevant [Tribal/BIA] law enforcement agencies, including issues related to the hiring and retention of law enforcement officers.” The charge included a comparison of federal/state LE pay scale, benefits, caseloads and other factors with BIA/Tribal programs.

Subcommittee 3’s first task was to define the scope of their charge and to choose three priorities which would serve as a way of organizing the recommendations. These priorities were:

1. Comparing federal and state LE programs with BIA and Tribal LE programs to identify factors contributing to retention:
  - a. Compare caseloads and staffing resources.
  - b. Compare officers per population, per square miles, for violent crime caseloads, average homicide and rate of violent crimes.
  - c. Compare recruitment and retention levels and resources dedicated to recruitment and/or retention.
  - d. Compare experience and training, including specialized training for MMIP.
  - e. Compare the hiring processes.
  - f. Compare benefits, retirement, salary and incentive programs.
  - g. Compare support services for retaining LE.

**Note:** Through research and SME presentations, the subcommittee found little relevant data to compare federal and state LE programs with BIA and Tribal LE programs. They relied on the rich testimony from SME presentations and many witnesses at the eight field hearings, as well as the experiences of commissioners. This testimony validated the need for changes in policy, programs and legislation to bring BIA and Tribal LE to parity with Federal and state LE.

2. Recruitment: What statutory and regulatory changes and Federal resources are needed to support recruitment and retention of BIA and Tribal LE?
  - a. What can expedite the hiring process?
  - b. What benefits/incentive programs can support Tribal LE?
  - c. What wellness/retention programs can support BIA/Tribal LE?
3. Retention: How to provide BIA/Tribal law enforcement officers needed support and education to deal with the stress and trauma in their work?
  - a. What appropriate resources, information and training in mental, spiritual and physical health need to be accessible and funded for BIA/Tribal LEO?
  - b. How can bridges be built among services providers, including IHS, Tribes, and federal and state agencies, to integrate social services, mental health support, nutrition and physical well-being for law enforcement?

## How the Subcommittee Worked

### Approach

Subcommittee 3 members met on average every three weeks from September 2022 through September 2023, for a total of eighteen (18) meetings. Co-chairs often met on alternate weeks. Subcommittee 3 members were all in the LE field – Tribal, state and federal LE departments and agencies. The daily, unpredictable demands of working LEOs meant that inevitably not every member could attend every meeting. In spite of often being pulled away to deal with crises at work, their commitment to the goals of the Commission were clear as they shared their life experience and developed the following recommendations.

Activities of the subcommittee included:

- Discussion among members about process, focus and sharing of experiences and perspectives on the recruitment and retention of BIA/Tribal LE;
- Presentations from SMEs to educate members on efforts to address the issues, available resources, and how to meet the need;
- Field hearings in Minneapolis, June 6-8 (co-hosted with Subcommittee 4) and Albuquerque, June 28-30 (co-hosted with Subcommittee 6), as well as attending other public hearings via zoom; and
- Development of recommendations, see below.

Meetings were staffed with a facilitator, a project lead and a technical writer who produced notes of each meeting. Decisions were made by consensus.

### Purpose

Without qualified, capable and healthy BIA and Tribal LEOs to fill all positions, the LE system fails in its responsibility to keep Tribal communities safe and secure. Communities suffer in multiple ways, including inadequate protection, delayed response and reporting, poor communication, and failures in due process. In addition, the understaffed LE agency suffers with overworked, underpaid officers who do not have the support they need to deal with a frustrated, angry and often grief-stricken public. The relationship between community and LE is strained (at best) and can become dangerously hostile. Subcommittee 3 recognized that key to addressing this dysfunction is the recruitment and retention of qualified, committed, well-trained and well-paid officers, in numbers that will allow a LE department to provide the support and services the community needs. Their recommendations reflect their deep commitment to improving the experience of both the officers and those they serve in hopes that their relationship can be mutually supportive and respectful.

Early in their discussions members gravitated toward certain critical aspects of the challenge to recruit and retain BIA and Tribal LE. These were the lack of parity in pay and benefits, the physical, mental and emotional stress on officers, and the need for a community-based approach to policing that would include recruitment, orientation, training, and incentives. In addition, Subcommittee 3, like other subcommittees, was concerned with the lack of base

funding for BIA/Tribal LE and the inappropriate and ineffective use of grants to fill in those gaps.

### **Specific Subcommittee Findings and Recommendations**

**Note on Alaska:** As with so many other issues addressed in this report, recruitment and retention of LEOs needs to be addressed through a different lens, one that highlights the lack of basic resources and services to protect the public health of Alaska Natives. Subcommittee 3 commissioners were painfully aware that their mandate to address BIA and Tribal LE shortages and find remedies to increase recruitment and retention was tragically inappropriate in Alaska, where the majority of villages have no LE presence at all. Moreover, for the few LEAs located within villages, officers do not have the same access to quality training, up to date equipment and technology, or support for mental and physical health. Subcommittee 3 members fervently hope that in the future, Congress will remember that Alaska Native Villages fall far below the standard for public health and safety services enjoyed by the lower 48 and will address these needs quickly and effectively.

### ***Pay Parity & Retirement Benefits for Tribal LE***

BIA LEOs are federal employees and are entitled by law to be able to participate in the federal employee retirement system. Tribal police officers who are hired under 638 contracts to perform the exact same services that a BIA LEO performs, however, are not eligible to participate in the federal retirement system.

The result is that Tribal LEOs leave in significant numbers to join state or federal agencies. This creates a vacuum in Tribal LE departments as well as an unhealthy rate of turnover, as new recruits are sought to fill empty positions. The lack of a reliable, sufficient retirement plan and pension is one of the main reasons that Tribal agencies fail to recruit, or retain, LE officers. Pay parity with other LEAs and access to and eligibility for the federal pension program would result in more successful recruiting, more sustained retention, and less loss of Tribal LE to other agencies.

The BIA LE programs have also struggled to recruit and retain LEOs. In some cases, Indian Preference hiring laws have been cited as a barrier to recruitment and retention efforts. Additionally, LEOs transfer between Tribal LE programs and the BIA LE programs. Federal regulations concerning enhanced LE coverage for primary and secondary positions create barriers for recruitment and retention of tribal and BIA LE personnel.

To address these critical barriers to recruitment and retention of Tribal LE, we recommend rapid changes in law, policy, Executive Order, or other means to grant access to Tribal LE staff for parity pay and federal pension and retirement plans. This will give assurance to Tribal LE that their futures are somewhat secure, and that they are valued and respected by the government and communities they serve.

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*LE shortages in Indian country are extreme. Cherokee Nation needs 200 officers to cover 14 counties, but as of this report has only 65 on the payroll.*

–Subcommittee presentation

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**FINDING A**

**Two of the most critical inequities between Tribal LE and their federal counterparts are: 1) pay scales; and 2) the lack of an adequate benefits package and retirement plan. Tribal LE often leave Tribal agencies for state or federal agencies because of these inequities. To recruit and retain Tribal LE, this inequity must be rectified. LE and other court staff deserve equal pay and benefits, as well as the respect and recognition of value that this equity brings.**

**Recommendation A1:** The BIA must conduct a study on the impacts of Indian Preference hiring law have on LE recruitment and retention efforts.

**Recommendation A2:** Congress must amend federal retirement law to make Tribal police officers eligible for the same retirement benefits that a federal employee performing the same job would be eligible for.

**Recommendation A3:** OPM must update Part 831 regulations for Law Enforcement Officers and Firefighters retirement to ensure employees moving from BIA and Tribal LE positions are credited as continuously employed and that the move is not considered a break in service. Updated regulations should ensure all coverage is retroactive for existing tribal and federal employees.

**Recommendation A4:** Pay scales for Tribal LE and courts should be reviewed to ensure they offer pay for the positions advertised that is competitive with DOJ and BIA LE, which has already achieved parity through OJS.

**Recommendation A5:** Failing inclusion in the Federal system with pay and benefits comparable to BIA and Federal LE, reliable funding must be provided to pay for pay increases and retirement plans, through inclusion in the mandatory funding for public safety and justice or other programs. Grants with time limited funding (3 years, 5 years, etc.) are unacceptable, leaving the burden on the tribe to support.

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*In Oklahoma, Tribal LE carry commissions for both federal (BIA) and state LE agencies, providing full services while receiving less pay and no benefits compared to those they work with side-by-side. Although large tribes may be able to bring some officers to parity, most tribes cannot and must turn to grants which are highly competitive and often give only 3 or 5 years of funding. Tribes are then left to support those officers with their own funding.*

- Subcommittee presentation

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### ***Holistic Officer Wellness Initiatives to Serve the Diversity of BIA & Tribal LE Departments***

Focused fiscal support to initiate and sustain holistic officer wellness programming is desperately needed. BIA and Tribal LE spoke at the field hearings of the challenge – and failure – of maintaining their mental, physical, and spiritual health. Despite suffering repeated trauma, they are expected to do their job, follow the law, assist those in need, restore the peace, and protect the vulnerable. Often, they said, the “tough guy” stereotype keeps them from seeking help, but suppressing the trauma and stress has serious impacts on the officer, their family and community, as well as the workplace. BIA and Tribal LE agencies are often stretched too thin to even recognize the pattern, let alone intervene with support for the officer.

For BIA and Tribal LE, these stresses may be compounded by working within a tight-knit community with strong cultural and spiritual elements that affect relationships and behavior. In addition, Tribal LE who are members of the community they are serving will likely know, or even have personal history with, the individual or the family in crisis. They may be subject to personal attacks and accusations of taking sides. The resulting burnout often leads to a slow self-destruction through drugs or alcohol, violence to others, incapacitating depression and even suicide. Or it can drive the officer to another LE agency, where they hope for less stress and trauma. The results are tragic: serious damage to the officer from which it may be impossible to recover, loss of an officer from the Tribal LE department, and increased stress for the remaining officers.

There is good news. There are highly successful peer support LE assistance programs that promote officer wellness, including physical health and hygiene, maintaining balance, dealing with trauma and stress, vulnerability and overstimulation. Programs, such as St. Regis Mohawk, have changed workplace culture, helping officers understand how their stress and trauma impact their own health, the well-being of their families and communities, as well as their performance of LE duties. They offer culturally responsive holistic health programs that are accessible and inviting to LE and incorporate family and community health with the officer’s own emotional, physical, and spiritual health. Male officers particularly benefit, gaining insights

about their emotions and behavior. They return to work rejuvenated and motivated, understanding themselves better and performing more effectively in the workplace. These programs establish a baseline of factors that threaten the officers' wellbeing, for instance: 1) lack of attention to officer critical incidents, 2) high number of overtime hours, and 3) challenging family situations. Once identified some avoidable threats can be mitigated, such as insuring adequate sleep, acknowledging and addressing crises and chronic stressors, providing counseling and spiritual healing. Treating the officer with a holistic approach of support should include families, training, peer support and possible technology remedies such as wellness apps.

Fourteen states, including New York and Oklahoma, have similar programs which are well received by officers, but only a small fraction of BIA and Tribal LE are able to take advantage of them. The existing programs can serve as models for effective peer support programs for other BIA and Tribal LE departments. Given the diversity of agencies across Indian country, programs will need to be tailored to specific needs and situations. In addition, it is important to provide opportunities for connections between officers, department heads, and partnering agencies, to better understand the particular challenges each faces and how to accommodate cultural differences. There are models for effective coordination between BIA/Tribal LE and other service providers, including social workers, counselors, substance use specialists, mental health professionals, local cultural healers, and others. Much of the stress experienced by LE is the result of not having the skills, education, and training to deal with people in crisis. These other professionals can provide better services and relieve the officers of a responsibility that they are not equipped for.

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*A law enforcement officer who had served on a tribal police force for over 20 years retired. In one month, he was dead, victim of ill health, physical, mental, and spiritual. The job was extremely stressful and he had little or no resources for support and self-care. He was expected to be "tough" and he paid the ultimate price.*

*- Subcommittee presentation*

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#### **FINDING B**

**The impacts of untreated trauma, unresolved grief, physical, mental and spiritual deterioration are devastating not only to the individual officer but to his family and his community. With programs that acknowledge these challenges and offer support and healing, each officer can regain resiliency and pride in their role as a protector of the community and as a valuable human being. Addressing the physical, mental and spiritual needs of BIA and Tribal LE will lead to better retention of officers, as well as more stable, productive departments. Healthy officers, practicing self-care, can be models for their communities.**

Implementing these recommendations can address many of the factors that lead to bad health, poor performance, loss of officers to other positions, or premature death, all of which have an

impact on the larger community.

**Recommendation B1:** Tribal LE departments, with support from federal, state, and local health agencies and organizations, should develop and adopt holistic health programs that include physical, mental, and spiritual health and offer individual, group and peer support sessions for officers in need. Programs and training to establish those programs need to be developed with input from officers and Tribal spiritual leaders, working with existing programs (like the peer support program mentioned above) that have proved effective around the country. These programs should be based on successes and lessons learned from efforts and reports to date such as *The National Tribal Behavioral Health Agenda*<sup>48</sup>. Federal agencies need to provide funding for the development of these models as well as training for staff and providers.

**Recommendation B2:** Federal agencies, including BIA, DOJ, IHS, and others must focus funding and expertise to create a Task Force or other entity mandated to 1) develop a model Holistic Health Program for BIA and Tribal LE departments through collaboration with successful existing programs, Tribal spiritual leadership, Tribal Behavioral Health Departments and with officers themselves; 2) disseminate this model with training and support for establishing a program that is appropriate culturally to each Tribal community that needs it; 3) Monitor and evaluate the success of each program, making adjustments as needed.

Elements of this model program can include:

- A peer support program where officers at all stages in their careers come together for mutual support and healing. With help from counselors, spiritual leaders, and fellow LE, an officer in need can receive trauma support, grief counseling, and healing in an environment that is supportive and builds good health and resiliency in officers.
- Education to understand and deal with stress, depression and anger (your own and others)
- Development of cultural sensitivity and emotional intelligence, including the stages of cultural competency ending with proficiency
- Resources for officers to use on their own, such as tool kits and online apps for officer wellbeing
- Opportunities for honest conversation among participants about challenges and strategies for self-care
- Mentoring where older help younger mature, develop good judgement, deal with stress.
- Sessions where officers share painful experiences, debrief incidents, in a supportive setting

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<sup>48</sup> "National Tribal Behavioral Health Agenda." *National Indian Health Board | National Tribal Behavioral Health Agenda*, SAMSHA, [www.nihb.org/behavioral\\_health/behavioral\\_health\\_agenda.php](http://www.nihb.org/behavioral_health/behavioral_health_agenda.php).

**Recommendation B3:** Successful models can offer training to Tribal behavioral health departments to develop and adopt programs, including peer support programming, mentorship and retiree participation. With dissemination of these models and trainings, LE departments in all jurisdictions can utilize best practices for supporting and treating BIA and Tribal LE (at all levels) who are dealing with trauma and other stress-related health issues exacerbated by their work demands and experiences. There are also successful models for coordination between LE and other professionals (social workers, mental health providers, counselors, local cultural healers) who are better equipped to deal with certain crises that LE face.

**Recommendation B4:** Support legislation (as identified in HR 1292 BADGES Act for Native Communities Act, March 2023) calling for BIA and Tribal Law Enforcement Officer Counseling Resources Interdepartmental Coordination. Specifically, HHS and DOJ must coordinate with BIA to ensure Federal training materials and culturally appropriate mental health and wellness programs are locally or regionally available to LEO working for BIA or Tribal LE and who are experiencing occupational stress. The bill also calls for determination of eligibility of these officers to receive services under the Law Enforcement Assistance Program of Federal Occupational Health of HHS, or any other LE assistance programs targeted to meet the needs of LEOs working for federal or tribal agencies.

**Recommendation B5:** The creation of family-focused care for Tribal LE, holistic support services do not just benefit the officer, the community they serve, and the department they work in. These services foster a healthy family environment for the officer. Based upon the *Family Matters* report from the International Association of Chiefs of Police<sup>49</sup>, it is the recommendation of this subcommittee to focus a branch of holistic care on Tribal LE families. This branch should focus on the creation or expansion of key items such as, but not limited to implementing childcare, maternal and paternal care, and private rooms for nursing for female LE. Other areas of focus for Tribal LE families would be access to mental health and trauma services, support specialists, and other family support programs. All of this family-focused care should be done with cultural context and created with consultation from Tribal leaders, Tribal communities, and Tribal LE as a united effort to create an all-encompassing system that takes care of everyone. As stated in the prior report, “Agencies that promote family-inclusive wellness resources may be more appealing to potential recruits and make them more likely to stay with an agency as their families grow and they evolve throughout their career”<sup>50</sup>.

### ***Training and Orientation for Recruits & New Hires***

Training and orientation of BIA and Tribal LE recruits need to be revised to reflect the needs of communities and the needs of the officers, resulting in more targeted successful recruitment and longer retention. The “tough guy” image of the LEO is outdated; the modern officers need to see themselves as protectors of the community, with a wide variety of skills to be effective enforcers as well as supportive resources for victims, family members and the community. New BIA and Tribal LE recruits need a clear, realistic picture of what their new career holds -- both

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<sup>49</sup> International Association of Chiefs of Police. 2021. *Family Matters: Executive Guide for Developing Family-Friendly Policies, Procedures, and Culture*. Washington, DC: Office of Community Oriented Policing Services.

<sup>50</sup> Ibid.

the challenges and the opportunities of being a LEO today in Indian country.

The National Association of Women Law Enforcement Executives survey (2021) identified the need for a new approach to outreach, orientation, education and training of LE. The survey reported that recruits need to understand what is expected in terms of lifestyle changes, stress and how to deal with different cultural contexts. Another study, *National Institute of Justice's 30 x 30* found that healthy, non-toxic work environments matter as much or more than money and benefits to those considering a career in law enforcement. Appropriate training can ensure that officers are able to contribute to a healthy work environment where recruits want to work and stay.

Training and orientation can emphasize the strength, not the failings, of the individual candidate and identify their potential contribution to the field. Each candidate brings individual experiences that are invaluable in their development as an officer. Rather than focus on the flaws, bad choices, and misfortune that each of us carries, the LE training process can value a candidate's accomplishments, perseverance, the diversity of experience that each brings.

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*Too often trainings are outdated and do not cover the challenges that officers meet today. An officer confessed to simply checking the "finish" tab at the bottom of each screen to complete the online training as fast as possible. "They were just giving me a 'check the box' training so they could say that they trained me. So I just checked the boxes."*

- Subcommittee presentation

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#### **FINDING C**

**As new recruits enter the workforce they are offered training, which in too many cases fails to prepare them for the challenges of their new career, as well as introduce them to the opportunity to become a valuable, respected member of the community. Lacking the skills, knowledge and understanding needed to perform daily duties, relate to the community and handle crises, the new hire may resign, or transfer to another agency, leaving a vacancy in the BIA or Tribal LE department. The testimony from field hearings emphasized the harm caused communities by the rapid turnover of LE officers in tribal communities. Policy and operational changes are needed to ensure orientation and training is comprehensive and appropriate for the needs of the modern BIA and Tribal LEO.**

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*“BIA Officers seem to use our community for a training ground. Six months and they’re gone, and we’re left having to start all over and get used to a new officer who doesn’t know us.”*

- NIAC Billings, MT Witness

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**Recommendation C1:** Federal LEAs and training academies should revise and reinvent training programs for recruits as well as established LEOs. Below are suggested components for training a more skilled, resilient, and healthy LE workforce:

- Invite sharing of the wealth of experience and expertise in the room, including telling the story of an operation, what went right and what went wrong, and how LE can react in the most beneficial way.
- Train to support a healthy, non-toxic work environment that fosters a culture of recognition, respect, trust and value, between LE and community.
- Teach trainees to understand the laws we are all bound by, including Tribal laws, codes and ordinances, and tribal sovereignty issues in their particular area.
- Show trainees how to present themselves in the community, how to be disciplined, fair, effective, and keep the balance between strong and compassionate.
- Include mentoring and peer support, throughout training and orientation
- Train on de-escalation techniques to defuse a potentially violent situation
- Instruct in the use of NARCAN
- Show how coordination with other professionals, like social workers, counselors, local healers can result in a better outcome for the victim, officer, community and even perpetrator
- Include training to respect fellow officers, male and female and LGBTQ, and provide processes for addressing abuses, to ensure that all feel safe
- Make training accessible to all, using online courses for remote areas and providing free training where needed

**Recommendation C2:** Conduct a study for the feasibility of a federal certification program for BIA and Tribal LE designed to promote a healthy, balanced, positive, self-aware officer capable of handling the particular stresses of today’s world, with awareness and sensitivity to the unique needs of each situation.

**Recommendation C3:** Promote and facilitate universal and cross-jurisdictional training across LEAs. Universal training of Tribal and state LEOs brings together peace officers with a common foundation of skills and operational understanding. It can also offer a shared certification as

peace officers. Not only do trainees gain the same skills and knowledge, but they develop relationships and a level of comfort with each other that will benefit future cross-deputizations. It will be important to ensure that Tribal LEOs also receive cultural components of training at the BIA Training Centers. Many states, including New Mexico and California, recognize Tribal LE through the discretion of local LE. Training together will promote coordination and cross-deputization as LEOs share certification.

**Recommendation C4:** Promote and facilitate co-training with advocacy groups to ensure mutual understanding and respect for the contributions of all to addressing community problems. These trainings can be co-located and co-led to demonstrate the partnership between LEOs and community advocates, and can cover a wide variety of topics including mental health, substance use, MMIP and HT.

***Strengthening the Connection Between BIA/Tribal LE and Communities Through a Community-based Policing Strategy that Fosters Respect, Trust & Values***

There is a level of anti-LE sentiment and distrust in this country which is inhibiting the recruitment and retention of LEOs nation-wide. BIA and Tribal LEAs are particularly impacted due to the additional challenges of working in Indian country. Lack of respect and negative response of family and community are some of the reasons that LE is not an attractive career choice for many. Potential candidates who are looking for a career they can be proud of are concerned about the image of LE, the inherent dangers, and the apparent lack of community support.

Critical to rebuilding this connection between BIA/Tribal LE departments and the communities they serve is the establishment of a community-based policing program. Community-based programs promote the use of organizational structures and strategies to foster partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime. This approach, which focuses on building relationships between LE and community members, has proven successful in many parts of the country. These models can provide valuable lessons and guidance to Tribal communities and LE that wish to partner, tackle tough issues together, and develop a new level of respect and trust.

Innovative strategies, like community-based policing, will create a more positive environment for BIA and Tribal LE and attract and retain quality candidates. There are many other changes that need to be made to attract and keep quality LE, such as pensions, mobility, advancement opportunities and other benefits. As these changes are made they can be included in the outreach efforts.

In the meantime, every effort needs to be made to help BIA and Tribal LE candidates understand and appreciate the challenges and rewards of a LE career. Simultaneous outreach to Tribal communities is equally important to offer support and cooperation and regain trust. A positive environment for LE will result in higher recruitment and longer retention.

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*“Marketing materials should show what policing is really about, not all shooting and rappelling from helicopters. We always show all the sexy stuff, but not conflict resolution, problem solving, helping people access resources. These are the talents and skills we need to reflect in our marketing materials.”*

- National Institute of Justice, special report, 2019

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#### **FINDING D**

**Distrust and tension between LE and communities is a significant barrier to recruitment and retention of officers. Applications for LE positions are significantly lower than a decade ago, and they continue to drop. BIA and Tribal LE departments need to be able to send a message that is positive, that offers a position of value and respect. A core change in community-police relations has the potential to change this negative narrative over time. Community-based policing has proved successful in large and small cities around the country and can be adapted to Indian country.**

**Recommendation D1:** Develop a national outreach strategy in coordination with BIA and Tribal LE, Tribal nations and communities, and federal agencies to recruit and retain BIA/Tribal LE. This outreach should target both potential candidates and communities and should emphasize the principles of community-based policing.

Key messages are:

- BIA and Tribal LE are committed to keeping communities safe and healthy, while building trust and relationships with those communities.
- The problems they face every day are problems that we all share and that we can all tackle together.
- A career in BIA and Tribal LE is challenging, like the military, but offers deep satisfaction, and is worthy of respect.
- A LEO is a member of the community, committed to understanding and supporting the community needs wherever possible.
- Every effort will be made to support and retain local LEOs who choose to work in their own communities.

**Recommendation D2:** Develop outreach programs to Tribal communities where LE can tell their stories, why they joined, what the experience has been like, what are the challenges and rewards. Development of the strategies for outreach and recruitment will be in the hands of a collaboration of BIA and Tribal LE, Federal agencies, Tribal Nations, and communities.

Some guidance and examples are below:

- Preparing potential recruits: Educating, sharing experiences, offering ride-alongs all can give interested candidates, including at the high school level, a realistic and positive picture of what to expect, both the challenges and the rewards. Paid internships can be offered for serious candidates who want to experience Tribal LE firsthand. Candidates from the community will be encouraged and supported in the decision to serve as LEO within their community.
- Giving a positive image: Stories that highlight officers from Tribal nations who are proud of their roles and are bringing honor to the LE career can inspire potential candidates.
- Engaging local communities: Community-based policing can begin with small steps, such as community conversations about the role of BIA and Tribal LE, with the goal of increasing understanding about the challenges and benefits, hearing community concerns, and beginning to build trust. Other activities can connect with advocates, taking them on ride-alongs, modeling how they treat people, and help them see that this is not just an LE problem, but a community and society problem that we can all address in our own ways.
- Public relations and outreach: Increased and updated posting on social media and job websites, targeted recruitment and advertising, and outreach to Tribal colleges and universities can show positive LE roles and tell stories to change attitudes. Tribal communications departments can help develop tool kits and resources with data, key information, benefits and challenges of a LE career. Outreach can also happen at non-traditional events where interested candidates might be found.

**Recommendation D3:** Support and fund the replication of the BIA Tribal Youth Police Program and other successful models throughout Indian country as a way of educating and recruiting potential LE candidates.

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*At least 521 towns and small cities with populations between 1,000 and 200,000 disbanded policing between 1972 and 2017, according to a peer reviewed 2022 paper by Rice University Economics Professor Richard Boylon. In the past two years, 12 more towns have dissolved their departments. In one town only 10 applied for 4 positions. To fill positions one jurisdiction has to woo officers from other jurisdictions. "It's scary. We are robbing Peter to play Paul," said Goodhue Sheriff Marty Kelly. Tribes will clearly be the ones who suffer most from this pattern as officers leave for better pay, working conditions and benefits.*

–Washington Post

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### ***Recruiting & Retaining Women LE Officers***

Like male LEOs, women officers bring a variety of skills and life experience that enhance a department's capacity to serve the wide range of community needs. Currently, women make up 12% of sworn officers and 3% of police leadership in the U.S. Although there is no data available on the number of female officers on BIA and Tribal forces, it is assumed that the percentage is equivalent. Research shows women officers use less force and less excessive force, are named in fewer complaints and lawsuits and are perceived by communities as being more trustworthy and compassionate, especially in sexual assault cases. [*National Institute of Justice Special Report, Women In Policing: Breaking Barriers And Blazing A Path, July 2019*] Increasing the number of women in BIA and Tribal LE agencies and departments would bring not only badly needed officers, but open up a fulfilling career to a population that has much to offer.

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*"The biggest obstacle for women in police work is the ability to balance work and family life. A lot of women simply opt out of policing for this reason."*

-NIAC Commissioner

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The *30x30 Report* by the National Institute of Justice includes data and anecdotal information to show that women in LE have a beneficial impact on the department, both internally and in its relations with the community it serves. Over 300 LE agencies and departments around the country have signed the *30x30 Initiative to Advance Women in Policing*, pledging to reach the goal of 30% women in their forces by 2030. The report addresses reasons why women do not apply or choose to leave a LE career. These include fear of harassment in the workplace and lack of accommodation for her and her family's needs. The female candidate often has family commitments that compete with a deep desire to work in LE and serve the community. Departments that have successfully recruited women have offered childcare, maternity leave – and paternity leave -- safe comfortable spaces for nursing and pumping breast milk, and a workplace environment that is as toxic-free as possible.

Congress has supported practices to promote the recruitment of women in the military. These include family-friendly programs, the largest childcare program in the United States, paid family leave, providing combat gear to fit women's bodies, and policies and practices to address sexual harassment.

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*“One of the big problems with recruitment, especially [of] women, is that the image from the media is that real policing is cops and robbers, going out and catching the bad guy. This isn’t necessarily the day-to-day.”*

- NIJ 30x30 Report

#### **FINDING E**

**Women in law enforcement often bring a balanced approach to their work, whether dealing with victims at crime scenes, or engaging with the community, or handling workplace conflicts. Only 12% of US LEOs are female, and only 3% are in leadership positions. Increasing the number of women and other diverse groups brings skills, life experience and perspectives that are critical in serving the community. BIA and Tribal LE agencies and departments have difficulty attracting female LE candidates for a variety of reasons, many related to the competing needs of family responsibilities. Addressing those reasons will result in increased recruitment and retention rates. The recommendations below address several of the changes that need to be made to attract and retain female and other diverse groups to a career in LE.**

**Recommendation E1:** Support and fund the recommendations in National Institute of Justice *30x30 Initiative to Advance Women in Policing*. The *30x30 Initiative* is a coalition of police leaders, researchers, and professional organizations who have joined together to advance the representation and experiences of women in policing agencies across the United States. The goal is to increase the representation of women in police recruit classes to 30% by 2030, and to ensure police policies and culture intentionally support the success of qualified women officers throughout their careers.

**Recommendation E2:** Seek applicants in related fields, like social work, nursing, counseling, mental health, substance use treatment.

**Recommendation E3:** Provide specific support needed for female officers, such as day care, private rooms for nursing and breast milk pumping, maternity leave, and paternity leave as well, and shift scheduling to accommodate the needs of LEOs with families.

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*One American [police] chief stated that her department had successfully implemented a permanent (as opposed to rotating) shift schedule, nursing rooms for mothers, six weeks of paid maternity leave for natural births, and eight weeks of paid maternity leave for cesarean sections. “That’s about commitment to being equitable to everyone,” she said.*

- NIJ 30x30 Report

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### ***Education Program for Recruits: Scholarships and Loan Forgiveness***

Educational benefits could provide a significant incentive for LE candidates to consider openings with BIA and Tribal LE. The result would be an influx of candidates to fill currently vacant positions who have a level of confidence and an aspiration to gain knowledge and skills.

#### **FINDING F**

**Recruitment of BIA and Tribal LE has suffered in recent years, with many if not most Tribes seriously understaffed. This is bad for morale, mental and physical health of officers, and it contributes to the perception in communities that LE is either not available or does not care, or both. The reputation and the productivity of these LE agencies suffer from a lack of quality recruits, as older officers retire or move to other positions with less stress and more benefits.**

This recommendation aims to increase recruitment and retention for BIA/Tribal LE by offering a suite of three educational benefits for individuals (Native or non-Native) who commit to a career in BIA or Tribal LE. These programs, detailed below, will support a recruit to complete an undergraduate or graduate degree, provide scholarships, and forgive loans for a degree already completed.

This four-part recommendation includes the following:

**Recommendation F1:** The Federal government must create a Federal undergraduate LE scholarship program that provides tuition benefits enabling individuals committing to a BIA or Tribal LE career to obtain a college degree.

**Recommendation F2:** The Federal government should establish an education assistance program for BIA and Tribal LEOs that could include a scholarship or loan forgiveness option to enable officers to pursue undergraduate, advanced degrees, or continuing education programs to help their career and perform their LE obligations more effectively.

**Recommendation F3:** The Federal government must establish a loan forgiveness program specifically for BIA and Tribal LE to offer loan forgiveness options for individuals who have already completed undergraduate degrees and carry student loan debt when they enter LE. The model for this proposal can be found in the Department of Education's Public Service Loan Forgiveness (PSLF) program.

**Recommendation F4:** The Federal government must consider modifying PSLF's requirements for LE or establishing a specific loan forgiveness program for LE so officers can qualify starting on the first day of their job for loan forgiveness options.

### ***Grants Process Reforms***

Grants to support Tribal LE programs are often not accessible to Tribal agencies for a variety of reasons. COPS grants include Tribal specific grants, but very few Tribes apply for other grants to which they might be entitled. Much of the funding available through agencies – Tribal justice, COPS, grants from DHS and Department of Agriculture – is for a limited time. Some Tribes are using grants for basic maintenance (officer pay, equipment, etc.) rather than for special projects. The result is Tribes are always playing catch up, dealing with high turnover, inadequate basic

funding, lack of infrastructure, etc.

Tribes need their own allotted funds to invest in their own retirement programs. But in some cases where grants have been made, Tribes have been accused of misusing the funds earmarked for retirement programs but used elsewhere.

Both the application process and the reporting requirements are burdensome, costing the Tribe more in personnel time than what the grant is worth. The administrative requirements and complex application processes of many grants mean that small Tribes without grant infrastructure don't bother to apply. All Tribal LE departments need grant writers to track grant opportunities, timeline, write proposals, educate tribal leadership about grants.

Byrne Justice Assistance Grants (JAG) include barriers to Tribes in the statutory language.

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*“Many Tribal law enforcement departments have used grants to support a desperately needed new hire. The 3 or 5 year limit on the grant results in the department scrambling to find other funds to support the officer, or terminating them. This is yet another reason why recruiting and retaining officers for Tribal departments is difficult.”*

-NIAC Commissioner

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#### **FINDING G**

**There are administrative, statutory, and operational barriers that prohibit or discourage Tribal LE departments from applying for badly needed grants.**

Identifying barriers that prevent or discourage Tribal LE programs from applying will clarify where the problems are and facilitate fixes to give access for Tribes, resulting in badly needed funding for Tribal LE. This funding can be used for pension programs, training, equipment, personnel, all desperately needed for Tribal LE to be safe, skilled, and secure in their future. A companion measure must be the provision of base funding for Tribal LE, so that grants are not used as band-aids to keep an office open.

**Recommendation G1:** This Subcommittee recommends a process to address barriers to Tribal LE programs.

- This includes a thorough review of all LE grant programs to identify barriers that prevent or discourage Tribal LE programs from applying such as the ability to retain officers after a 3-year grant period is over for example
- Pursue ways to remedy these barriers through revision and reform of grants programs to increase access and success for Tribal LE departments and agencies.

#### **A Note Regarding Advocates**

This Subcommittee would like to note for Recommendation G1 that any increase of funding related to Tribal or BIA LE programs should not come at the cost of victim advocates and other associated victim support programs. It is a finding of this subcommittee that Tribal communities need LE, victim advocates, and victim support programs to coordinate and work together as well as be properly funded to do their work.

## CHAPTER 4

### Subcommittee 4: Coordinating Resources - Criminal Jurisdiction, Prosecution, Information Sharing (Tribal-State-Federal MMIP AND HT investigations)

Coordination of resource allocations and information sharing between Tribal, state, and federal MMIP and HT investigations to increase: 1) MMIP and HT case resolution; 2) prosecution of murder and human trafficking offenses on Indian lands and of Indians; and 3) information sharing with Tribal governments on violent crime investigation and prosecutions in Indian lands that were terminated or declined. The overriding purpose of this section of the Act is focused on improving the coordination of resources and information across jurisdictions to better support investigations and prosecutions.

**Note:** It is relevant to make recommendations to Tribes located in states where PL-280 and similar laws have conferred Indian country jurisdiction on the state and in places where federal Indian country jurisdiction applies.

#### Priority Areas

The Subcommittee's three identified priorities include:

1. Increasing Coordination of Cross-Jurisdictional Investigatory Resources
2. Criminal Justice Information Sharing, Cross Training and Multi-jurisdictional Task Forces
  - [2.1] Tribal Nations Community Response Plan (TCRP)
  - [2.2] Office on Violence Against Women (OVW)
  - [2.3] Training Across the Board
  - [2.4] Accountability
3. Victim Advocacy/Information Sharing Checklist
  - [3.1] Regarding autopsies
  - [3.2] Jurisdiction and Communication

#### Approach

Each subcommittee was represented and co-chaired by both Federal and non-Federal Commissioners. Federal agencies represented on Subcommittee 4 include DOJ, DHS, IHS, and the U.S. Attorney's Office, District of South Dakota. Non-Federal representatives include Tribal representatives, members of national, regional, or urban Indian organizations, members of Tribal, state, or local LE, and survivors or family members of missing or murdered persons.

The members met via Zoom approximately every two-to-three weeks from July 2022 through September 2023, with Co-chairs from each subcommittee meeting every other week. Additional meetings with other subcommittees were scheduled as needed and for planning purposes of

on-site three-day witness hearings conducted in Flagstaff, AZ, May 2023 (co-hosted with SC 1) and Minneapolis, MN June 2023 (co-hosted with SC 3).

Meetings were staffed with a facilitator, a project lead and a technical writer who produced notes of each meeting. SMEs were available to each subcommittee. Decisions were made by consensus.

While creating the Recommendations, Subcommittee 4 deliberated on the many issues that impact victims and victim families dealing with MMIP and HT. The following questions assisted the Subcommittee to eventually identify the Recommendations presented:

1. How do Tribes, states and the federal government cooperate and coordinate their existing resources to prosecute these cases in your area?
2. What attempts by LEAs of any jurisdiction to improve coordination have been effective and what attempts have not been useful? What programs or models would you like agencies to expand? What else do you think would help increase prosecutions, e.g., training, cross-deputizations, shared case files, clear case management protocols in each jurisdiction for the lifecycle of the federal criminal investigation?
3. Where Tribes, states and federal entities already coordinate resources related to prosecution, what factors are successful that can be transportable to other Tribes, Federal programs, and States?
4. Would additional training, or increased opportunities for cross-jurisdictional training be helpful? If so, what areas of enforcement or prosecution would benefit the most from additional training? E.g., (LE, Tribal courts, state/local courts, family services, probation offices, victim specialists, etc.)
5. What factors contribute to certain states working, or not working with Tribes on coordinating resources to solve MMIP and HT cases? Are there best practices or incentives to provide where state-Tribal coordination is lacking? Please include PL-280 States as part of your analysis.
6. The federal government regularly allocates resources to conduct externally sourced crime surveys and studies to further determine what additional resources or sources of violent crime exist against Indians or on Indian lands, and in PL-280 locations. What additional research topics or issues should federal agencies support?
7. What national notifications systems are available or need to be developed for law enforcement to generate public awareness of MMIP and HT?

## Priority Area 1: Increasing Coordination of Cross-Jurisdictional Investigatory Resources

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*“Our family waited for the wheels of justice. All [our other children] had so much anger over all of this. We just kept telling them wait, we’re going to wait for the wheels of justice, because the FBI said “we’re investigating....” Our family waited for the wheels of justice to start only to find out that no charges would be filed. This decision was made only a few weeks after the crime. The US Attorney notified us of their decision nine months later.... Why did they wait so long to inform us? Why did they keep us guessing and hoping?”*

- NIAC Billings, MT Witness

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The following recommendations stem from multiple field hearings and virtual meetings conducted by the commissioners assigned to Subcommittee 4. They do not represent the totality of either our findings or recommendations, but seek to address issues we have identified and focused upon.

### FINDING A

**In too many documented instances, investigations conducted by Tribal, state, and federal agencies following receipt of a missing person report have been impeded by intolerable lag times resulting from a lack of expertise, coordination, cooperation, planning, and forensic follow-through, negatively impacting the success of the rescue operation as well as the interim provision of services to missing persons’ families.**

**Recommendation A1:** The persistent and unacceptable lack of close training (and trust) among Tribal, BIA, FBI, and State first-responder agencies (and other Tribal officials) in MMIP/Violent Crime matters must be addressed through mandatory protocols with (if necessary) funding and equipment incentives attached. DOI/DOJ, through the offices of the OJS and FBI, respectively, must take the lead in bringing Tribes and states together through listening conferences, joint executive sessions, cross-jurisdictional training, and funding incentives. We recommend this training be regional in order to bring together widely dispersed communities. Training for trainers can be completed at the National Advocacy Center, through the auspices of the National Indian Country Training Initiative, and a 5-year curriculum should be constructed. We also recommend that in carrying out this effort, the parties reach out to tribal colleges to assess their ability to lend services pertinent to the effort.

**Recommendation A2:** DOI/DOJ must mandate the coordination of all aspects of multi-jurisdictional investigations and prosecutions of MMIP and Violent Crime in Indian country, annual audits of Tribal, federal, and state prosecutions in Indian country, and tighter oversight of

Tribal law enforcement agencies.

**Recommendation A3:** Initiatives to address these deficiencies must be implemented between one and 18 months from the start date.

**Recommendation A4:** The Secretary of the Interior must establish a board of family advisors to provide ongoing oversight and guidance related to the implementation of NIAC recommendations.

**Recommendation A5:** DOJ Civil Rights Division must prioritize and must conduct investigations and provide appropriate remedies for state, county, Tribal, and local police pattern or practice failures to adequately respond to and investigate deaths of AI/AN persons occurring in their jurisdictions. This process must prioritize jurisdictions with the highest per capita MMIP cases, deaths and HT, particularly in reservation border towns.

#### FINDING B

**Notwithstanding previous efforts to increase collaboration and coordination between Tribal, federal, and state investigatory entities, there still exists gaps in training, expertise, resources, and meaningful collaboration that impacts investigations and services to victims' families in the areas of violent crime against women, MMIP, and human trafficking.**

**Alaska Native communities suffer exponentially from a lack of basic infrastructure seen elsewhere throughout Tribal communities in varying degrees. These and other recommendations must be modified to address these uniquely vexing issues.**

**Tribes must obtain wider access to state/federal search & rescue teams, crime scene investigators, forensic laboratories, and victim services professionals.**

**Recommendation B1:** Increase the use of federal, Tribal, state, county, and municipal laboratories and other investigatory resources (including for tribes not located in PL-280 states) for forensic and other tools in all MMIP and Violent Crime cases. Funding for increased Tribal access to federal, Tribal, state, county, and municipal laboratories should be made available directly to Tribes prepared to work with such laboratories. Tribes need funding for training on the appropriate collection, packaging, and shipping of critical evidence to labs. The BIA OJS, FBI Indian country Unit, and U.S. Attorneys' Offices must lead outreach to Indian nations, states, counties, and municipalities citing various collaborative efforts such as those in South Dakota in which state forensic labs are assisting interested tribes in examining tribal criminal case evidence.

**Recommendation B2:** Congress must fund NIWRC and/or NCAI to conduct a review of progress on implementation of this Commission's recommendations 18-24 months after submission of these recommendations.

**Recommendation B3:** Recommendations made by the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States should be implemented, pursuant to the Strengthening Families and Preventing Sex Trafficking Act.

**Recommendation B4:** Provide process for re-investigation (not review) and/or transfer of investigation of deaths occurring in Indian country under jurisdiction of FBI.

**Priority Area 2: Criminal Justice Information Sharing, Cross Training and Multi-jurisdictional Task Forces**

**FINDING C**

**Tribal, Federal, and, where applicable, state social service/law enforcement infrastructure devoted to responding to reports of missing Native persons and violent crime lack sufficient coordination and collaboration.**

**There are many jurisdictions and agencies within the same area professing commitment to the issue but with too little fusing of resources and too little collaboration.**

**o This deficiency in alliance of assets and expertise occurs at every stage of a missing person or violent crime report in, and out of, Tribal communities beginning with immediate notice and alert, through the investigation stage, and, finally, with prosecution or other conclusion of the case. This situation carries with it the potential for devastating impact on the sanctity of the investigation and the ultimate result.**

**o In some communities, this near absence of concerted teamwork also impacts cold missing person/violent crime matters leading to years-long anguish suffered by families “left behind” without resolution of the case.**

**o On many reservations, the lack of formal, written, and expert-vetted protocols for the response to a missing person report leads to intolerable delays in response times hampering investigators who later engage, but also leaving families “in the dark” as to the whereabouts of their loved ones.**

**o We do not ascribe blame to any one jurisdiction or agency; rather, our view is everyone involved in the missing persons/criminal justice system carries some responsibility for the unacceptable lack of coordination and collaboration.**

**o At all levels of the ostensible, multi-jurisdictional responsive framework, there lacks a system of accountability for the funding, mandates, and operational success of efforts targeted at the phenomena of missing persons and violent crime.**

Tribal Community Response Plan (TCRP)

We heard from several Tribes who embraced this approach with great success, particularly the Pascua Yaqui Tribe of Arizona. Implementation of their TCRP systematized and expedited the Tribe’s (along with other jurisdictional entities) receipt of, and response to, reports of missing persons in a succinct, orderly, and ultimately highly successful manner.

**Recommendation C1:** Over the next 1-18 months, all Tribal communities (urban and rural) should codify, adopt, and be adequately funded to utilize and sustain a TCRP. We understand that DOJ recently established a regional MMIP outreach program comprised of Assistant United

States Attorneys (AUSA) and support staff; nonetheless, Tribes require support to address public safety concerns within their communities beyond the scope of currently supported programs. Additional recommendations related to TCRPs are discussed by Subcommittees 1 and 6.

**Recommendation C2:** DOI/DOJ must encourage (if not mandate as a function of certain funding) each Tribe not already acting under the aegis of a TCRP to connect with the BIA, FBI, and state clearinghouses to obtain contacts, identify resources, and begin the formal process of assembling and constructing the terms of a TCRP which best suits the Tribes' unique, individual circumstances and needs. Part and parcel of any TCRP plan must be a set of protocols governing effective communication with family members of persons reported missing for whom a full-scale investigation pursuant to the plan has commenced. We view this outreach as a vital piece of the response protocol.

**Recommendation C3:** Tribes should contact the NCMEC and/or the NamUs for assistance and guidance in formulating protocols addressing their unique perspectives. NamUs must be fully funded to allow for widespread intelligence sharing between it, Tribal entities, coroners' offices, and medical examiners' offices.

**Recommendation C4:** DOI must fund Tribal nations' response plan liaisons to ensure equity in representation taking into account the work of grassroots organizations.

**Recommendation C5:** We heard repeatedly of an unacceptable lag time between receipt of reports of missing persons and first contact with the BIA OJS and/or the FBI. Having a contact or "response" matrix detailing which agency will exercise jurisdiction in any given scenario will help alleviate time lags for responsive action.

**Recommendation C6:** DOI/DOJ must consider offering incentives to Tribal, federal, and state entities to improve their responsiveness to reports of missing persons and penalties to those which do not improve.

**Recommendation C7:** Even short of the launching of an investigation under the auspices of a Tribe's TCRP, OJS and the FBI must markedly improve their outreach to family members seeking assistance locating missing relatives.

**Recommendation C8:** For purposes of constructing a TCRP, Tribes should consider including as vital team members a lead Tribal or other federal investigator, additional investigators from the OJS and FBI, a Tribal prosecutor, Tribal and federal victim/witness advocates, and a member of the missing person's family (for receipt *and* dissemination of non-confidential intelligence). Search teams should also coordinate closely with family members for sharing and dissemination of vital pedigree, temporal, and other, information. Effective communication with family members can prove crucial to the operational and investigative success of a search team effort.

**Recommendation C9:** An opt-in database/platform should be created to provide for information sharing of individuals banned from Tribal communities (Tribes would provide information on banned individuals.) The database could be accessed by surrounding Tribes in state/region.

**Recommendation C10:** DOI must develop an organizational flow chart of everyone involved in MMIP cases, indicating various jurisdictions, such as the FBI, BIA, state, federal, and Tribal

nations.

#### FINDING D

**In many cases and in many jurisdictions, the mandates and requirements of Savanna’s Act are not being implemented.**

**Recommendation D1:** A progress report of the implementation of Savanna’s Act should be provided to Savanna Greywind’s parents, Congress, DOI, and DOJ.

**Recommendation D2:** All Tribal prosecutors should be mandated to follow the strictures of Savanna’s Act in the following manner:

- Reports of missing children should be reported to the NCMEC.
- Reports of missing children should be reported to Tribal authorities of the child’s home Tribe or the Tribe with which he or she is affiliated.

**Recommendation D3:** Provide Savanna’s Act cross-jurisdictional training mandating federal, Tribal, and state participation. States can be incentivized to participate by tying participation to the receipt of public safety block grants. Training needs to be universally available and *ongoing* to accommodate new officers and agents as well as family service agencies, probation offices, victim specialists, prosecutors, and other Tribal officials. United States Attorney’s Offices should be mandated to lead this effort by reaching out to Tribal nations, assessing their individual needs, helping interested tribes to fashion appropriate protocols, and seeing the process through until Savanna’s Act protocols are firmly in place on each reservation.

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*“When we go missing, we’re not on Dateline. No camera comes. I want to turn on that TV and I want to see one day Dateline in Indian country – we’re looking for you, for your loved ones in Indian country.”*

- NIAC Billings, MT Witness

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#### FINDING E

**The Commission heard testimony from many family members expressing their frustration and pain that their loved one's disappearance was ignored by the media. This failure on the part of the media to give equal attention to MMIP makes these cases more likely to be ignored or go unsolved.**

**Recommendation E1:** DOJ and DOI must convene a roundtable to discuss the issue of media coverage of missing persons cases that should result in a set of guidelines and best practices for

family members, Tribal governments, victim advocates, and journalists. The guidelines and best practices must be widely disseminated to advocates, Tribal nations, and media associations and organizations.

#### **FINDING F**

**We believe there is a dearth of knowledge in Tribal communities concerning the services and opportunities offered by OVW and OVC. We recommend OVW and OVC provide new, updated guidance to Tribal prosecutors on the panoply of services offered by the agencies; the benefits of the Tribal Law & Order Act; statutes which directly impact the quality and diversity of services available to Native victims of crime; and funding allowance opportunities directed toward enhanced delivery of tribal law enforcement and victim/witness services.**

**Recommendation F1:** There should be new education and outreach programs geared to the definition, scope, and breath of new or existing statutes directed toward missing person matters and violence against women and children.

**Recommendation F2:** There should be enhanced outreach and guidance directed toward the acquisition of grants and information sharing. Too often, rather arduous work lies ahead for small, grassroots, non-profit victim advocacy organizations for whom grant monies are critical to survival but for whom the paperwork, given their tiny staff numbers, is simply far too burdensome.

**Recommendation F3:** Either OVW and OVC must streamline their application process for smaller grants or provide greater technical assistance to small-staffed advocacy organizations. User-friendly, virtual tutorials may be the key to enhancing the application experience and will accommodate the diverse circumstances in Tribal and urban Indian communities (including communities lacking access to broadband).

**Recommendation F4:** OVW and OVC must enhance their outreach to Tribal nations to ensure grant monies are not left over each fiscal year having not been applied for. OVW and OVC are also encouraged to consider appointing Tribal nations' personnel to be grant reviewers for grassroots organizations working within their tribal lands.

**Recommendation F5:** Violent Crime (VC) Multi-Disciplinary Teams (MDTs) should be created in Tribal communities with adequate funding for support and sustainability of these efforts. Modeled on the existing Child Sexual Assault MDTs running a few decades in some reservations, a VC MDT would focus exclusively on horrendous rates of violence against women and children. The MDT should bring together Tribal, federal, and where appropriate, state LE officials and prosecutors, social services professionals, IHS and other Tribal medical personnel, grassroots organizations focused on violence against women, victim/witness advocates, and others to concentrate attention on the disproportionate occurrence of violence in Tribal communities against women and children. The MDT should emphasize identifying crime victims not yet officially recognized due to lack of reporting or any other impediment; the gathering of intelligence and other useful material for the continued prosecution of pending investigations; the ongoing monitoring of victims in prosecutions in the litigative stage; the maintenance of open lines of communications with all members of the MDT in the midst of ongoing litigation;

the full, unconditional support of victims and witnesses subpoenaed to testify in court; and the identification of cold, languishing cases.

**Recommendation F6:** DOI must create and fund an educational campaign regarding MMIP for the larger population, showing data, the investigative process, and the many challenges faced by Tribal people. Information could include content such as an overview of what to expect in an investigation:

- Who is the point of contact?
- Timeline of expected communication
- What to do if expectations are not met

**Recommendation F7:** DOI/DOJ must develop and fund Native-led support systems for children growing up without their parent/caregiver toward general and financial well-being.

#### FINDING G

**Training is an ongoing issue for Tribal prosecutors, clerks of court, and judges. Budgetary constraints are too often an obstacle to professional advancement and access to educational opportunities.**

**Recommendation G1:** The federal government must provide adequate funding for a variety of federal Indian law courses to be held, if practicable, at the National Advocacy Center in Columbia, South Carolina.

**Recommendation G2:** One set of courses should be centered on continuing education for Tribal court practitioners much the way the DOJ provides ongoing training for career Federal prosecutors and the Federal Judicial Center (FJC) provides for Federal and magistrate judges. We also recommend an orientation class for newly minted Tribal prosecutors and judges much the way DOJ provides for Federal prosecutors and the FJC for judges.

**Recommendation G3:** We recognize the best practice for facilitating this training may be to provide it on site in Tribal communities led by traveling SMEs culled from federal and Tribal ranks. If this is indeed deemed the more advisable practice, we encourage its immediate initiation. On-site training will also increase exponentially the learning, listening, partnership building, and relationship developing opportunities that go hand-in-hand with face-to-face engagement in Tribal communities. Open lines of communication, recognizing inherent Native cultural, and practical knowledge and lived experience are indispensable to building, maintaining, and perfecting collaborative relationships.

**Recommendation G4:** Along these same lines, we recognize the indisputable value of cultural competency and encourage non-Tribal professionals to undertake efforts to increase their own proficiency in Native history, culture, practices, and more.

**Recommendation G5:** DOJ must fund training and technical assistance, including the development of a best practices guide to explain the need for increased access to records and provide guidance and technical assistance about how to draft state and Tribal public records

laws, victims' rights codes, policies, and practices to increase access to records.

**Recommendation G6:** Jurisdiction issues are sometimes used as a reason to not take action. A new model of training should be instituted such as the model developed by the Pasqua Yaqui Tribe in AZ. The training should also include a visual and/or chart that provides visual of various jurisdictions and how to navigate each jurisdictional issue (for example, Attorney General Alfred Urbina, Pasqua Yaqui Tribe, developed a model to help to train other Tribes and Tribal support offices, in a peer-to-peer learning environment). Conduct culturally appropriate collaborative training among Tribes, supported by BIA.

**Recommendation G7:** Agencies/departments must develop policies and programs to address compassion fatigue among their staff. When professionals are too stressed or burned out, their performance will impact how well they are able to do their jobs and whether families receive effective outcomes.

### Priority Area 3: Victim Advocacy/Information Sharing Checklist

#### FINDING H

**Victims and family members are rarely receiving trauma informed care from any of the system actors they encounter, regardless of the jurisdiction. They are routinely re-traumatized by the justice and health systems. Systems-based and community-based victim advocates are critically important to support victims and families as they navigate the justice system. They can help begin to address the historic mistrust of LE that exists for many AI/AN people. Too few agencies have systems-based advocates and there is also a need for more community-based advocates.**

**Recommendation H1:** All relevant LEAs and other justice system actors must recognize and adhere to families' rights. OVC should develop and conduct training for justice system actors on the rights of family members in homicide cases.

**Recommendation H2:** Provide a fiscal sponsor pathway for families raising funds for justice actions, legal expenses, care for surviving children, and related expenses.

**Recommendation H3:** There exists an unacceptable lack of communication among agencies, providers, and advocates. In equitable partnership with Tribes and MMIP and HT survivors, DOI and DOJ must collaboratively create a process that is centered around survivors, families, and people who are directly impacted by violence to provide information, updates, timelines, etc. to all involved, especially to families. Prosecutors and victim advocates must meet with families on an ongoing basis; provide families with a flow chart that shows process of what victim advocates and other supports are doing within the investigation; and maintain ongoing interagency communication so agencies are keeping each other informed.

**Recommendation H4:** Victims' Rights Legislation must be modified to allow victims and victim's families access to information as described above. It must also provide bereavement leave for MMIP families with similar protections as leave under the Family Medical Leave Act and should address the granting of time extension for job probationary period or promotion timeline.

**Recommendation H5:** Congress should support and fund the development and implementation of culturally-responsive community and individual restorative justice programs, such as healing courts, under the jurisdictions of Tribes, tailored specifically to address the MMIP crisis in Indigenous communities. These programs should involve collaboration between Tribal leaders, LE, community members, families, elders, and victim advocates to create culturally responsive and community-centered approaches to justice. By focusing on healing, reconciliation, and empowerment, restorative justice programs can provide a more holistic and effective response to the MMIP crisis while respecting the sovereignty and traditions of AI/AN communities.

#### **FINDING I**

**The Federal government prioritizes the relationship with Tribes over the Tribal members experiencing MMIP loss. Family members are advocating for justice and systematic change often without the assistance of their Tribes. Family members and survivors should be empowered and supported to continue their justice efforts.**

**Recommendation I1:** Within 90 days, BIA and the FBI must review existing policies and practices to make sure that family members and victims are easily able to access police reports, understanding that some information may be redacted in a released report. Federal LEAs must also develop guidelines to ensure that the process for requesting police reports, autopsy reports, and other similar records is clearly communicated to victims and families in writing. State, local, and Tribal LE should similarly prioritize making these types of records more easily accessible to victims and surviving family members.

#### **FINDING J**

**Enormous stress is imposed on families by lengthy delays in obtaining autopsy reports and findings. Families are often kept waiting, not knowing if the person identified is their family member or not knowing the cause and circumstances of death nor how the body of their family member was handled. While recognizing the sensitive nature of autopsies, families desire to have access to this critical information. Families are often traumatized by how their deceased relative's remains and possessions are handled and returned. There is little respect for cultural practices in these processes. Tribal community cemeteries in many places have filled past capacity and require planned expansions. Family members have to maintain and often prepare gravesites.**

**Family members and victims who shared their stories with the Commission repeatedly expressed their anger and frustration at being unable to access police reports generated by federal or Tribal entities and autopsy reports. They also described their pain when their loved one's body or possessions were not handled with respect. This is something that must be addressed. A core objective of Executive Order 14053 was to identify and "encourage culturally and linguistically appropriate, trauma-informed, and victim-centered service delivery to Native Americans." Many of the recommendations in this section address how this**

**principle applies regarding the treatment and handling of human remains. Recommendations should be addressed no later than 18 months from the date of Report publication.**

**Recommendation J1:** The Commission recognizes the sensitive nature of autopsies for criminal investigations, and at the same time, families desire to have access to this critical report. At the point in time when federal LE authorities, and where possible, state authorities, determine that a criminal investigation will be discontinued in connection with the death of the deceased, the surviving family must have access to the autopsy report.

**Recommendation J2:** DOJ/DOI must develop an identification report to be made available to the families of homicide victims, which would include descriptions of height, weight, & clothing, summary of manner of death. The identification report must be accessible to family members when no criminal investigation will take place within 30 days, otherwise within 60 days.

**Recommendation J3:** OVC and BIA must develop and provide resources to assist families with interpretation of autopsy results. This should include identifying pathologists willing to explain autopsy reports, findings, forensic evidence, and processes. Receiving a second, independent review of the autopsy report and explanation would be welcomed by family members.

**Recommendation J4:** Congress must enact legislation requiring all relevant LEAs to notify family members when human remains are collected for evidentiary purposes. Interment of remains not released for burial with body must be at the expense of law enforcement agency and county with jurisdiction, in no instance should this expense fall upon the family.

**Recommendation J5:** Legislation must also mandate respectful return of human remains from autopsy (and as ashes) and person's belongings. Policies should require that bodies be transported and delivered with appropriate covering to the Tribal community. Families must also have access to their deceased relative's personal items if the items are not determined to be needed in the investigation process. All relevant LEAs should receive training on the identification report and the importance of communicating this information to family members.

**Recommendation J6:** DOI and DOJ must provide for inclusive eligibility for MMIP family resources. Deaths that are classified as exposure, suicide, accidental, self-defense, undetermined etc. – anything other than homicide but considered suspicious by family and are recognized as falling under the MMIP crisis should be eligible to receive resources recommended in this report.

**Recommendation J7:** Tribes and homicide survivors should be informed of their right to an independent forensic medical examination upon declination and/or to obtain a second opinion after an examination has been performed.

**Recommendation J8:** Costs of an independent autopsy should be reimbursable by victim compensation funds and compensable through restitution in criminal and civil cases.

**Recommendation J9:** DOI/DOJ must support creation of MMIP memorials in Tribal communities. Congress should pass legislation creating a national memorial for MMIP.

**Recommendation J10:** States must be encouraged to provide a process to correct sloppy recordkeeping of state crime labs and state DOJ (or County coroners, FBI ME); for example, incorrect spelling of a name on an autopsy report, incorrect dates of chain of custody reports and critical dates (date of autopsy) at state crime labs. Family members are the only people likely to catch or care about correcting these mistakes.

## CHAPTER 5

### Subcommittee 5: Victim and Family Resources and Services

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*"We need to talk not just about how our loved ones died, but about how they lived."*

-NIAC Anchorage, AK Panelist

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#### Subcommittee Charge and Priority Areas

The charge of this Subcommittee was to address the critical need for MMIP and HT victim and family resources and services. The overriding purpose of this section is to address the lack of victim resources for AI/AN in urban areas and on Tribal lands and create new avenues for families to access case information for missing family members.

#### How the Subcommittee Worked

Each Subcommittee was represented and Co-chaired by both Federal and non-Federal Commissioners. Federal agencies represented on Subcommittee 5 include DOJ, FBI, IHS, and HHS. Non-Federal representatives include Tribal representatives, members of national, regional or urban Indian organizations, and survivor or family members of missing or murdered persons.

The members met via Zoom approximately every two to three weeks from July 2022 through September 2023, with co-chairs from each Subcommittee meeting every other week. Additional meetings with other Subcommittees were scheduled as needed and for planning purposes of on-site three-day witness hearings conducted in Anchorage, AK, April 2023 (co-hosted with Subcommittee 6) and Billings, MT, July 2023 (co-hosted with Subcommittee 2).

Meetings were staffed with a facilitator, a project lead and a technical writer who produced notes of each meeting. SMEs were available to each Subcommittee. Decisions were made by consensus.

#### Framing Themes

The gross negligence of the United States government to fulfill its trust responsibilities to Tribal nations paired with historic policies to separate AI/AN people from their land and identity (language and culture) has had horrific inter-generational effects and has resulted in a joint Public Health and Safety, Public Safety and Justice Crisis in Indian country. This crisis is manifested in the failure to effectively prevent and respond to the violence against Indian peoples and on Indian lands, specifically the crisis of missing, murdered, trafficked AI/AN people. While nearly 300 billion dollars of foreign aid was given in foreign nations from 2013-2018<sup>51</sup>, domestic Tribal nations continue to be neglected, ignored, and underfunded.

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<sup>51</sup> Andrzejewski, A. Aug 2021. *New Report: Nearly \$300 Billion in Foreign Aid Spent by US Government*. Forbes Magazine. Available at: <https://www.forbes.com/sites/adamandrzejewski/2021/08/04/new-report-nearly-300->

Under a declaration of a joint Public Health and Safety, Public Safety and Justice Crisis in Indian country the following disciplines must be addressed within each Tribal nation and community to create pathways for the prevention of future violence and adequate resources to fully respond to the magnitude of the MMIP and HT crisis:

- Safety from Violence and Abuse
- Wellness and Prevention
- Language and Culture Preservation
- Emergency Preparedness and Response
- Social Services
- Providers and Facilities
- Food Sovereignty and Land Stewardship
- Infrastructure and Housing
- Justice

Calls for action and funding to address these issues have repeatedly been made by Tribal nations, urban Indian organizations, grassroots entities, and Federal agencies dedicated to Indian country and yet remain underprioritized, perpetuating the continued violence against Indian peoples and on Indian lands. Previous calls for funding and action ignored include:

**1) Fully fund Tribal Priority Allocations (TPA)** - Tribal priority allocations (TPA) are a collection of programs that provide federal funding for basic Tribal services. TPA gives Tribes the opportunity to further Indian self-determination by establishing their own priorities and reallocating federal funds among programs in this budget category. TPA provides critical funding for Tribal governments, covering such needs as economic development, welfare assistance, and natural resource management. However, Congress has never fully funded TPA, leaving Tribes without sufficient funding to provide basic and essential services to members and their communities.

While Federal funding for discretionary programs addressing MMIP and HT in Tribal communities have increased in recent years, grant funding was not intended to replace inadequate TPA funding. Further, the grant application and administration processes create significant barriers for Tribes to build and sustain programs that address individual, family, and community well-being. This contributes to the challenges Tribes face in providing holistic victim services in response to MMIP and HT.

**2) Provide adequate funding for Public Safety and Justice (PS&J) Programs in Indian country** - Based on the cost estimates for PS&J programs, the total annual estimated need for PS&J programs in Indian country is \$1.4 billion for LE Programs, \$247.7 million for existing Detention Centers, and \$1.2 billion for Tribal Courts. For LE, Detention/Corrections, and Tribal Courts, about 56 percent of the total estimated cost is for non-PL-280 States, and 44 percent is for costs in PL-280 States—which include 373 of the 581 Tribal entities that the Bureau of Indian Affairs (BIA) PS&J funding supports. Law Enforcement and Detention Center funding is excluded from TPA. In addition, in PL-280 jurisdictions, 367 Tribes receive minimal public safety and justice

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[billion-in-foreign-aid-spent-by-us-government/?sh=7f33307f4374](#)

funding from BIA.<sup>52</sup>

Subcommittee 5's Priority Areas

1. Advocacy, Support and Resources for MMIP and HT Families and Survivors
2. Prevention of Violence
3. Systems Accountability

Timing of Actions on Recommendations

Many of the Subcommittee's recommendations require Congressional authorization of new programs, appropriation of new funding, or realignment of existing programs and funding streams. For those recommendations requiring Congressional action, it is the Subcommittee's hope that the 118<sup>th</sup> Congress will begin taking action immediately to address the crisis that is the crux of the Commission's work. For some recommendations requiring annual authorizations or appropriations, Congress will need to take action each year.

For Executive Branch Agencies called on in our recommendations to realign, redesign, or improve their MMIP and HT programming, the Subcommittee hopes those agencies will take action after the 90-day comment period expires, and that substantive progress will be underway to address the recommendations by December 31, 2024. Some recommendations are extensive enough that sustained effort, over years, will be required to enact the changes called for. Those efforts should begin as soon as the Commission's recommendations are distributed to agency heads.

**Specific Subcommittee Findings and Recommendations**

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*"We need action - no more broken promises."*

- NIAC Flagstaff, AZ Witness

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**ADVOCACY, SUPPORT AND RESOURCES FOR MMIP FAMILIES AND HT SURVIVORS**

**FINDING A**

**There has been a historical lack of services for AI/AN victims and families of MMIP and HT that are Native-led, culturally specific, and trauma-informed. Often there are barrier to accessing the services that are available, such as distance, conditions for care, and racist or biased care environments. In extremely rural areas, such as Alaska and Montana, AI/AN victims and families of MMIP and HT face additional barriers to access to due the vast and**

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<sup>52</sup> Bureau of Indian Affairs – Office of Justice Services. Mar 2023. *Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2020*. Available at: [https://www.bia.gov/sites/default/files/media\\_document/2020\\_tloa\\_report\\_final\\_508d.pdf](https://www.bia.gov/sites/default/files/media_document/2020_tloa_report_final_508d.pdf)

remote territories to navigate and lack of basic infrastructure. Urban areas bear the burden of providing culturally-relevant resources to an extremely diverse population: 70 % of AI/AN people live in urban areas. Further, the system actors with whom urban Indian organizations interact are less likely to have any training or competence in providing culturally relevant services.

This further exacerbates the trauma experienced within AI/AN communities. The needs of MMIP and HT survivors and their families are diverse and complex which means there must be access to multiple pathways of healing, services, and care. Additionally, immediate and extended families of persons who are missing / murdered/trafficked may need emotional, spiritual, mental health support and advocacy following the victimization of a loved one.

**Recommendation A1:** To build holistic and wrap-around services, Tribal communities require federal funding that is noncompetitive, unrestricted and flexible for emergency and ongoing supportive, wrap around services that MMIP and HT survivors and families need. Every federal agency funding MMIP and HT programming must adopt this model.

**Recommendation A2:** Services should be provided through an integrated care model utilizing a public health and safety approach, and include Native-led, culturally specific practices and care. Baseline funding to implement, strengthen, and seek TTA to provide continuum of care models for survivors and families of MMIP and HT, such as, First Nations Mental Wellness Continuum Framework, must be provided to AI/AN Tribal nations, Indigenous-led Community Based Organizations (CBO) and urban Indigenous organizations.

**Recommendation A3:** Services should be available to families and survivors as long they are needed, provided on the basis of family/survivor disclosure and not on the basis of case investigation status, be made available both in-person and through tele-health options, and be culturally relevant. Assistance in accessing services (e.g., technology and transportation) must be included in this programming.

**Recommendation A4:** Financial support for families must be available for both searching costs and costs of replacing lost income. Searches are expensive, and families may devote all their available financial resources to flyers, billboards, and costs of living for children or others left behind. This may leave other needs to be met including (but not limited to) food, medicine, transportation, housing (including, the original residence and housing where the search effort takes them), childcare, clothing, and household supplies. There must be financial and logistical resources available to family members including elders who raise children who are victims of MMIP and HT. Support required is more than standard foster care support and must meet other special needs for example (but not limited to) medical and dental care and behavioral health services.

**Recommendation A5:** There must be Federally funded training and technical assistance for advocates to coach families and communities on how to use the media, including social media, to publicize both cases that would benefit from public engagement, attention and also instances of system failures which have harmed families and communities.

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*“We can’t even grieve the loss of our daughter because we have to be investigators for her.”*

-NIAC Billings, MT Witness

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**FINDING B**

**There is an alarming deficiency in available transitional, long-term, and emergency housing and safe shelter/s for MMIP families and AI/AN trafficking survivor. In order to access pathways to healing and growth, MMIP families and AI/AN trafficking survivors must first have access to safe, sustainable housing.**

**Recommendation B1:** Increased dedicated funding for Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and other agencies that provide housing and residential treatment is required. A funding set aside must be created for the benefit of MMIP and HT families and victims to fund safe homes, residential treatment facilities, transitional shelter, and long-term housing programs specifically for AI/AN trafficking survivors, and emergency and long-term housing assistance for MMIP families (especially those impacted by taking custody of children of a missing or murdered parent).

- Funds need to be available for new construction, building improvements, operations, and maintenance of housing and shelters.
- Barriers to access housing and shelters such as disqualifying rules about substance use and criminal records should be eliminated.

**Recommendation B2:** The Commission supports the following recommendations in the National Workgroup on Safe Housing for American Indian and Alaska Native Survivors of Gender- Based Violence: Lessons Learned.<sup>53</sup>

- Fully fund Indian Housing Block Grants at least to the levels recommended in HUD Office of Native American Programs (ONAP) 2017 report; in 2023 dollars.
- Fund research on ways that states, and territories creatively use and layer Victims of Crime Act funding to support housing stability for gender-based violence survivors.
- Support and fund training and technical assistance efforts to educate service providers, Tribal governments, Tribal HUD authorities, and other stakeholders on domestic violence and other forms of gender-based violence.
- Increase Tribal Family Violence and Prevention Services Act (FVPSA) funding and statutorily include funding for Alaska Native Women’s’ Resource Center (AKNWRC), the

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<sup>53</sup> LaPorte, C. Jan 2020. National Workgroup on Safe Housing for American Indian and Alaska Native Survivors of Gender-Based Violence: Lessons Learned. Available at: <https://www.niwrc.org/sites/default/files/files/reports/ai-an-workgroup-report-interactive.pdf>

StrongHearts Native Helpline, and for Tribal coalitions who provide lifesaving services to gender-based violence survivors in Tribal communities. These statutorily created organizations either do not have their own funding allocation or are completely shut out (in the instance of Tribal coalitions) from accessing lifesaving FVPSA dollars.<sup>54</sup>

**Recommendation B3:** All Federally funded programs serving MMIP families and AI/AN survivors of trafficking must seek and use community-based feedback and culturally relevant program evaluation to inform services. The information collected should be implemented within 3 years to make program improvements, and further evaluation should continue on a rolling basis.

**Recommendation B4:** Funding to provide these services as well as conduct program evaluations of existing and future services must be provided in a non-competitive, permanent formula grant stewarded by HHS in coordination with BIA and available to Tribal nations and urban Indian organizations.

**Recommendation B5:** HHS Centers for Medicare and Medicaid Services (CMS) must develop a new Current Procedural Terminology (CPT) code for MMIP and HT service providers must be created and utilized in providing care, and a system for alert flags on patient EHRs (Electronic Health Records) must be created to allow for prioritization of services.

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*"I went back to the hospital again recently. I told them straightforwardly, 'You know why I've been coming in and out?' They said, 'No.' I said, 'Because I was trafficked... I wish you would have asked at the time. I would have been honest with you. I was scared to."*

-NIAC Albuquerque, NM Witness

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#### FINDING C

**Legal support services are needed for victims, survivors, and families of MMIP and HT. There are a few attorneys who have experience with MMIP and HT, or will take MMIP and HT cases, or take them pro bono, and those who may not be barred in the state where the case is taking place.**

**Recommendation C1:** DOJ must provide grant funding to support MMIP and HT legal aid programming available to families and survivors, regardless of case investigation status. Legal services should include both civil and criminal cases. We ask Congress to direct the DOJ to create a workforce development program to provide incentives for law students in the form of tuition re-imbursment with the condition they must serve a minimum of 5 years providing services to and within Indian country, using a similar model in the model IHS utilizes to recruit

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<sup>54</sup> Ibid.

clinicians to serve within IHS clinics (IHS Workforce Development programs; and NativeForward Bureau of Indian Education (BIE) STEM career loan-for-service programs). We further ask Congress to direct DOJ to fully fund a Tribal justice workforce development model in which Tribal nations can partner with universities and colleges to develop future lawyers, prosecutors, and judicial staff from within their own communities.

**FINDING D**

**Health services are needed for victims / survivors / families of MMIP and HT. There are few practitioners who have expertise in culturally appropriate and trauma-informed physical, mental and behavioral health treatment modalities.**

**Recommendation D1:** HHS must expand federal programs to recruit, train (including tuition payments) individuals to provide physical, mental, and behavioral health services to Tribal communities, including urban Tribal populations, in exchange for serving a minimum of 5 years providing services to and within Indian country, using a similar model in which IHS utilizes to recruit clinicians to serve within IHS clinics (IHS Workforce Development programs; and NativeForward BIE STEM career loan-for-service programs). We further ask Congress to direct DOJ to fully fund a Tribal justice workforce development model in which Tribal nations can partner with universities and colleges to develop future physical, mental, and behavioral health professionals from within their own communities.

**FINDING E**

**There is a lack of coordination of services to MMIP and HT victims, survivors, and families at the local level. It is often community-based organizations and urban Indian organizations that have extensive experience providing services to MMIP and HT victims and their families, and their presence in the community is often the only thing ensuring that long-term services will be available in the aftermath of an MMIP and HT case.**

**Recommendation E1:** Fully fund the creation, training, and sustainability of Healing and Response Teams (HRT) that will be available to all Indigenous-led CBO's, Indian Tribes and urban Indian organizations, including Alaska Native Village Statistical Areas and Indian Tribes located in the State of Maine and not limited by jurisdictional boundaries. HRT will provide victim-centered source of support, advocacy, resource liaison, healing pathways, and systems navigation using an Indigenous integrated care model, in MMIP and HT cases. Funding from DOI, DOJ, and/or HHS must be substantially increased to support Community-based organizations and urban Indian organizations that provide healing, prevention, and responsive services to MMIP and HT victims and their families. Funding must be consistent across jurisdictions but flexible to meet diverse local needs (i.e., Montana and Alaska). Financial support for HRT's in Tribal nations should come from base funding from DOI, DOJ, and/or HHS. Urban Indian organizations should be supported through discretionary grant programs operated by DOI or DOJ. When TCRPs are fully funded, TCRP funding should be expanded to support Healing and Response Teams in Indian Nations.

**Recommendation E2:** There must be federal funding for ongoing TTA for HRT’s to ensure they are delivering Native-led, culturally appropriate, victim-centered, trauma-informed responses must be provided. HRT’s need to be trained to help families and survivors navigate the systems involved in MMIP and HT cases. Federal funds must be provided to support training determined necessary by the Tribe where the HRT is serving.

**Recommendation E3:** All entities receiving funding to provide services to MMIP and HT families and survivors should be permitted to provide cash assistance as a necessary service.

**FINDING F**

**There is a lack of funding and resources to support MMIP and HT families to return familial remains or bury the bodies of their loved ones when they are recovered. There must be financial assistance for transportation of family members, transportation of remains and burial costs, carrying out funerary rites, and funeral expenses in MMIP and HT cases.**

**Recommendation F1:** The BIA Burial Assistance Program must be expanded, both in terms of financial resources, accessibility of funds, and outreach to families so they know it is available. Expanded funding will include expenses pertaining to traditional burial practices, transporting remains as needed, and costs of providing advocates to families that can assist with transportation of remains and funeral planning. Additional funding will be made available via DOJ grants to urban Indian organizations to disburse to urban MMIP families as needed.

**Recommendation F2:** Financial resources must be available even in cases where there is no clear cause of death or the official cause of death is ruled as undetermined, suicide or accident, but criminal action is suspected by family.

**Recommendation F3:** MMIP and HT service providers receiving Federal funding for their services should be permitted to utilize funds to provide cash assistance to MMIP families for funerals and related expenses.

**Recommendation F4:** State Administering Agencies of Victims of Crime Act Victim Compensation programs must conduct outreach to all federally recognized Tribes and urban Indian organizations annually to ensure that information about State Victim Compensation programs is available in Tribal communities, and that the application process for Tribal members is accessible.

**FINDING G**

**There are opportunistic actors who take advantage of searching and/or grieving MMIP and HT families. There should be protection for families from predatory practices such as mediums, psychics, untrained advocates, fraudulent medicine people, private investigators, or anyone practicing or acting with malice.**

**Recommendation G1:** Federal TTA must be provided to train advocates to educate families how

to recognize predatory or unethical practices from service providers related to MMIP and HT cases. Use federal and state consumer protections agency remedies when appropriate. DOJ should advise Tribes working on TCRPs to include this issue. Operation Rainbow Bridge in Arizona provides a model for addressing this issue.

**Recommendation G2:** Federal agencies, policy makers, and agencies receiving federal funding for MMIP and HT programs must use established best practices for protecting the confidentiality and agency of MMIP and HT families and never exploit the families' stories for gain (e.g., to raise funds without the family's permission).

#### FINDING H

**MMIP and HT cases are difficult to investigate and face additionally unique challenges and barriers in remote, and rural areas. Often special equipment such boats, skits, satellite tracking phones, and fuel for search equipment are unable to be funded. When persons become missing, murdered or trafficked from or through extremely remote and rural areas there may be few or no LE and search and rescue resources available to respond adequately and safely. These communities have unmet public health and safety needs and limited ability to use existing resources more readily available in urban areas.**

**Recommendation H1:** Baseline public health and safety improvement funds from DOI, DOJ, and HHS must be made available for AI/AN Tribal nations and urban Indian organizations to develop, sustain, and implement the following: search and rescue teams with allowance for purchasing of major equipment, supplies, and search tools/technology needed to navigate rural, remote, and urban areas; and Village Public Safety Officers to provide basic public health and safety in rural Alaska.

#### FINDING I

**Undetermined findings on cause of death, and deaths ruled accident or suicide that are suspected to be homicide impede MMIP and HT families' abilities to pursue their cases.**

**Recommendation I1:** There needs to be a cause of death determination that is "contested status" to indicate the family, or the evidence, or some part of the system does not agree with the official determination.

**Recommendation I2:** There needs to be a process for challenging incorrect Cause of Death determinations, and processes to support families in challenging the cause of death. There needs to be some process or body of oversight who could review the ME/C's findings of "undetermined" or "suicide" when the evidence shows otherwise. This is critical because for some families receiving MMIP and HT services and resources is contingent on the officially determined cause of death.

### FINDING J

**In some areas, resources available through telephone hotlines are the most accessible (or only) resource for MMIP and HT victims and families.**

**Recommendation J1:** HHS must make funding available for hotlines serving MMIP and HT victims and families to have crisis advocates and counselors available, so that they can provide more than referrals to callers.

### PREVENTION OF MMIP AND HT

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*“Culture is medicine”*

*“Our Medicine is strong”*

-NIAC Anchorage, AK Witness

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### FINDING K

**Wellness and prevention of violence for Indigenous people centers on connection to land, language, and culture.<sup>55</sup> The intentional and systematic disconnection of AI/AN peoples from their land and identity has hindered and removed access to Indigenous Social Determinants of Health.<sup>56</sup> The results have been increased acts of violence, and decreased pathways to healing and development across the lifespan. By utilizing a public health and safety approach, and fully funding prevention programs that increase access to Indigenous Social Determinants of Health there will be increased wellness outcomes and preventions of future violence across AI/AN communities. There are also many Indigenous Social Determinants of Health that create a strength-based approach to protective factors that should be integrated into funding models.**

**Recommendation K1:** Prevention efforts should address runaways facing risk of trafficking, violence, criminal justice system involvement. The HHS Administration for Children and Families (ACF) program should develop and disseminate culturally appropriate, trauma-informed prevention programming.

**Recommendation K2:** Subcommittee 5 echoes Subcommittee 2’s call to establish culturally specific, trauma informed, integrated care prevention programs for youth who have been exposed to violence. Congress must fully fund Section 3209 of the Indian Child Protection and Family Violence Prevention Act, which gives DOI and HHS jurisdiction to start Indian Family

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<sup>55</sup> Henson, M., Sabo, S., Trujillo, A., and Teufel-Shone, N. (2017). Identifying Protective Factors to Promote Health in American Indian and Alaska Native Adolescents: A Literature Review. *Journal of Primary Prevention*, 38(1-2), 5-26. <https://doi.org/10.1007/s10935-016-0455-2>

<sup>56</sup> : (1) Defined in First Nations Mental Wellness Continuum Framework pg. 14; (2) [OSTP-CEQ-1K-Guidance.pdf \(whitehouse.gov\)](#)

Justice Centers for every region. Furthermore, Congress should direct the DOI and HHS to start the Memorandum of Understanding process.

**Recommendation K3:** Programming and services shall be community specific, but incorporate culturally appropriate, trauma informed integrated care models. Congress shall direct the HHS Office of Family Violence and Prevention Services to create sustainable funding streams for intimate partner violence and HT, as well as MMIP and HT prevention and response programs that allow for language and cultural programming that integrates intergenerational health and healing through traditional ceremonial practices.

**Recommendation K4:** In order to address vulnerabilities of AI/AN children, parents, caregivers, and those at risk of experiencing HT, we request Congress to reinforce the commitment of and provide funding for the Office of Early Childhood Development and the Office on Trafficking in Persons to collaborate and align efforts to: 1) Prioritize early childhood development and ensure that anti-trafficking education and messaging is integrated into early childhood development service delivery in states, territories, Tribes, counties, and local communities; and 2) Support anti-trafficking efforts and prevention within Early Childhood Development programs and early learning service delivery systems.

**Recommendation K5:** Congress must appropriate funding to the ACF, which must integrate training on HT, survival sex work, and intergenerational trauma for all foster placements and foster care licensing.

**Recommendation K6:** Congress must appropriate funding to HHS to serve Tribal communities and urban Indian organizations in seven areas identified by the CDC that promote health and wellbeing in AI/AN communities and allow Tribes to self-certify culturally grounded programs:

1. Family and community activities that connect cultural teachings to health and wellness.
2. Seasonal cultural and traditional practices that support health and wellness.
3. Social and cultural activities that promote community wellness.
4. Tribal, intertribal, governmental, and nongovernmental collaborations that strengthen well-being.
5. Intergenerational learning opportunities that support well-being and resilience.
6. Cultural teachings and practices about traditional healthy foods to promote health, sustenance, and sustainability.
7. Traditional and contemporary physical activities that strengthen well-being.

**Recommendation K7:** Under Family First Prevention Services Act, Congress must authorize Federal financial participation for culturally grounded programs and models, rather than solely evidenced-based programs and models, administered by Tribes with Tribal-state IV-B or IV-E agreements.

### FINDING L

**Survivors of trafficking have experienced trauma that is compounded when system actors and victim service providers are not knowledgeable about how to support them and there are systemic barriers on their pathway to healing and justice.**

**Recommendation L1:** All Federal programs addressing MMIP and HT must require grantees and program beneficiaries to create policies to decriminalize persons coerced or forced into criminal acts by their traffickers.

**Recommendation L2:** All Federal programs addressing MMIP and HT must offer resources and TTA to expunge records for criminalized victims.

**Recommendation L3:** DOJ must ensure Federal LEOs are appropriately trained to work with trafficking victims.

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*"I started healing, but how much healing can be done when there's no change? The foster system lets down Indigenous youth every day.... I didn't realize or stop to think about what could happen to me in the wrong place at the wrong time. When Indigenous foster kids go missing, no one is out there looking except our own blood....We need to make change for the future of the children."*

-Unattributed

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### FINDING M

**Children and youth in foster care, child welfare, and juvenile justice systems face increased risk for being trafficked.**

**Recommendation M1:** The DOJ must fund a pilot program to recruit, train, and pay specialty attorneys and advocates for trafficked foster kids in Tribal communities.

**Recommendation M2:** The DOJ must: (1) convene agencies that have equities in this issue and create policy to address decriminalization of runaway behavior; and (2) leverage formula and discretionary funding for state juvenile justice systems to encourage those systems to decriminalize runaway behavior.

**Recommendation M3:** HHS must leverage formula and discretionary funding for child welfare systems to encourage those systems to require special support for foster homes that house children and youth who have been trafficked to address risk of future harm.

**Recommendation M4:** HHS must leverage formula and discretionary funding for child welfare

systems to encourage those systems to remove restrictions on social workers disseminating materials on missing and runaway foster children.

**Recommendation M5:** HHS must leverage formula and discretionary funding for child welfare systems to encourage those systems to develop specialty wraparound services for repeat runaway/missing children and youth.

**Recommendation M6:** DOJ, HHS, and DOI must develop policy and technical assistance for state and Tribal Courts interested in developing alternative court programs for runaway Tribal Youth. This could include providing grant funding for states and Tribes as well as Tribal code review and updates to develop a legal framework to address status offenses committed by Tribal youth.

#### **FINDING N**

**Surviving children and siblings in MMIP and HT families experience significant trauma which puts them at risk for negative outcomes.**

**Recommendation N1:** HHS must provide funding for mentoring programs for surviving children and siblings of MMIP and HT to address their ongoing need for support from persons who know their communities and understand the trauma experienced by these children.

### **SYSTEMS ACCOUNTABILITY**

#### **FINDING O**

**Persons providing services (including both victim services and TTA) do not always have the training and expertise to provide appropriate services in Tribal communities.**

**Recommendation O1:** DOI, HHS, HUD and DOJ and any other applicable agency must ensure employees and contractors are properly trained and equipped and have appropriate supervision to effectively work with MMIP and HT victims, survivors, and families. Those agencies, including DOI, HHS, HUD and DOJ must create effective methods of oversight through their performance management systems for employees and contractors interacting with MMIP and HT victims, survivors, and families, and hold those actors accountable for successfully performing doing their jobs. Employees that perform at unacceptable levels as defined by their performance management systems must be removed, and not transferred to other assignments.

**Recommendation O2:** Each agency that has MMIP funding, including HHS, HUD, DOI and DOJ, must establish an ombudsman where persons harmed by the system or not served can report, and from which the cognizant agency will act. The ombudsman will be advertised to the public on an outward-facing webpage by each agency. The ombudsman's web page will describe actions citizens can take to document unsatisfactory interactions with federal actors. All ombudsman's offices will develop pamphlets for electronic and paper distribution that describe

citizens' avenues to report their concerns.

**Recommendation O3:** All federal agencies and state and Tribal governments must require annual Implicit Bias training for staff and contractors who work on MMIP and HT victims, survivors, and families.

#### **FINDING P**

**Body Worn Cameras (BWC) show promise as a tool for ensuring accountability in LE interaction with individuals.**

**Recommendation P1:** BIA, in consultation with Tribes, including families and survivors, must develop and release a BWC policy to direct the use of BWC by BIA agents and create a policy to govern the release of BWC footage when requested by the family.

#### **FINDING Q**

**Recruitment and retention of MMIP and HT advocates, victim navigators and other direct service providers is low due to high burn out rates. Systems and community-based care/ service providers who work on MMIP and HT cases experience burnout, compassion fatigue, and experience vicarious trauma.**

**Recommendation Q1:** We ask Congress to direct workforce development funding to train providers and technical assistance and support to build and sustain culturally specific providers.

**Recommendation Q2:** DOI, DOJ, HUD and HHS (or any federal agency providing MMIP and HT programming) must provide appropriate, standards-based training, support, and clinical supervision for MMIP and HT service providers whose salaries are paid through federal funds (i.e., grant funding, contract funding, direct funding, or other funding).

#### **FINDING R**

**Systems and community-based care / service providers who work on MMIP and HT cases need expertise and training in order to ensure that they have the appropriate skills and trauma-informed approach for the victim / survivor / family who needs care. Complex trauma response requires more intensive training and more supervision.**

**Recommendation R1:** DOJ OVC must establish regional training centers, with non-Victims of Crime Act, permanent funding appropriated by Congress, to support practitioners working on MMIP and HT cases.<sup>57</sup> Trainers must leverage expertise existing in Tribal communities and be available to go out to Tribal communities to provide training on-site.

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<sup>57</sup> Model: <https://www.ntciss.org/about-the-center-for-excellence/>

## FINDING S

**Impermanent, under-funded efforts to serve victims / survivors / families do more harm than good. The federal government has a history of rolling out MMIP and HT programs that have been under-funded and temporary, and their impermanence has caused harm. Federal funding to serve MMIP and HT victims, survivors and families' needs to be sustainable and permanent. Current programs stretch their staff too thin across regions too large for staff capacity.**

**Recommendation S1:** DOJ must create a framework for exploring the efficacy and impact of state and MMIP task forces. This framework must be submitted to Congress within 24 months of final Report publication.

**Recommendation S2:** Mandatory funding for the 2023 MMIP Regional Outreach Program through EOUSA must be sustained in perpetuity and substantially increased to meet the needs for additional personnel and program needs to be able to effectively serve MMIP and HT to include:

- More than one dedicated coordinator and AUSA to serve Alaska, uniquely;
- A minimum of three (3) system navigators; and, for every hundred cases in any given region, create one (1) additional systems navigator position;
- A second Attorney Advisor to oversee the program;
- Set number of staff per region based on cases under investigation;
- Making support for victims and families the priority of program staff; and
- Conducting ongoing outreach and TA to inform Tribal nations, Urban Indian Organizations, and CBO's about the program's resources, roles, and services provided.

**Recommendation S3:** Ongoing consultations for the roles, expectations, and plans of coordinated efforts and communication related to the 2023 MMIP Regional Outreach Program must be held with Tribal nations, established grassroots agencies, MMIP State Task Forces and Offices, and MMIP families and survivors and address the following:

- Referral process and point of contact clearly defined.
- Communications mapping and case coordination protocols.
- Examination of and implementation of effective coordinated efforts established within said regions.
- Establish database of MMIP resources to reduce response times in referrals and resource liaison.

**Recommendation S4:** All 2023 MMIP Regional Outreach Program positions must receive

mandatory Indian country jurisdiction training, and mandatory training on the Tribes within their region which includes on site and in community time served.

**Recommendation S5:** The MMIP Regional Outreach Program must be required to provide annual data on the program that includes: Case outcomes and patterns; survivor/family feedback; tracking status of implementation of Savanna’s Act Guidelines in each district within regions; ongoing evaluation that determines program; and operational needs.

**Recommendation S6:** MMIP Regional Coordinators must act as a resource and liaison for all MMIP and HT families and victims, including providing referrals and information on services that are not dependent upon prosecution or geography.

**FINDING T**

**All government personnel who interact with MMIP and HT victims and families should prioritize educating people about their rights.**

**Recommendation T1:** LE, victim services personnel, and others who interact with victims and their immediate and extended families should be trained to provide information to victims about these rights. MMIP and HT survivors and their surviving family members may have guaranteed federal rights.

**FINDING U**

**The BIA MMU needs the authority and resources to effectively carry out assigned duties.**

**Recommendation U1:** MMU needs increased authority and resources to effectively carry out their assigned duties: Ability to investigate in PL-280 states and especially in non-cooperative jurisdictions; increased operational supports to screen referrals; increased number of agents with skill and training to work in within Indigenous communities; and ability to release use the press/media in real time to facilitate cases.

## CHAPTER 6

### SUBCOMMITTEE 6: Other Necessary Legislative & Administrative Changes

#### Subcommittee Charge and Priority Areas

The Not Invisible Act charged the Commission with developing recommendations for “legislative and administrative changes necessary to use programs, properties, or other resources funded or operated by the Department of the Interior and Department of Justice to combat the crisis of missing or murdered Indians and human trafficking on Indian lands and of Indians.” The overriding purpose of this section of the Act is to identify any issues not captured in the previously discussed categories. Subcommittee 6 was created to focus on this section of the Commission’s mandate, as well as to address overarching recommendations like funding and jurisdictional reforms.

#### How the Subcommittee Worked

The subcommittee held regular meetings via zoom from July 2022 until October 2023. The subcommittee co-led two of the seven field hearings and sought testimony from families, survivors, law enforcement, coroners’ offices, advocates, and Tribal, state, and federal prosecutors and investigators.

#### Overall Subcommittee Approach & Guiding Purpose

Overall, the approach of Subcommittee Six was grounded in a recognition that the federal government has failed in its trust responsibilities to provide for basic public safety for all AI/AN people, and this has resulted in grossly disproportionate violence and targeting of our AI/AN relatives.

The guiding purpose of our recommendations is to keep all Tribal people safe. Safety from violence, threat, or harm is a basic human right. These recommendations must be a shift, a pivot, a change, from the past to the future where all Tribal persons have the same protections and access to public safety as any U.S. citizen. These recommendations must be a powerful catalyst for change now and are a road map to a better future that includes safety, wellbeing, and real healing for Tribal peoples. They are intended as a plan and pathway forward that speaks truth and gives hope.

There are six goals that must be achieved together to attain more equitable public safety for all Tribal persons, women, men, two-spirit people, and children, and for the Federal government to fulfill its trust responsibilities in this regard:

1. Equal access to funding
2. Removing barriers to services
3. Recognition and respect for tribal self-determination
4. True Partnership
5. Person-Centered, Culturally Competent, Healing
6. Offender/wrong-doer Accountability

## Specific Subcommittee Findings and Recommendations

The following are specific findings and recommendations based on the knowledge, expertise, and wisdom of the hearing witnesses and Commission members.

### Funding

An overarching theme identified in the Commission's work is the lack of sufficient funding to support key programs in Tribal communities. This is a long-standing issue that has been the subject of numerous past reports and commissions, but little has changed. The U.S. Commission on Civil Rights (USCCR) released a report in 2018 finding that:

Federal funding for Native American programs across the government remains grossly inadequate to meet the most basic needs the federal government is obligated to provide. Native American program budgets generally remain a barely perceptible and decreasing percentage of agency budgets. Since 2003, funding for Native American programs has mostly remained flat, and in the few cases where there have been increases, they have barely kept up with inflation or have actually resulted in decreased spending power.<sup>58</sup>

In its annual, statutorily required report, the BIA acknowledges that tribal police, courts, and detention facilities are currently funded at a fraction of the estimated need.<sup>59</sup> Despite this recognition, the BIA has never requested funding at levels sufficient to meet these needs. The DOJ, meanwhile, was unable to provide an estimate to the Commission of the need for its programs and services. Numerous witnesses at Commission hearings testified about the lack of funding to address MMIP and HT and what it suggests about the federal government's priorities. Some pointed out that the U.S. provides extensive financial support to extractive, agriculture, and other industries that bring outside workers into Tribal communities that contribute to MMIP and HT but does not provide the same financial support to addressing the problems caused. Others noted that the U.S. provides financial support across the world to support and defend democracy, and Indian Tribes deserve the same level of commitment to preserving their governments.

Funding is insufficient for all Tribes, and for urban Indian organizations, and the Commission heard testimony that the problem is made worse in some areas by federal policies that restrict access to funding for certain Tribes in states where PL-280 or similar laws give the state a larger role in addressing crime on Tribal lands.

One of the Commission's most important recommendations is for the federal government to

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<sup>58</sup> U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, p. 4. More recently, the USCCR raised concerns that the underfunding of tribal communities had been compounded by the COVID pandemic and undertook a report that has yet to be released examining this issue.

<sup>59</sup> Bureau of Indian Affairs – Office of Justice Services. Mar 2023. Report to the Congress on Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Programs in Indian Country, 2020. Available at: [https://www.bia.gov/sites/default/files/media\\_document/2020\\_tloa\\_report\\_final\\_508d.pdf](https://www.bia.gov/sites/default/files/media_document/2020_tloa_report_final_508d.pdf)

honor its trust obligations and provide sufficient funding to fully address unmet needs in Tribal communities, targeting the most critical public safety, criminal justice, health care, and victim services needs for immediate investment. Ultimately, federal funding should be truly comprehensive and address the buildout of unmet essential utilities and core infrastructure needs in Indian country and Alaska Native Villages such as electricity, water, telecommunications, and roads, which contribute to the public safety challenges many communities experience.

#### FINDING A

**Underfunding of Tribal programs, including justice systems, health services, and other programs, represent a failure to uphold the federal trust responsibility and has contributed to the MMIP and HT crisis.**

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*In this state of perpetual underfunding for combatting the MMIP crisis and addressing social issues in our communities, Tribes of the United States are left competing for limited funds. While, at the same time, being denied the autonomy to use federal funds in a way that makes the most sense for each individual Tribe's needs. While states are being given billions of dollars in Federal Block Grants, Federal funds for the Tribes of the United States are often restrictive and inflexible."*

– Yurok Tribe, written testimony

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**Recommendation A1:** In its annual appropriations request to Congress, the Administration must include funding at levels appropriate to meet the needs in Tribal communities for criminal justice, public safety, victim services, and public health. These requests must meet or exceed what BIA has identified as the unmet need in its annual report to Congress required by the Tribal Law & Order Act.<sup>60</sup> Congress, in turn, must increase appropriations for criminal justice, public safety, public health, and victim services in Tribal communities so that systems are comparable to the rest of the nation.

**Recommendation A2:** The Administration must support, and Congress must pass, the “Honoring Promises to Native Nations Act,” (S. 1586/H.R. 9439), introduced in December 2022. The bill includes large increases in funding for Criminal Justice Public Safety in Tribal communities, including \$1.2 billion for law enforcement and detention activities at the BIA.

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<sup>60</sup> We understand that the Secretary’s Tribal Advisory Committee raised concerns about the methodology used in the TLOA report in their August 2023 recommendations to the Secretary. We share their concerns and encourage the Department to carefully consider their recommendations. Until the methodology is improved, we believe, however, that DOI should use its existing estimation of need to develop a needs-based budget request.

**Recommendation A3:** Congress must pass legislation requiring DOJ, and its subagencies including the FBI, to submit an annual unmet funding needs report similar to what is required of DOI by the Tribal Law & Order Act. This report should, among other things, include a methodology for assessing unmet needs related to victim services.

**Recommendation A4:** Congress must call on the U.S. Commission on Civil Rights (USCCR) to release its unpublished COVID-19 updates to its landmark 2018 report, [Broken Promises: Continuing Federal Funding Shortfall for Native Americans](#). The unpublished update examines how the problems identified in the *Broken Promises* report (including critical public safety shortfalls for tribal communities) have been exacerbated by the pandemic and whether the U. S. has done enough to bolster resources for Tribal nations, further addressing the impact of the lack of wireless networks on Tribal land and other inequities in health care, education, voting rights, economic development, and more.

#### FINDING B

**Federal policies that provide funding to some Tribes but not others are a failure of the Federal trust responsibility and have left some Tribes with even less support to develop their justice and public safety systems.**

**Recommendation B1:** The Federal government must provide consistent and predictable public safety and Tribal justice funding for all Tribes, whether located in states where PL-280 or similar laws are in effect or not. The BIA must develop a plan to end its long-standing policy of not providing certain Public Safety & Justice funding to Tribes in PL-280 jurisdictions without reducing funding to other Tribes.

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*Tribal justice systems in Public Law 83-280 states (P.L. 280), such as Alaska, have long operated at extreme funding disadvantage due to the federal government's deliberate exclusion of them from already limited funding programs. This lack of investment in Tribes' justice programming in P.L. 280 states has crippled efforts to establish Tribal justice systems.*

– Alaska Native Justice Center, written testimony

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Increasing the overall funding amount for critical needs in Tribal communities is only one part of the solution. *How* those funds are distributed must also be addressed. Tribal government programs and services are inefficiently administered and often suffer because of the whims of the federal appropriations process and the shifting political priorities of Administrations.

The Commission heard testimony from Tribal leaders about the instability inherent in relying on competitive grants for their police departments, courts, and victim services and public safety programs. Multiple past reports and commissions have documented the frustrating bureaucracy

associated with Federal grants and the unnecessary, inefficient, and at times duplicative administrative burdens placed on Tribes, and yet little has changed.<sup>61</sup>

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*“You can’t run your justice system off three-year grants. You can’t expect to sustain a program that’ll keep your people safe if you spend your time reporting how you spent your money.”*

-NIAC Flagstaff, AZ Witness

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The Commission considered a number of interesting ideas for how to overhaul and improve the distribution of funds to tribal nations. Proposals included:

- Consolidating all of the funding currently split between DOJ and DOI into a “Tribal Justice Component” at one agency or the other;
- Creating an office at OMB to oversee the bundling and administration of tribal grants in a streamlined manner;
- Creating self-governance contracting and compacting authority for DOJ and HHS, possibly with an initial demonstration program for OJP grant programs;
- Creating a new federal agency to oversee MMIP and HT funding; or
- Creating a program similar to the 477-program that would empower tribal nations to combine a wide range of public safety and victim services related funding streams into a single, more-flexible funding agreement.

Many of these proposals have been under discussion for years, and deserve to be taken seriously, which we believe is best done through a focused, robust, meaningful consultation process.

#### **FINDING C**

**Federal funding for criminal justice and victim services as it is currently administered is wholly unsuitable to address the MMIP and HT crisis. The reliance on unreliable, discretionary funding streams undermines Tribes’ ability to prevent and respond to MMIP and HT and meet the needs of victims.**

**Recommendation C1:** To bring much needed stability, funding for Tribal governments must be made mandatory rather than discretionary and should transition away from competitive grants in favor of more flexible, and reliable formula funding. Competing with other Tribes for MMIP and HT (public safety and needed justice infrastructure) grant funds does not align with Tribal

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<sup>61</sup> See, e.g., U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, Chapter 1.

values of sharing available resources. The administration of Tribal funds by the Office for Victims of Crime is one model of how a previously competitive grant program can be made more equitable and accessible.

**Recommendation C2:** Over the next 12 months, OMB, DOJ, and DOI must hold meaningful and robust combined consultation with Tribes and Alaska Native Villages regarding where and how public safety funds should be administered, including the role of DOJ, DOI/BIA, and HHS. Included in this consultation should be:

- An examination of promising practices including BIA’s Tiwahe initiative and OVC’s reforms to the distribution of Tribal Crime Victim Services program;
- Exploration of self-governance compacting/contracting authority for DOJ and HHS programs in addition to IHS;
- Options for bundling tribal funding streams similar to the 477-program authority for workforce development; and
- What changes to organizational structure need to be made at the relevant agencies.

The consultation must result in a concrete proposal that can be included in the President’s Budget Request for FY 2026. If DOJ and DOI fail to initiate such a consultation, Congress must enact legislation requiring them to do so.

As discussed above, the Commission believes strongly that the federal funding process for public safety and justice matters in Tribal communities needs to be overhauled. Incremental changes and improvements within the existing system are unlikely to bring about the transformative change that is needed. We understand, however, that mustering the political will for the type of change we envision is not always quick or easy. Therefore, we have also developed a series of recommendations for improvements that could and should be made within the existing funding framework to begin addressing disparities and inefficiencies. To be clear, we do not think the recommendations below will be sufficient to truly address the MMIP and HT crisis, and we hope that the Administration takes seriously our proposal to consult on large-scale reforms to the way Tribal criminal justice and public safety programs are funded. At the same time, however, the current funding situation is untenable. The important recommendations outlined below, many of which are compatible with the larger-scale funding reform we envision, should be implemented without delay.

**FINDING D**

**Federal grants as they are currently structured and administered are inefficient, lack coordination among agencies, and often are either inaccessible or ineffective.**

**Recommendation D1:** A permanent Native Nations Office at OMB must be established to help coordinate Executive Branch Federal funding programs and policies, including those related to MMIP and HT (public safety, victim services, public health and needed judicial infrastructure).

This recommendation aims to increase coordination and alignment of all aspects of MMIP and HT grant making across the Federal government. This office will also help to deconstruct federal government siloes through the creation of a clearinghouse to streamline efforts, saving both federal and Tribal time and energy. This office must be required to provide bi-annual reports on federal spending in support of Tribal communities and programs and analysis of whether the programs are meeting the needs of the Tribes, villages, and urban Indian communities. This Office must be authorized as part of OMB's annual operating budget and not be subject to Executive Orders or interim or short-time approaches.

**Recommendation D2:** The Administration must create an inventory and single clearinghouse of information regarding MMIP and HT (public safety and needed infrastructure) grants and other kinds of funding, including state pass throughs, across all federal agencies. There should be an analysis of the gaps and disjunctions among grant programs in the creation of the inventory. The inventory, preferably available through an easily searchable single portal, will provide clarity as to the range of MMIP and HT (public safety and needed infrastructure) grant programs available to whom, under what conditions, at what amounts, for what purposes, including those for law enforcement. One goal of the analysis called for is to highlight the multiple grant platforms, reporting requirements, restrictions, audit processes and other grant program requirements that make grant management inconsistent among agencies and difficult for Tribes, especially the smaller ones who have limited resources and really depend on grant programs, to apply for and manage. The Not Invisible Act stipulates in Section 3 that the Secretary of the Interior will designate an MMIP Coordinator within the BIA, Office of Justice Services who will coordinate grants addressing MMIP and HT across federal agencies. The Commission recommends that the clearing house described above falls within the purview of this Coordinator, and that the outcomes of that grant coordination be included in the annual report to Congress also required by the Act.<sup>62</sup>

**Recommendation D3:** The Federal government must establish a team of culturally competent Federal staff to serve as Tribal navigators. Each Tribe and urban Indian organization should be assigned a Tribal navigator to identify and help develop a plan for comprehensive program development in addition to identifying funding sources that provide long-term, stable federal funding. For navigators to be helpful rather than harmful, it is essential that they have cultural competency and approach their role with an understanding that they are there to support the Tribe in achieving its self-determined goals. They must be problem-solvers who are prepared to utilize the maximum flexibility allowed under Federal law.

**Recommendation D4:** Federal agencies must redesign grant programs for small Tribes and Alaska Native Villages so that the application process timeline is longer, can be completed on paper and does not require access to various e-portals, does not require monthly or quarterly reporting, is simple in language, recognizes limits of "modern" communication in remote areas in Alaska and in the lower-48, and includes Tribal liaisons to assist with various program applications. Grant systems that require internet connectivity may make grant opportunities inaccessible in rural areas, including Alaska, where some Tribes are still relying on fax for

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<sup>62</sup> Here is an example of a partial compilation. It is missing USDA grants/loans which can be used for public safety and courts. <https://www.ojp.gov/tribal-funding-directory>

communications.

**Recommendation D5:** For programs where this flexibility does not already exist, Tribal grant funding must be appropriated as “no year” money so that the administering agencies have the flexibility to engage in consultation, as necessary, and design application timelines that make sense for Tribal communities. DOJ and DOI should develop a list of Tribal programs that would benefit from being appropriated as “no-year” money.

**Recommendation D6:** The Attorney General and Secretary of the Interior must adopt policies to ensure that Congressionally mandated rescissions are not applied to tribal funding streams.

**Recommendation D7:** To increase transparency, the BIA must develop and circulate widely a document explaining its base funding allocation, how Tribes’ needs are assessed by the BIA, the allocation formula, how such monies are in actuality spent in Indian country, and how specifically the funding falls short of projected needs, including in jurisdictions where PL-280 or similar laws confer jurisdiction on the states. In addition, the DOI should audit the BIA OJS to obtain an accurate assessment of their compliance with funding appropriations and should make those audit findings public.

**Recommendation D8:** Recognizing that numerous Federal programs support overall criminal justice system functions and facilities (including construction of courts and jails; operation of programs serving victims, youth, and formerly incarcerated individuals; funding for law enforcement, criminal defense, prosecution, and courts), appropriate and sufficient portions of these funds must be set aside for Tribal governments and Alaska Native Villages. Where statutory set-asides do not exist, they must be created by the Administration so that Tribes do not have to compete with state and local jurisdictions for funding. Furthermore, to the extent funds are made available for construction, staffing funding must be made available commensurate with construction so that facilities do not sit empty or unused due to insufficient operational funds. Details on how to better administer these capital funds should involve consultation with Tribes on how such funds are directed toward tribal communities, what formulas are used, and how such programs can be improved.

**Recommendation D9:** Grant programs, if used as a funding mechanism for Tribal justice matters, must have indefinite project periods so that they can be used to build sustainable infrastructure.

**Recommendation D10:** Grant programs related to addressing MMIP and HT must permit the use of funding for critical infrastructure (e.g., LE, courts, victim services, and prevention efforts) that are inherent in serving victims. Restrictions, such as those in the Victims of Crime Act (VOCA), for example, are a poor fit for the needs of tribal communities and create an artificial distinction between justice system infrastructure and victim services. A victim does not receive full services if there is no mechanism for holding the perpetrator accountable, or no one to answer the phone when she calls 911.

Specifically, we recommend that the appropriations language that creates the VOCA Tribal set-aside be changed to read “5 percent shall be available to the Office for Victims of Crime for grants to Indian Tribes to improve justice system infrastructure and victim services, including

but not limited to intergenerational and historical trauma.”

**Recommendation D11:** OVC and OVW must develop a plan to assist Tribes in more strategically making use of VOCA and VAWA grants to support needs related to criminal justice and victim services.

**Recommendation D12:** DOI and DOJ must ensure that grants for victim services programs serving American Indians and Alaska Natives go to Tribal governments or community-based Tribal organizations that have demonstrated cultural competency, are Native-led, and have the trust and confidence of community members.

**Recommendation D13:** DOJ and DOI must increase grantmaking for creating and maintaining TCRPs and additional grants to fund the needs identified in those plans. Congress should appropriate additional funds for these purposes as needed.

#### Jurisdictional Issues

A second significant theme highlighted in the Commission's findings pertains to the jurisdictional framework in Indian country, which poses significant challenges to public safety and the effectiveness of the MMIP and HT response.<sup>63</sup> This complicated issue encompasses restrictions imposed on Tribal authority by Federal laws, hindering Tribes from mounting effective responses, as well as shortcomings in the responses of federal and state governments. These longstanding issues have been extensively scrutinized in previous reports and commissions. Recommendations to address these challenges often involve restoring Tribal jurisdiction over crimes committed on Tribal lands by non-Indians and eliminating federal sentencing restrictions on Tribal courts.

In the Tribal Law & Order Act of 2010, Congress incrementally increased the maximum sentence that Tribal courts can impose, although Tribal sentencing authority is still limited to no more than three years per offense. In 2013, a pivotal step towards restoring Tribal authority was taken with the passage of VAWA 2013, reaffirming Tribal jurisdiction over specific offenders involved in domestic violence crimes or protection order violations on Tribal lands. This was a narrow, but successful, initiative that Congress subsequently expanded in VAWA 2022 by adding additional categories of crime that can be addressed in Tribal courts (including sexual violence, sex trafficking, and child violence). Importantly, it also removed the limitation that non-Indians could only be prosecuted if they had sufficient ties to the Tribal community and created a pilot project for Tribes in Alaska. Multiple witnesses testified to the Commission about the confusion around jurisdiction and the importance of fully restoring Tribal authority to prosecute all crimes on Tribal lands.

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<sup>63</sup> For a detailed discussion of how jurisdiction is structured in Indian country, see U.S. Government Accountability Office. Oct 2021. *Missing or Murdered Indigenous Women: New Efforts are Underway but Opportunities Exist to Improve the Federal Response*. GAO-22-104045, p. 9-16.

*“The other problem we have is the taking away of jurisdiction – Oliphant and Castro-Huerta. We can criticize our Tribal governments, but they don’t have the authority the federal government does. We have to fully restore the jurisdiction of our Tribal governments.”*

-NIAC Billings, MT Witness

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While Congress has been moving slowly in the direction of increased recognition of Tribal authority, developments in the Supreme Court have created additional challenges. The Commission received testimony that the decision in *Oklahoma v. Castro Huerta*, which concluded that states have the right to exercise concurrent jurisdiction over crimes committed by non-Indians against Indians in Indian country regardless of Tribal consent, contradicted over 200 years of settled jurisprudence and has created additional confusion and uncertainty. Witnesses were angry that the Supreme Court did not even recognize that Tribes can exercise jurisdiction pursuant to VAWA in its analysis, and gave additional authority to the states, who in their view have repeatedly failed Tribal communities.

Witnesses also raised concerns about Public Law 280, a widely criticized law passed in 1953 that required certain states to assume delegated federal criminal jurisdiction over Indians in Indian country, 18 U.S.C. §1162(a).<sup>64</sup> This occurred during what is known as the "Termination Era," a time when the federal government was generally trying to extinguish the unique legal status of Indian Tribal governments.<sup>65</sup> For the states, PL-280 was viewed as an unfunded mandate. To the Tribes, it was an attempt to usurp the inherent authority of Tribal nations that left them reliant on state governments, with whom they historically had strained relationships, for basic public safety services.<sup>66</sup> While there are some exceptions, there is a general consensus that PL-280 has failed when it comes to providing justice on tribal lands.<sup>67</sup>

As a Commission, we recognize that Tribal nations have the strongest interest in prosecuting crimes occurring on their lands and are best positioned to do so effectively. Consequently, any comprehensive effort to address the MMIP and HT crisis must encompass the restoration of Tribal authority to prosecute all crimes that occur on their lands.

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<sup>64</sup> Eagle Woman and Leeds, *Mastering American Indian Law*, ed., 2019, p. 60.

<sup>65</sup> While PL-280 is the most well-known federal law delegating federal Indian country jurisdiction to certain state governments, there are several other laws that have been enacted that have the same effect for individual Tribes. A comprehensive summary of where PL-280 or similar laws apply can be found here: <https://narf.org/tribal-state-jurisdiction/>. See, Robert T. Anderson, *Negotiating Jurisdiction: Retroceding State Authority over Indian Country Granted by Public Law 280*, 87 Wash. L. Rev. 915 (2012), <https://digitalcommons.law.uw.edu/faculty-articles/385>

<sup>66</sup> *Id.*, at 917.

<sup>67</sup> Indian Law & Order Commission, *A Roadmap to Making Native America Safer*, Ch 1., pg. 11.

### FINDING E

**Tribal nations do not have the authority needed to address crime on their lands. Federal and state law place limitations on Tribal authority under Federal law that significantly contribute to the MMIP and HT crisis.**

**Recommendation E1:** Tribal nations should have the authority to address crime on their lands. Congress must take decisive action to overturn the *Oliphant* decision and address the sentencing limitations of the Indian Civil Rights Act, so that Tribes have the authority to prosecute non-Indians who commit crimes within their jurisdiction and appropriately hold offenders accountable for their crimes.

A potential legislative fix exists in the Honoring Promises to Native Nations Act (S.5186 and H.R. 9439). The National Congress of American Indians has also endorsed legislative language in Resolution SAC-23-043.

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*“PL-280 needs to be done away with. It’s been a big blow to tribal sovereignty. If PL-280 is standing in the way, then it’s not working for us, and we need to make big changes.”*

- NIAC Northern California Witness

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### FINDING F

**PL-280 is a policy that undermines public safety and is an affront to Tribal sovereignty and the federal-Tribal relationship.**

**Recommendation F1:** PL-280 must be amended to allow any Tribe, upon their choice, to choose to opt out of state jurisdiction.

### FINDING G

**The Supreme Court’s decision in *Castro Huerta* contradicts 200 years of settled jurisprudence and undermines both Tribal sovereignty and public safety on Tribal lands.**

**Recommendation G1:** Congress must enact legislation addressing the *Castro Huerta* decision. Justice Gorsuch’s dissent outlined one possible approach Congress could take. The National Congress of American Indians has also endorsed legislative language in Resolution SAC-23-043.

#### Improving Coordination

The Commission received testimony from Tribal stakeholders that overlapping MMIP initiatives have created some confusion around the roles and responsibilities of various players at the federal level. Since 2020, the MMIP crisis has been addressed in two significant pieces of legislation and an Executive Order.<sup>68</sup> Each has a different focus with some overlap, which has

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<sup>68</sup> Executive Order 14053, “Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of

not been explicitly addressed and creates confusion about how these entities should interrelate. At the same time, the Commission heard from multiple witnesses that the agencies with core responsibilities related to addressing the MMIP and HT crisis, including the BIA and the FBI, should increase coordination and be subject to additional oversight.

#### FINDING H

**A lack of coordination and oversight contributes to the insufficiency and ineffectiveness of the federal government’s response to the MMIP and HT crisis. When federal agencies fail to coordinate, Tribes lose.**

**Recommendation H1:** The federal government must declare a Decade of Action and Healing dedicated to addressing the MMIP and HT crisis effectively. This Decade of Action and Healing should involve partnership with Tribal communities, Tribal governments, and relevant organizations, focusing on improving safety, justice, prevention, support services, and healing for AI/AN communities through increased funding, policy reform, action-oriented programs, and training and technical assistance.

**Recommendation H2:** DOI and DOJ must arrange an opportunity for members of the NIAC to meet with the Secretary’s Tribal Advisory Committee (STAC) at DOI and the Tribal Nations Leadership Council (TNLC) at DOJ to brief them on the NIAC’s recommendations within three months of this Report’s submittal.

**Recommendation H3:** In addition to the initial agency response to this Commission’s report within 90 days, DOI and DOJ must provide annually, a publicly available and disseminated update to the STAC and TNLC on actions taken and not taken regarding progress toward implementation of the Commission’s recommendations, including specifically the total number of Commission recommendations that have been met, partially met, or not met.

**Recommendation H4:** The White House, through the WHCNA and the White House Tribal Affairs staff, must exercise oversight of the coordination of Federal programs addressing MMIP and HT. This should be adopted as a priority for the WHCNA and a senior, dedicated staff person at the Domestic Policy Council (DPC) should be tasked with day-to-day responsibility for tracking implementation of these recommendations. In addition, a senior policy operating group, similar to the group created through the Trafficking Victims Protection Act, should be created. These steps toward institutionalizing a focus on MMIP and HT must be taken by the current Administration and must also be included in legislation passed by Congress to ensure they will continue to exist regardless of future changes in Administration.

The White House, through these structures, must:

- Ensure that agencies are fully implementing EO 14053, *Savanna’s Act*, the *Not Invisible Act*, and the recommendations included in this report;
- Play an active role in coordinating and streamlining MMIP and HT activities across

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Missing or Murdered Indigenous People,” Nov. 15, 2021.

federal agencies, including event scheduling;

- Maintain updated contact information and access points across federal agencies for MMIP and HT programs;
- Flag conflicts or redundancy in federal MMIP and HT programs and events;
- Support (through training and other means) federal engagement with Tribal communities around MMIP and HT in a trauma-informed way;
- Develop improvements to federal agencies' approach to consultation and increase accountability;
- Enforce uniformity in federal agencies' consultation processes, especially notice, distribution of framing papers, period of comment, length of hearings/meetings, and timing and dissemination of post-consultation reports. This coordination will reduce the re-traumatization of Indigenous people by reducing the need for repeating the same testimony or telling the same stories to multiple agencies in multiple forums over multiple periods of time; and
- Ensure on-going engagement and DOI and DOJ agency consultation with Tribes and Alaska Native villages on NIAC's findings and recommendations, ensuring those federal employees with responsibilities to public safety are engaged with and receiving feedback from these communities (in accordance with EO 13175 and EO 14053).

**Recommendation H5:** The Secretary of the Interior must provide adequate staffing resources to fulfill the responsibilities outlined in Sec. 3(a) of the Not Invisible Act. While the Act requires the Secretary to designate an official within the BIA Office of Justice Services who shall coordinate prevention efforts, grants, and programs related to MMIP and HT across federal agencies, the Commission believes that one full-time employee is not sufficient to carry out the requirements specified in the Act.

**Recommendation H6:** DOJ must designate a point person for Tribal matters in either the Attorney General or Deputy Attorney General's Office who has experience working on justice issues with Tribal nations. Relying on components with no formal authority to coordinate across an agency with a hierarchical culture has not historically worked. When DOJ has made significant strides in improving its work with Tribal communities, it has been because the political leadership has prioritized the issue and have assigned staff in their offices, with experience working with Tribal nations, to work with the Office of Tribal Justice and other key components to get things done across the Department.

**Recommendation H7:** Congress must create in statute a new Assistant Attorney General for AI/AN Affairs tasked with public safety for AI/AN. This position will answer to the Deputy Attorney General and will have the following broad responsibilities:

- Serve as an ombudsman for AI/AN MMIP families and victims desiring information about the status of the investigation and or prosecution of their case;

- Have oversight responsibility for the recruitment, training, assignment and performance of DOJ personnel, including FBI and U.S. Attorneys Offices, serving AI/AN communities;
- Have oversight over the DOJ Civil Rights Division regarding complaints by AI/AN MMIP families and victims regarding alleged civil rights violations by municipal, county and state officials during investigations (or lack of Investigations) of MMIP cases under state, county, or municipal jurisdiction. If these investigations result in findings of civil rights violations, the AAG, where allowed by law, may direct that at a minimum all DOJ funding may be withdrawn from the offending jurisdiction and may result in prosecution; and
- Monitoring implementation of Savanna’s Act and other relevant legislation across the Department.

**Recommendation H8:** The Administration must establish a central MMIP and HT consultation calendar for all details pertinent to federal consultations and hearings on MMIP and HT (public safety and needed justice system infrastructure) and associated documentation such as framing papers, appointments, and reports.

The calendar will standardize notice, time of issuance of framing papers before consultations, coordination or consolidation of shared locations and shared times for various consultations across agencies. The calendar will allow for better planning and to decrease the burden on Tribes wishing to respond, as well as improved coordination among agencies in scheduling consultations. This recommendation will decrease overscheduling of consultations, appointments, and hearings to decrease the stress on Tribes associated with responding to these efforts by implementing scheduling parameters and ensuring limits on the number of such activities and help improve the efficiency of the federal agencies.

**Recommendation H9:** When either the federal and state courts are exercising jurisdiction over an Indian defendant for conduct on Tribal lands, they should be required: 1) to inform the relevant Tribal government when a Tribal citizen is convicted for a crime in Indian country and Alaska Native Villages; 2) to collaborate, if the Tribal government so chooses, in choices involving corrections placement or community supervision; and 3) to inform the Tribal government when that offender is slated for return to the community.

**Recommendation H10:** Congress must enact a federal requirement (and provide necessary funding) for all ME/Cs to pursue all available means to notify families of AI/AN victims of deceased and unidentified persons.

**Recommendation H11:** Congress must fund and task the CDC, in partnership with other federal agencies, as appropriate, such as DOJ, to develop and disseminate guidelines, best practices, and training for cultural competence for ME/Cs to ensure that deceased relatives and their personal items are treated with respect and cultural sensitivity.

**Recommendation H12:** Congress must authorize and fund on a recurring basis required training for new Federal staff whose jobs require them to interact with Tribes to complete training entitled “Working Effectively with Tribal Governments.”

### Development Projects and Extractive Industries

The Commission heard testimony from multiple witnesses that development projects in or near Tribal communities have often presented a double-edged sword, offering economic opportunities while simultaneously exacerbating the issues of violent crime, drug abuse, and labor and sex trafficking of Native women and children. In Canada, the National Inquiry on Missing and Murdered Indigenous Women and Girls unearthed a similar troubling reality where increased crime rates, encompassing drug- and alcohol-related offenses, sexual offenses, domestic violence, and gang-related violence, were intrinsically linked to the advent of "boom towns" and other resource development contexts.<sup>69</sup> Similar issues have been identified in the U.S.<sup>70</sup> This correlation between development and these societal issues underscores the urgent need for comprehensive action and awareness.

#### **FINDING I**

**Development projects, including extractive industries, that create "man camps" or attract outside workers on or near tribal lands are significant contributing factors to MMIP and HT.**

**Recommendation I1:** Federal leasing procedures must require background checks of all workers hired to work in or near Indian country and Alaska Native Villages for protection orders, sexual offender lists, violent crimes, and exclusion from other tribal communities and should alert nearby communities and Tribes of dangerous individuals.

**Recommendation I2:** Federal leasing procedures must require that a portion of revenue from such leasing go to the surrounding area for public safety purposes to provide local LE and justice agencies with funds to offset the impacts of these types of industries.

**Recommendation I3:** Environmental Impact Statements issued for any federal and Tribal leases must be required to address impacts on local Tribal communities, including public safety impacts.

Alaska — Child Welfare, Extraction, International, Disproportionate Prison Rate, Highest MMIP and HT Rates, and Interconnectedness

#### **FINDING J**

**Alaska Natives are at extreme risk and have long been neglected in efforts to improve public safety for Native people. The unique legal, historical, geographic, and cultural context in Alaska requires tailored solutions and resources to address the MMIP and HT crisis.**

**Recommendation J1:** DOJ and the DOI must — within one year — conduct an equity assessment of law enforcement, court, and related governmental services for every Alaska

<sup>69</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls. 2019. *Reclaiming Power and Place: the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Canada*, p. 593. Available at: <https://www.mmiwg-ffada.ca/final-report/>.

<sup>70</sup> Martin, K., et al. 2019. *Violent Victimization Known to Law Enforcement in the Bakken Oil-Producing Region of Montana and North Dakota, 2006 – 2012*, Natl. Crime Stats. Exchange.

Tribe.

**Recommendation J2:** Congress must appropriate, and DOJ/DOI must provide, recurring base funding for Alaska Tribes to develop and sustain both civil and criminal Tribal court systems, including but not limited to requirements tied to the Alaska pilot program authorized in VAWA 2022, assist in the provision of LE and related services, and assist with intergovernmental agreements. Funds must be appropriated to DOI so that Tribes may enter into self-governance compacts to execute the new authority and funding should they wish. DOI and DOJ must begin funding Alaska Tribes on a pilot basis (such as the 477 and Tiwahe programs) until base funding is made permanent. Funding must include costs for public defenders and lay advocates. Compacting is a proven method of delivering high-quality programs and services in Indian country. One such example is Tribal healthcare in Alaska. Under the Alaska Tribal Health Compact, Alaska's Tribal health organizations provide nationally recognized high-quality health care to Tribal members across the state, including in rural Alaska. These healthcare services are delivered at the village level, sub-regional hubs, regional hubs, and from Anchorage. Similar success can be achieved in protecting Tribal communities and addressing the epidemic of MMIP in rural Alaska by giving Tribes equitable and flexible funding to design public safety services delivered both at the individual community level as well as from regional and state-wide hubs.

**Recommendation J3:** Congress must provide funding for MMIP and HT response teams with dedicated staff positions. Teams could be funded and located in hub communities such as Bethel, Fairbanks, Anchorage, Juneau, and Ketchikan. Such response teams will need multi-disciplinary skill sets such as coordinators/navigators, investigators, search, rescue, and recovery expertise, and communications as well as adequate equipment from planes to boats to K-9s. Given that local villages are best equipped to conduct searches in their areas, such response teams should have means to engage and partner with locals for such activities.

**Recommendation J4:** Congress must create a new grant program to increase integrated services for Alaska Natives in Fairbanks, Anchorage, Seattle, Ketchikan, and Juneau in order to ensure the safety, well-being, and advocacy for villagers who are in the city for services or help.

**Recommendation J5:** Going forward, all statutory and administrative language in Public Safety and Justice related grant programs must expand the definition of "Indian country" to include the definition of "Village" used in VAWA 2022. In VAWA 2022 Congress recognized and affirmed the inherent authority of any Alaska Tribe occupying a Village to exercise criminal and civil jurisdiction over all Native people present in the Village. New statutes and administrative language should recognize this reaffirmation and territorial component as defined. Further, current statutes and administrative language, such as the Indian Law Enforcement Reform Act, should also be reviewed and evaluated for amendment. The enabling acts for the Not Invisible Act and Savanna's Act both used definitions of "Indian" and "Indian Tribe" that are intentionally broad to account for the Alaska specific experience. Future legislation about Alaska must also use these definitions.

**Recommendation J6:** Congress must fund a study and follow through with recommendations to examine whether the Alaska Native Claims Settlement Act should be amended to allow a transfer of lands from Regional and Village Corporations to Tribal governments without

incurring a tax consequence; to allow transferred lands to be put into trust or in restricted fee status and be included within the definition of Indian country and Alaska Native Villages in the Federal criminal code; to create a seamless process for Alaska Tribes to put Tribally-owned fee simple land similarly into trust; and to channel more resources (to catch-up from not receiving funding) directly to Alaska Native Tribal governments for the provision of governmental services in those communities.

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**Recommendation J8:** Coroners offices must be established in hub communities to better serve Alaska Native Villages.

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**Recommendation J13:** DOJ's Civil Rights Division must investigate the State of Alaska's record for investigating suspicious deaths, murders and homicides.

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#### Other Legislative and Administrative Recommendations

The Subcommittee discussed several other recommendations that require legislative action but

do not fit neatly into the categories above. These are important and are included below.

**Recommendation K1:** Congress must consider means, for example through Title 4-E or grant program certifications, to incentivize states to restrict or limit parental rights of convicted felons who have committed violent intra-familial crimes if direct or extended family members are available to assume such rights (sisters, grandparents, etc.). This recommendation is made in response to testimony the Commission received about a man who murdered his wife and was granted custody of their children over the objections of her family.

**Recommendation K2:** Congress must amend the Homicide Victim's Families' Rights Act to include a provision guaranteeing families of AI/AN victims the right to request periodic review by investigators, cold case task forces, or MMIP coordinators as a matter of the federal Trust responsibility. Funding should be made available for this.

**Recommendation K3:** DOJ and DOI must initiate a process, led by Tribes and other Training and Technical Assistance (TTA) recipients, to develop standards for the creation of effective TTA for Tribes and Native people.

**Recommendation K4:** Congress must pass the BADGES Act. As the legislation makes its way through Congress, it should be amended to enhance its efficacy by, among other changes, more precisely defining terms.

**Recommendation K5:** Congress must amend Savanna's Act to allow Tribes without LE to request Federal assistance with case and investigatory review.

**Recommendation K6:** Congress must amend the Stored Communications Act to ensure Tribal LE and courts have access to electronic records on a similar basis as their non-Tribal counterparts. The Stored Communications Act (SCA), 18 U.S.C. §§ 2701 et seq., governs access to stored wire and electronic communications such as emails and other online messages held by service providers. Congress passed the SCA as Title II of the Electronic Communications Privacy Act of 1986 (ECPA), which was enacted to address government wiretaps and other communications tracing issues. The SCA prohibits providers from sharing electronic communications with any person or entity but also contains exceptions, such as when the government compels the information. The SCA governs electronic communications and records "at rest" or in electronic storage held by providers. Other provisions of ECPA, such as the Wiretap Act, address communications "in transmission." Other Federal laws, including the Communications Act of 1934, as amended, may prohibit communications-sharing conduct not covered by the SCA. Tribal courts must be included in the Stored Communications Act, just as military courts were added recently, to ensure expedited and warranted access to phone and social media records.

**Recommendation K7:** Congress must create additional authority to allow Federal, Tribal, and other law enforcement to obtain search warrants and subpoenas for internet service providers and telecommunication records, including social media, for missing person investigations that are not initially or obviously criminal in nature but where concern about risk, threat or harm for the missing person exists.

**Recommendation K8:** Congress must ensure that all statutes and regulations that reference

sharing of information with state, local, and federal LE should include the term “Tribal”.

**Recommendation K9:** Congress must permanently authorize, and fund on a recurring basis, within the Executive Office of United States Attorneys, Office of Legal Education, National Advocacy Center, the “National Indian country and Alaska Native Villages Training Initiative” and the National Indian country and Alaska Native Villages Training Coordinator. This has been an effective mechanism for improving training on Indian country criminal justice issues and should be institutionalized, made permanent, and expanded with the Coordinator exercising control of the program funding.

**Recommendation K10:** Congress must pass S. 1723, The Truth and Healing Commission on Indian Boarding School Policies Act.

**Recommendation K11:** Congress must enact the President’s FY 24 Budget for the IHS making all funding for IHS mandatory, culminating in total funding level of approximately \$44 billion in FY 2033. In total, the mandatory formula would provide a net increase of \$192 billion over the discretionary baseline. Under the proposed mandatory formula, IHS funding would grow automatically to address inflationary factors, key operational needs, and existing backlogs in both health care services and facilities infrastructure.

**Recommendation K12:** Under the Family First Prevention Services Act, Congress must authorize federal financial participation for culturally grounded programs and models administered by Tribes with tribal-state IV-B or IV-E agreements, and disregard FFPSA’s evidence-based requirements for tribally administered, culturally grounded programs/models.

**Recommendation K13:** HHS must restore the Indian Child Welfare Act (ICWA)-related 2016 AFCARS data elements.

**Recommendation K14:** The Administration must develop a data hub that pulls and shares ICWA-related data between DOI, HHS, and DOJ to monitor ICWA implementation across agencies.

**Recommendation K15:** Congress must pass the Tribal Family Fairness Act.

**Recommendation K16:** Congress must authorize FFPSA (Family First Prevention Services Act)-only agreements between states and Tribes.

**Recommendation K17:** Congress must direct states to include Tribes and Tribal programs in FFPSA prevention plans.

**Recommendation K18:** Congress must allow Tribes to self-certify culturally based models/programs.

**Recommendation K19:** In state Child and family services plans (IV-B), the Administration must require states to report disproportionate entries into foster and use the analysis to demonstrate how the states is addressing racial equity and cultural needs in community-based service selection, array, and contracting.

**Recommendation K20:** Building on Executive Order 13985<sup>71</sup>, federal agencies should conduct equity audits on a regular basis to identify and address systemic inequities and biases in their policies and practices. DOJ and DOI should establish clear guidelines and training programs to ensure that equity audits are conducted regularly, effectively, and consistently.” Furthermore, the results of such equity audits should include clear steps and prescriptions for improving and resolving those inequities identified in the audits. Equity audits and assessments are an important tool that can be used to ensure that an agency’s policies and practices are fair, inclusive, culturally responsive, accessible, trauma-informed, and equitable. Comprehensive equity audits can help identify and address systemic inequities and biases, with a strong focus on centering the voices and experiences of individuals with lived experiences and those directly impacted. Regular equity audits, reporting, and staff training are integral components of efforts to promote transparency, accountability, and continuous improvement and can ultimately lead to more effective and just policies. Furthermore, the Equitable Data Working Group named in the EO should receive and take up the recommendations from this Subcommittee regarding data.

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<sup>71</sup> Executive Order 13985: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>

## CHAPTER 7

### Alaska: History, Issues, and Recommendations

The issues facing Alaska Natives regarding MMIP and HT are distinctive and compelling, warranting a dedicated section within any comprehensive report on this topic. It is intended that the history detailed in this section will provide context for creating solutions. This section is not intended to elevate Alaska issues above the issues of other Tribes, but to highlight the unique challenges faced in Alaska by Alaska Native communities that require unique responses. Nor is the intent of this section to create competition among Alaska Villages and Tribes for resources that should be equitably distributed or to compare the suffering between Alaska Villages and other Tribes.

#### Historical Context

The legal barriers and forced acceptance of violence perpetrated against Native women and men has its origins in this conquest of Native peoples by Russia. An outstanding characteristic of this conquest was the physical and cultural genocide of Alaska Native women. The violence used by Russia included using Alaska Native women for target practice to test the range of a bullet,<sup>72</sup> abduction of women and girls for sex trafficking on whaling and trading ships, and rape of women within their home villages. These and other crimes held no legal consequence for the Russian invaders.

After the purchase of Alaska, the US focused very little attention on this territory until statehood in 1958 and the discovery of valuable minerals and rich oil reserves on land that could be claimed by the natives based on their aboriginal use and occupancy. In 1971, the Alaska Native Claims Settlement Act (ANCSA), attempted to resolve the land issues.<sup>73</sup>

“The settlement of that claim was far from a land give-away. Rather than designating reservations held in trust by the United States government, as the majority of tribes in the Lower 48 have, the Alaska Native Claims Settlement Act created 12 regional profit-making Alaska Native corporations and over 200 village, group, and urban corporations to receive what would end up being around 45.5 million acres of land along with about a billion dollars cash payment... ANCSA extinguished all the Indian reservations in Alaska, with the exception of Metlakatla. Tribes that had their reservations extinguished had the option of keeping their former reservation land, both surface and subsurface ownership.”<sup>74</sup>

This new approach to land settlement created novel issues to Alaska Native tribes and the

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<sup>72</sup> Kodiak Native Museum, Kodiak Island, presentation during U.S. DOJ OVW STOP training (July 2006) (on file with the AKNWRC).

<sup>73</sup> 43 U.S.C. §§ 1601 et seq. (ANCSA extinguished aboriginal title in Alaska and terminated all reservations in Alaska except for Metlakatla).

<sup>74</sup> University of Alaska Fairbanks. nd. *Alaska Native Claims Settlement Act (ANCSA) 1971*. Available at: <https://www.uaf.edu/tribal/academics/112/unit-3/alaskanativeclaimssettlementactancsa1971.php>

approach by the federal government of their responsibilities to Alaska Natives. Numerous unsettled legal issues emerged as to the status of the Tribes in Alaska, their jurisdiction and authority. This unprecedented approach could be explained as to the disproportionate rates of violence targeted towards native women, men and children in domestic violence, sexual violence, trafficking and the murder and missing crisis.

### **Alaska Issues**

During plenary Commission meetings, subcommittee meetings, and field hearings, commissioners heard facts, anecdotes, stories, and testimony about Alaska that made clear that the challenges of distance, poverty, governmental structures, lack of technology and transportation, and a traumatic history set Alaska apart from the rest of Indian country. Federal governmental support afforded to other Tribal governments is either not available, or woefully inadequate, in Alaska. Funding needs are substantial to bring Alaska Tribes and Villages to parity with their Lower 48 relatives – a standard that is still substantially lower than what the general U.S. population enjoys in terms of public safety and services.

Alaska is the largest geographical state in the country and is also home to 229 of the Nation's 574 federally recognized tribes. Many Alaska Native villages are located "off the road system," meaning they are not connected to each other or the rest of the state by roads and are accessible to other areas of the state only by plane or boat. The provision of public safety services is complicated by a lack of infrastructure (e.g., running water, flush toilets, transportation infrastructure, broadband internet) and the extremely high cost of living.<sup>75</sup> This and most issues in this report must be addressed through a different lens, one that highlights the lack of basic resources and services to protect the public health of Alaska Natives.

As mentioned, Alaska also has experienced a unique legal history which has hindered Alaska Native Villages from accessing public safety resources. The Alaska Native Claims Settlement Act (ANCSA) abolished most "Indian country" in village Alaska and was confirmed in *Venetie v. State of Alaska*.<sup>76</sup> A Solicitor's Opinion in 1993 affirmed the status of Alaska Native Villages as Tribes. Prior to the 2022 VAWA reauthorization,<sup>77</sup> Alaska Native Villages were in a legal no-man's land as to tribal law enforcement authority.

In addition, Alaska is a mandatory Public Law 83-280 State, which resulted in the transfer of primary LE authority all across the Alaska to the state, however, state law enforcement is largely absent in Alaska Native Villages. This law was enacted during the termination era of U.S. Indian policy, during which Congress passed legislation in 1953 delegating federal criminal jurisdiction over Indians in Indian country to certain state governments through passage of Public Law 83-

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<sup>75</sup> In 2021, the U.S. Department of Defense's cost-of-living index ranked Bethel, a "hub community" in rural Alaska at 150 percent of the average; the cost-of-living in more remote villages are even higher, <https://live.laborstats.alaska.gov/trends/split/jul21art1.pdf>.

<sup>76</sup> 522 U.S. 520 (1998).

<sup>77</sup> Section 813(a) recognizes and affirms Alaska Native Villages inherent authority to exercise criminal and civil jurisdiction over all Indians present in the Village. Section 813(d) establishes a pilot program for a limited number of Alaska Native Villages to exercise special Tribal criminal jurisdiction over non-Indians.

280, commonly referred to as “PL-280,” 18 U.S.C. §1162(a). (EagleWoman and Leeds, Mastering American Indian Law, ed., 2019, p. 60.) While PL-280 is the most well-known federal law delegating federal Indian country jurisdiction to certain state governments, there are a number of other laws that have been enacted that have the same effect for individual tribes. A comprehensive summary of where PL-280 or similar laws apply can be found here: <https://narf.org/tribal-state-jurisdiction/>. All of these mechanisms bestowing criminal jurisdiction upon the States have been criticized by the States as unfunded mandates and represent an attempt to usurp the inherent authority of Tribal nations to enforce the law on their lands. Adding insult to injury, despite seizing jurisdiction on tribal lands against the wishes of the Tribes, both the federal government and the states have failed to fulfill their basic responsibilities under federal law (this is discussed in more detail in Chapter 6).

In addition to the specific recommendations below, Alaska Native tribes and people share many of the same concerns as tribes outside of Alaska. Many of the recommendations made in the other chapters of this report are also important for Alaska.

### **Subcommittee Finding and Recommendations**

#### ***ALASKA—CHILD WELFARE, EXTRACTION, INTERNATIONAL , DISPROPORTIONATE PRISON RATE, HIGHEST MURDER AND MISSING RATES, CHILD WELFARE RATES AND INTERCONNECTION OF THEM ALL.***

Alaska Natives are disproportionately represented in all categories. Alaska's unique history, vast and remote landscapes, extreme weather conditions, and isolated communities present unique challenges for both prevention and response efforts. Alaska's legal landscape, characterized by the intricate interplay of federal, state, and tribal sovereignty, significantly impacts how cases are investigated and prosecuted. Access to appropriate and timely resources, including law enforcement, is often cited as a huge contributing factor as more than one-third of Alaska Native Villages lack any law enforcement whatsoever and have to rely on officers stationed in a hub community that can be hours, days and sometimes weeks away given the weather factors. The state has created a Village Public Safety Officer (VPSO) program that provides some law enforcement in the villages. However, this program has ongoing challenges as VPSOs often are not authorized to carry weapons, have limited or no in-village backup, are often on rotation in and out of the village, and are challenging to recruit and retain due to housing shortages, lack of living wage, and other issues resulting in high demand but low numbers of staffing.

Alaska Native men and women also are imprisoned by the state at disproportionate rates. We know that many leave the system to become homeless, leading them to increased vulnerability to violence and trafficking. The extractive industries are suspected to play a large role in the disproportionate rate of human trafficking in Alaska, with high rates of women and children being targeted. Finally, child welfare issues continue to be at disproportionate rates compared to non-Native populations, with many children aging out of care. State dependent Native children are targets for trafficking, particularly children who are removed from remote villages and placed on the road system and subsequently run away or attempt to return home. All of

these factors combined have had profound implications for jurisdiction, law enforcement coordination, and the pursuit of justice in cases of MMIP and trafficking victims in Alaska.

Alaska Tribes have been locked out of regular predictable DOI compact funding for base governmental services such as public safety and judicial functions. Infrastructure development for these essential governmental services is significantly behind that which has been available to the lower 48 Tribes because of DOI policies of prioritizing their limited funding to Tribes located in non-PL-280 jurisdictions. This has shut out Alaska Native Tribes from developing these aspects of their governments for decades. Some Tribes have been able to fund public safety and justice programs through competitive grant programs, but funding from one grant cycle to the next is tenuous.

None of this, however, in any way diminishes the inherent authority of Tribes in Alaska over internal issues.<sup>78</sup> Recently, Subtitle B of VAWA 2022 has taken steps to address public safety in Alaska Native villages and does five primary things:

1. Clarifies the territory within which Alaska Tribes can assert their inherent authority by defining the geographical area covered by the term “Village” with reference to the Tribal Statistical Area maps of the U.S. Census Bureau;
2. Reaffirms the inherent authority of Alaska Tribes to exercise civil and criminal jurisdiction over all Indians in their Villages;
3. States that Indian Tribes in Alaska shall have full civil jurisdiction to issue and enforce protection orders over all persons— Indian and non-Indian— for matters arising in their Village or otherwise within their authority;
4. Creates a pilot project for Alaska Native Tribes to exercise criminal jurisdiction over non-Indians in Alaska Native Villages for certain crimes; and
5. Mandates the creation of an Alaska Tribal Public Safety Advisory Committee.

The staggering rates of missing and murdered Indigenous individuals in Alaska, when compared to the national average, underscore the urgency of addressing this issue in a way that acknowledges its distinctiveness and provides tailored solutions.

### **Recommendations from across Subcommittees:**

**Recommendation A1:** DOJ and the DOI must—within one year—conduct an equity assessment of law enforcement, court, and related governmental services for every Alaska Tribe.

**Recommendation A2:** Congress must appropriate, and DOJ/DOI must provide, annual non-competitive base funding for Alaska Tribes to develop and sustain both civil and criminal tribal court systems, including but not limited to requirements tied to the Alaska pilot program

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<sup>78</sup> *John v. Baker*, 982 P.2d 738, 751 (Alaska 1999); 2017 Op. Alaska Att’y Gen. 16 (Oct. 19, 2017) (“The law is clear. There are 229 Alaska Tribes and they are separate sovereigns with inherent sovereignty . . . .”); see also Violence Against Women Reauthorization Act of 2022, Pub. L. 117-103, § 813(a), 136 Stat. 840 (“Congress recognizes and affirms the inherent authority of any Indian Tribe occupying a Village in the State to exercise criminal and civil jurisdiction over all Indians present in the Village.”) (Congress defined “village” to mean “the Alaska Native Village Statistical Area covering all or any portion of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act)”; see also Ch. 42, § 1(b), SLA 2022 (“It is the intent of the legislature to exercise the legislature’s constitutional policy-making authority and acknowledge through formal recognition the federally recognized Tribes in the state.”)).

authorized in VAWA 2022, assist in the provision of LE and related services, and assist with intergovernmental agreements. Funds must be appropriated to DOI so that Tribes may enter into self-governance compacts to execute the new authority and funding should they wish. DOI and DOJ should begin funding Alaska Tribes on a pilot basis (such as the 477 and Tiwahe programs) until base funding is made permanent. Funding must include costs for public defenders and lay advocates. Compacting is a proven method of delivering high-quality programs and services in Indian country. One such example is tribal healthcare in Alaska. Under the Alaska Tribal Health Compact, Alaska's Tribal health organizations provide nationally recognized high-quality health care to tribal members across the state, including in rural Alaska. These healthcare services are delivered at the village level, sub-regional hubs, regional hubs, and from Anchorage. Similar success can be achieved in protecting tribal communities and addressing the epidemic of MMIP in rural Alaska by giving Tribes equitable and flexible funding to design public safety services delivered both at the individual community level as well as from regional and state-wide hubs.

**Recommendation A3:** Congress must provide funding for MMIP and HT response teams with dedicated staff positions. Teams could be funded and located in hub communities such as Bethel, Fairbanks, Anchorage, Juneau, and Ketchikan. Such response teams will need multi-disciplinary skill sets such as coordinators/navigators, investigators, search, rescue, and recovery expertise, and communications as well as adequate equipment from planes to boats to K-9s. Given that local villages are best equipped to conduct searches in their areas, such response teams should have means to engage and partner with locals for such activities.

**Recommendation A4:** Congress must create a new non-competitive grant program to increase integrated services for Alaska Natives in Fairbanks, Anchorage, Seattle, Ketchikan, and Juneau in order to ensure the safety, well-being, and advocacy for villagers who are in the city for services or help.

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**Recommendation A15:** The BIA Special Law Enforcement Certification (SLEC) Program must be expanded to include Alaska Village Statistical Areas.

**Recommendation A16:** The MMIP Regional Outreach Program through EOUSA must be expanded to include more than one coordinator and AUSA to serve Alaska.

### **Appendix 1 – Acknowledgement of MMIP Victims**

The Commission acknowledges and honors all those murdered and/or missing or trafficked victims. The Commission emailed a survey to all those who attended the hearings to ask, with permission, to gather the names of those victims or survivors that families, friends, relatives, and other community members wished to be honored with the published Report.

A list of those victims will be available at a later date along with this final Report on an appropriate website.

## Appendix 2 – Listing of Commissioners

*The NIAC Commissioners are to a person committed to the goal of addressing MMIP and human trafficking by more vigorously prosecuting offenders; righting historical wrongs; establishing stronger protections; making services more accessible and relevant to victims, survivors and families; and holding system actors accountable. The Not Invisible Act Commission Act of 2019, Public Law 116-166, directed the Secretary of the Interior to appoint to the Not Invisible Act Commission representatives from federal agencies and from Tribal communities. Each Commissioner recognizes the privilege and honor it has been to be appointed to the Commission, and to work in tandem to address our collective charge. Because of the nature of the individual appointments, it is important to recognize that the opinions and recommendations expressed in this document do not represent the official position or policies of the organizations from which the Commissioners come. Further, individual commissioners may not agree with every specific recommendation or statement in the report.*

*The Commission adopted the Final Report in its totality though each Commissioner may not agree equally with all recommendations and have reservations about some.*

*Below is a listing of the Commissioners and their affiliations.*

<b>Name</b>	<b>Organization</b>	<b>Title</b>	<b>Tribal Affiliation</b>
Natasha Anderson	Office of Legal Counsel for the Nez Perce Tribe	Chief Judge	Yankton Sioux Tribe
Eric Broderick	United States Public Health Service (retired)	Assistant Surgeon General (retired)	
Ruth Buffalo	First Nations Women’s Alliance	Board Member	Mandan, Hidatsa, and Arikara Nation
Dr. Grace Bulltail	University of Wisconsin-Madison	Assistant Professor	Crow Tribe
Francisco Burrola	Department of Homeland Security- Immigration and Customs Enforcement	Special Agent in Charge	
Kerri Colfer	National Indigenous Women’s Resource Center	Senior Native Affairs Advisor	Tlingit
Christine Crossland	Office on Violence and Victimization Prevention, National Institute of Justice	Senior Social Science Analyst	
Marisa Miakonda Cummings (Alternate)	U.S. Department of Health and Human Services- Administration for Children and Families, Administration for Native Americans	Senior Policy Advisor	Omaha Tribe

Katherine Darke Schmitt	U.S. Department of Justice- Office for Victims of Crime	Principal Deputy Director	
Janet Davis	Pyramid Lake Paiute Tribe	Chairwoman	Pyramid Lake Paiute Tribe
Michelle Demmert	University of Alaska- Fairbanks	Assistant Professor, Former Tlingit and Haida Chief Justice	Tlingit, Eagle, Kaax'oos.hittaan (Man's Foot) clan
Jordan Dresser	Caldera Productions	Filmmaker, Former Chairman of the Northern Arapaho Tribe	Northern Arapaho Tribe
Paul Etnire	Arizona Department of Public Safety	Captain	Hopi Tribe
Dale Fine Jr.	BIA- Office of Justice Services	Special Agent	Cherokee Nation
Leanne Guy	Southwest Indigenous Women's Coalition	Founder & Executive Director	Navajo/Diné- Tó' áhani (Near to water) clan
Jolene Hardesty	Michigan State Police	Missing Children's Clearing House Analyst	
Carmen Harvie	State Chapter of Oklahoma Missing and Murdered Indigenous People	President of Chapter	Choctaw and Hualapai Tribes
Karen Hearod	Substance Abuse and Mental Health Services Administration	Captain- Office of Tribal Affairs and Policy	Choctaw Nation of Oklahoma
Don Hedrick	Rapid City Police Department	Chief of Police	
Amber Kanazbah Crotty	Navajo Nation Council	Council Delegate	Navajo Nation
Vivian Korthuis	Association of Village Council Presidents	Chief Executive Officer	Yup'ik and a member of the Emmonak Tribe
Patrice Kunesh	U.S. Department of Health and Human Services- Administration for Children and Families, Administration for Native Americans	Commissioner	Standing Rock Lakota descent
Christina Love	Alaska Network on Domestic Violence & Sexual Assault	Advocacy Initiative Senior Specialist	Alutiiq/Sugpiaq (Aleut)
Annita Lucchesi*	Sovereign Bodies Institute	Founder/Director	Cheyenne Descent
Juana Majel-Dixon	National Congress of American Indians	Traditional Councilmember	Pauma-Yuima Band of Mission Indians

Joshuah Marshall	Indian Health Service	Senior Advisor to the Director	Wind River Indian Reservation
Richard Melville	BIA- Office of Justice Services	Deputy Bureau Director	Makah Tribe of Washington
Jason O'Neal	Bureau of Land Management	Director of the Office of Law Enforcement and Security	Citizen Potawatomi Nation
Gregg Peterman	U.S. Attorney's Office District of South Dakota	First Assistant United States Attorney	
Colleen Phillips	US DOJ- Civil Right Division- Human Trafficking Prosecution Unit	Policy Counsel	
Kimberly Poyer	FBI- Victim Services Division	Section Chief	
Allison Randall	U.S. Department of Justice- Office on Violence Against Women	Principal Deputy Director	
Shawwna Roach	Cherokee Nation Marshall Service	Investigator	
Sonya Tetnowski	Indian Health Center of Santa Clara Valley	Chief Executive Officer	Makah Tribe
Karonienhawi Thomas	Saint Regis Mohawk Tribal Police	Detective Sargeant	Saint Regis Mohawk
Tamra Truett Jerue	Alaska Native Women's Resource Center	Executive Director	Anvik Tribe
Kristin Welch	Waking Women's Healing Institute	Founder and Executive Director	Menominee Nation Descendant, Marten Clan
Patricia Whitefoot	Yakama Nation Indigenous Elder		Yakama Nation
Dr. Deidra Williams Angulo	Sonder Mind Mental Health Services	Counselor	Navajo/ Diné
Bazil-Lu Windy Boy	Yakama Nation Police Department	Officer	Yakama Nation
Cord Wood	Oregon State Police	Captain	

*\*Commissioner Lucchesi consented to the full report except for dissenting on Recommendation A13, Chapter 2.*

## Appendix 3- Field Hearings

### NOT INVISIBLE ACT FIELD HEARINGS: AN OVERVIEW

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*“I was praying last night for all of you. I’m praying that once this work is done and the Commission is dismantled that all these efforts won’t be in vain. And I pray really good outcomes from this and your passion and commitment won’t end here for this Commission, that you continue to be invested. I see skill, education, and experience, and that’s what we need. I guess that’s all I have to say, thank you.”*

-NIAC Billings, MT Witness

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The Not Invisible Act Commission hosted seven in-person field hearings between March and July 2023 and one virtual hearing in August 2023 for those who had been unable to attend in person. Seeking to engage with those most affected by MMIP and HT within the constraints of the Commission’s time and budget, Commissioners traveled to Tulsa, Oklahoma; Anchorage, Alaska; Flagstaff, Arizona; Minneapolis, Minnesota; Blue Lake, California; Albuquerque, New Mexico; and, Billings, Montana. The Commission wished it could have also held additional hearings in the Midwest, the Northwest, and the East. Of the 588 who attended the hearings, over 260 provided public, private, or written testimony. In some cases, family members joined to support a witness and spoke as well. Witnesses shared their expertise, their experiences, their suffering and hope, and their recommendations to address and reduce the tragic consequences of the MMIP and HT crisis. Each hearing naturally had its own characteristics, but all were committed to hearing the voices of those intimately involved in the MMIP and HT crisis, and all followed a similar format.

#### **Hearing Locations**

- Hearing #1 – Tulsa, OK
  - Dates – Tuesday, April 11<sup>th</sup> to Thursday, April 13<sup>th</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 32
  - Site Visits
    - Osage Nation Law Building
    - Muscogee Nation Satellite Office
    - US Attorney’s Office in Tulsa
- Hearing #2 – Anchorage, AK
  - Dates – Monday, April 24<sup>th</sup> to Thursday, April 27<sup>th</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 58
  - Site Visits
    - Ketchikan – Cape Fox Lodge
    - Bethel – AVCP Family Services and Tundra Women’s Coalition
    - Emmonak Tribe, Chuloonawick Tribe, and the Emmonak Women’s Shelter

- Hearing #3 – Flagstaff, AZ
  - Dates – Tuesday, May 2<sup>nd</sup> to Thursday, May 4<sup>th</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 31
  - Site Visits
    - Navajo Nation Judicial Complex
    - Hopi Tribal Courthouse
- Hearing #4 – Minneapolis, MN
  - Dates – Tuesday, June 6<sup>th</sup> to Thursday, June 8<sup>th</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 34
  - Site Visits
    - Minnesota Indian Women’s Resource Center
    - Minnesota Indian Women Sexual Assault Coalition
    - Ain Dah Yung Center
- Hearing #5 – Blue Lake, CA
  - Dates – Tuesday, June 13<sup>th</sup> to Thursday, June 15<sup>th</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 62
  - Site Visits
    - California Tribal Leaders Roundtable at Yurok Tribal Council Chambers
    - Hoopa Valley Tribal Council Chambers, Domestic Violence and MMIP Prevention Program Office, K’imaw Medical Center, Tribal Police Station
- Hearing #6 – Albuquerque, NM
  - Dates – Wednesday, June 28<sup>th</sup> to Thursday, June 30<sup>th</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 121
  - Site Visits
    - Isleta Pueblo Tribal Complex and Courtroom
- Hearing #7 – Billings, MT
  - Dates – Tuesday, July 25<sup>th</sup> to Thursday, July 27<sup>th</sup>, 2023
  - Number of Attendees – 136
  - Site Visits
    - Little Big Horn College, Crow Agency
    - Crow Tribal Courthouse
    - Northern Cheyenne Little Wolf Capitol Building
- Hearing #8 – National Virtual Hearing
  - Dates – Wednesday, August 2<sup>nd</sup> to Thursday, August 3<sup>rd</sup>, 2023
  - Number of Attendees (not including Commissioners and staff) – 114
  - No Site Visits (Virtual)

### **Hearing Format**

The hearings were led by the Commissioners, typically one or more non-federal Commissioners and one or more federal Commissioners. The 45 members of the Commission were divided into six subcommittees each with a different focus aligned with the topic areas identified for recommendations in the Act. Many Commissioners served on more than one subcommittee. For a more manageable schedule for Commissioners and staff, different combinations of two

subcommittees traveled to five hearings, with two hearings each hosted by one subcommittee. Each subcommittee was seeking background and recommendations that related to their particular focus, although all testimony was welcome and included in the documentation.

Each field hearing began with a prayer offered by a local elder or spiritual leader. Commissioners also led a moment of silence to honor those lost to the MMIP and HT crisis. During this time attendees were invited to speak the names of those lost. In some locations there were shawl ceremonies, singing, or drumming to ensure that the hearing began “in a good way.” At each location Commissioners heard presentations by panelists who were experts in the MMIP and HT field, by lived experience, profession, or academic research. Most of the time spent on-site was devoted to individual witnesses and families, many of whom traveled great distances to tell their stories. All hearings offered an option for private testimony with one or two commissioners and a note taker. Participants were also invited to submit written testimony. Each field hearing also included an additional day for site visits to Tribal offices, courthouses, medical facilities, LE offices, treatment centers, non-profits, and other sites offered by local hosts.

At most hearings, the initial morning meeting, which included opening ceremonies, welcoming remarks, and one or two panels was open to the press and media. All witness testimony, as well as each site visit, was closed to the press and media.

Staffing the hearings were facilitators, project leads, and technical writers, who took comprehensive notes on all presentations and testimony, including the private testimony. Also on hand were a variety of victim services specialists and mental health professionals available for support and counseling and healing for those witnesses who needed support following difficult testimony. Any audience member, commissioner, or staff was also able to avail themselves of these services. In many cases, commissioners or local community members brought sage bundles, medicinal tea, or other healing materials. At many hearings, staff from the BIA MMU were present to privately discuss on-going cases with those participants who wished to avail themselves of such LE support. Due to federal government restrictions, many organizations and individuals donated food and beverages for participants.

Federal subject matter experts supporting the Commission from the DOI and DOJ were present at all the hearings, listening and learning, and lending support where appropriate. These included representatives from DOI, including the Office of the Secretary, the BIA, and LE staff from DOI’s MMU, as well as staff from the DOJ, representing the Attorney General.

Commissioners at all hearings shared the following statement regarding testimony: “Any statements you make before the Not Invisible Act Commission may become part of an agency record that is subject to public release, in full or in part, when requested. The purpose of the NIAC is to gather information to guide the federal government toward the best ways to address violent crime on Indian lands and against Indians. With this in mind, we appreciate your willingness to speak openly and transparently towards this goal, while also being mindful that records created through and shared with the NIAC may be released to the public.”

### **Themes Common to all Hearings**

Several themes were common across the hearings, with some local differences depending on location:

- Families, communities, and AI/AN people across the United States are deeply, personally, and painfully affected by the crisis of MMIP and HT.
- There is woefully insufficient funding to tackle the crisis of MMIP and HT.
- More data and coordination across data sources are needed on the crisis; the data needs to be widely available.
- Federal grant applications need to be made more available, more streamlined, and less onerous. Many rural communities do not have internet and thus cannot submit grant applications electronically. Small grass roots organizations can't compete with large non-Indian organizations for grant funding.
- Many Tribal members deeply distrust LE due to experiences ranging from neglectful to outright hostile. Compounded with a history of trauma at the hands of the government, many AI/AN people believe that the system does not care for, nor seek equal justice for, AI/AN people.
- Grass roots organizations and families are doing most of the searches and communications; they need funding and cooperation from LEAs.
- Family members and survivors do not get timely or accurate information about their cases.
- Many more victim advocates are needed for communication and counseling for families and survivors. These advocates need to be available from the time someone goes missing until the case is ultimately resolved.
- The MMIP and HT crisis is fueled by many inequities and long-standing, multi-generational traumas including, but not limited to, substance use, lack of shelter and homelessness, domestic violence, sexual abuse, and foster care.
- All of the problems experienced by lower 48 Tribes are many times more challenging in Alaska. Lack of LE, access, equipment, technology, affordable transportation, victim specialists and advocates, and health providers make addressing MMIP and HT crises more difficult. Community members often must conduct their own investigations, deal with bodies, and handle trauma while waiting for help.
- Federal LE transfers in and out of Indian country frequently, thus limiting the number of experienced LEOs with sufficient training and cultural expertise to work with the communities.
- There is a confusing mixture of coroners and medical examiners across the country, and there is often a shortage, leading to hasty conclusions and inaccurate results.
- There is a serious shortage of LE on most reservations, due to low pay, no benefits, lack of relevant, useful training and stressful conditions. Tribal LEAs need pay and retirement parity with federal LEAs to recruit and retain qualified officers.
- PL-280 and other abdications of criminal jurisdiction to the states have had a disastrous effect on the quality and quantity of LE for Tribal communities.
- Human trafficking survivors continue to be retraumatized by criminal prosecutions, lack

of mental health counseling, and appropriate safe housing.

### **Field hearing #1: Tulsa, Oklahoma**

- *Subcommittee 1: Law Enforcement & Investigative Resources: Identifying/Responding to MMIP and HT*

This first hearing of the Commission was hosted by Subcommittee 1, focused on LE and investigative resources. Vann Bighorse, Secretary of Culture, Language & Education, Osage Nation, opened the hearing with a prayer. After the moment of silence, Principal Chief Geoffrey Standing Bear, Osage Nation, and Principal Chief Chuck Hoskin, Jr., Cherokee Nation, offered welcoming remarks. Commissioners introduced themselves and gave background on the NIAC and the role of the Commission and purpose of the hearing. Panelists included Melody Ybarra, Citizen Potawatomi Nation shelter and DV; Darcie Parton-Scoon, private investigator; Vincent Marcellino, special agent, BIA; and Olivia Gray, Northeast Oklahoma Indigenous Safety and Education. They answered questions concerning investigating, reporting, and responding to MMIP and HT incidents, including improving access to technology and reducing bias. Witnesses from surrounding Tribal communities offered testimony for the afternoon of the first day. Day Two included presentations from the Oklahoma Medical Examiner's Office: Samantha Richardson, Investigative Supervisor, and Angela Berg, forensic anthropologist. A second panel included Shannon Buhl, Cherokee Nation Marshal, and Sara Hill, Cherokee Nation Attorney General. In the afternoon Commissioners traveled to the Osage Nation Law Building to hear from leadership, Attorney General and victim services staff. Day Three included visits to the Muscogee Nation Satellite office, the US Attorney's Office, and the Indian Health Care Center of Tulsa.

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*"Throughout my career, I've been asked what can the federal government do in regard to violence in families? It's for the federal government to see us, to recognize us, and that we matter."*

- NIAC Tulsa, OK Witness

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### **Major themes raised in testimony:**

- MMIP is one acronym, but it represents thousands of unique individuals, each with family, friends, grief and tragedy, a unique, complex context and background, each with a history and future either erased or forever changed.
- MMIP cases are inextricably bound up with domestic violence, physical and sexual assault, and child abuse and compounded by the impact of multi-generational trauma.
- Despite the best efforts of many individuals across LE, the judiciary, and social services, there are long-standing institutional failures that must be acknowledged and addressed.
- Response and diligence are unfortunately all too often still rife with neglect, apathy, and outright prejudice.
- Tribal LE and judiciary systems still struggle to be treated with dignity, respect and parity

from other such agencies at the federal, state, and local levels.

- Missing persons today are victims tomorrow. In missing cases, each minute lost is a greater risk of greater harm to that individual—greater risk of sexual abuses, physical assault, trafficking, or murder.
- Across the board, service providers and law enforcement officers need to be trained in trauma-informed care in dealing with families of the murdered and missing.

### **Field hearing #2: Anchorage, Alaska**

- *Subcommittee 5: Victim and Family Resources and Services*
- *Subcommittee 6: Needed Legislative and Administrative Changes*

Commissioners from these two subcommittees traveled to Alaska, where they quickly saw and heard what makes Alaska Native Villages unique in Indian country. Air travel challenges, remoteness, and lack of infrastructure and services were all evident on the site visits, to Ketchikan on Day 1, and Bethel and Emmonak on Day 4. Days 2 and 3 were spent in Anchorage hearing panels and testimony from witnesses. Day One began with a prayer by Lenora Hooch and Joanne Horne and a moment of silence during which 25 names were spoken. DOI and DOJ representatives offered opening remarks: Heidi Todacheene, Senior Advisor to the Secretary of the Interior; Raina Thiele, Senior Advisor for Alaska Affairs and Strategic Priorities, DOI; Lane Tucker, US Attorney, District of Alaska, DOJ. Commissioners introduced themselves, gave background on the NIAC and purpose of the hearing.

The first panelists were: Eileen Arnold, Bethel Women's Shelter, Executive Director; Ingrid Cumberlidge, Victim Services Coordinator, U.S.A.O., Anchorage; Dana Diehl, Alaska Native Health Consortium, Director of Wellness and Prevention; Ana Hoffman, Bethel Native Corporation, President & CEO; and Shirley Lee, Fairbanks Native Association, Strategic Development Director. A second panel included: Lenora Hootch, AKNWRC Board member, and Executive Director of the Yup'ik Women's Coalition; Joel Jackson, President, Organized Village of Kake; Alex Cleghorn, Senior Legal and Policy Director at the Alaska Native Justice Center; Dr. Charlene Aqpiq, an advocate for Indigenous womxn, Indigenous sovereignty, climate justice and Indigenous rights to health and wellbeing; and Brittany Madros, Tanana Chiefs Conference, Justice Division Director. Day Two included a panel on Human Trafficking with Annita Luchessi, Founder, Sovereign Bodies Institute; Christina Love, consultant, recovery coach, and civil and human rights activist; Tami Truett Jerue, Executive Director of the Alaska Native Women's Resource Center; Amber Webb, Activist and storyteller; and Josie Heyano, Former Covenant staff worker and currently a consultant.

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*“This is very hard. Something like this happens, you change. I used to be very happy, laugh – that has changed. I’m a changed person. I remember one time when I was a kid, I was upset about something. My grandmother told me to come with me. She always had a little hatchet that she carried. She gave it to me, and she said carry my hatchet for me. She didn’t tell me she was take her out to dig some roots to make her baskets. While we were out in the woods, she showed me which trees you must pick. She said not to take all the roots, but to leave some so the tree can stay alive. She told me, “Sit down. Listen to the robin sing.” I sat there. My message today is let’s let the robin sing again. Let’s find these people. We’re not going to give up.”*

-NIAC Anchorage, AK Witness

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### **Major Themes Raised in Testimony**

- Alaska Native Peoples have suffered deep layers of multi-generational trauma and the violence of colonization: Russian occupation, US occupation, military occupation, extractive industries occupation, boarding schools, WWII displacements, destruction of cultural ways and norms, and so much more.
- Alaska is vast, remote, deeply underserved, rife with a history of exploitation, complex, and yet it is neglected or outright ignored in statutes, regulations, and grant programs.
- Alaska Native Villages face enormous challenges in achieving basic levels of public safety, health and social services and LE. Their isolation, lack of basic services and infrastructure require significant increases in funding at all levels. Most villages have no LE personnel.
- Alaska Native Peoples are extraordinarily self-reliant, resilient, and able to survive and thrive in extreme conditions -- physical, social, political, and economic – and frequently undertake successful search and rescue operations in incredibly difficult conditions.
- Systemic neglect to outright racism exists in the present institutions, from 911 systems to LE and investigatory resources to social services. The entire federalist approach to Alaska regarding these issues must be reviewed and re-created. With limited resources and PL-280 status, additional federal resources (investigators, victim services, equipment, etc.) and jurisdiction are needed to address the intensity and extent of the Alaska challenges.

### **Field hearing #3: Flagstaff, Arizona**

- *Subcommittee 1: Law Enforcement & Investigative Resources - Identifying/Responding to MMIP AND HT*
- *Subcommittee 4: Coordinating Resources - Criminal Jurisdiction, Prosecution, Information Sharing (Tribal-State-Federal MMIP AND HT investigations)*

Subcommittees 1 and 4 held two days of hearings followed by one day of site visits. The hearing opened with a prayer from Navajo Delegate Amber Crotty and an opening song from Paul Williams, Jr. from Steamboat, AZ. A moment of silence followed. Heidi Todacheene, Senior Advisor to the Secretary, DOI, and Gary Restaino, United States Attorney, District of Arizona, DOJ offered welcoming remarks. Commissioners introduced themselves and gave background on the NIAC and purpose of this hearing. The first panel included Seraphine Warren, MMIP family member, Victim Advocate, and Pamela Foster, Family Member, Ashlynn Mike Delegate Alert in Indian Country Act/ Advocate. The second panel included: Laurel Sheppard, Victim Services, Pascua Yaqui Tribe; Alfred Urbina, Attorney General of the Pascua Yaqui Tribe; Valaura Imus-Nahsonhoya, MMIP Coordinator, Governor's Office, Arizona; Debbie Manual Nez, Division of Human Resources Director, Navajo Nation, Arizona State Ad Hoc Committee for Missing & Murdered Indigenous People, 2022, Arizona Governor's Task Force for Missing & Murdered Indigenous Women, 2019; and, Mark Pooley, Director, Investigative Support (AI/AN), UNTHSC Center for Human Identification

On Day Two there were three presentations: Chief Daryl Noon, Navajo Chief of Police; Sergeant Dash, Navajo Nation's MMU/Human Trafficking Unit; Kiyoko Patterson, United States Attorney, Tribal Liaison.

The afternoon of Day One and the morning of Day Two were reserved for witness testimony. On Day Three Commissioners traveled to Tuba City, AZ, for a tour of the Navajo Nation Judicial Complex and to the Hopi Tribal Courthouse for presentations from staff.

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*"It would be fabulous if there was some way all law enforcement agencies could talk to each other and be able to have their missing persons, unidentified persons tied together."*

- NIAC Flagstaff, AZ Witness

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#### **Themes raised in testimony:**

- Challenges for Tribal LE include low pay, shortage of officers, lack of support for stress and trauma.
- The impact of loss of a family member on the family and community stretches from the past, to the present and the future.
- The number of guns that are so easily available in the community must be reduced.
- Justice must be brought to those victims of the fraudulent "sober living homes," where elders and vulnerable AI/AN are kidnapped, kept and abused so the owners can charge health agencies for their care. Operators must be punished, and funding and services are badly needed to help reunite victims with families and provide badly needed services.
- There is a desperate need for more funding to identify and return AI/AN remains. Often DNA testing is needed because all that remains are fragments. The cost can be \$10,000

and there is often a pause of many months while funding is sought. Medical Examiners work closely with families and LE, trying to follow up all leads in their investigations, but funding is badly needed.

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*“If you’ve been around Native communities long enough, you’ll often hear that the mothers, the grandmothers are the best investigators. They’re better than the FBI. It’s true. We will do anything. We will put our lives in danger to get these answers, so let’s help one another.”*

-NIAC Flagstaff, AZ Witness

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#### **Field hearing #4: Minneapolis, Minnesota**

- *Subcommittee 3: Recruitment and Retention of BIA and Tribal LE*
- *Subcommittee 4: Coordinating Resources - Criminal Jurisdiction, Prosecution, Information Sharing (Tribal-State-Federal MMIP AND HT investigations)*

The hearing began with a drum and singing group and a prayer from a local spiritual leader, Sharon Day, followed by a moment of silence to remember and speak the names of those lost to the MMIP and HT crisis. Deb Haaland, Secretary of the Interior, DOI welcomed the attendees virtually. Secretary Haaland stated that she was honored to be with the Commission that day and apologized for not being in person. She stated that it is undeniable that we are witnessing a new era for Indigenous people everywhere, and the Not Invisible Act Commission is a representation of that. Andrew Luger, US Attorney, District of Minnesota, DOJ, also welcomed attendees. Bryan Newland, Assistant Secretary – Indian Affairs, DOI, followed with brief remarks. Commissioners were then welcomed to Minneapolis by State Senator Mary Kunesh and Lieutenant Governor Peggy Flanagan. Commissioners introduced themselves and gave background on the NIAC and the purpose of this hearing. Two panels followed that included: Senator Mary Kunesh, Minnesota State Senate; Monte Fronk, Tribal Emergency Management, Mille Lacs Band of Ojibwe; Melissa Pamp, MMIW family member; and Joel Postma, MMIP Michigan Coordinator. The Second Panel included: Chief Michael Conners, St. Regis Mohawk Tribes; Anita Fineday, Children’s Court Judge, White Earth Reservation; and Leroy LittleBull, Yakama Nation.

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*“Does time heal all wounds? Yes, they were caught, were prosecuted, and spent time. But to this day, my sister has never had a boyfriend. She’s never been in a relationship. She never married, and never had children. She’s just the gentlest person you’ve ever known. She welcomes you in. New bedding, new towels. Everything you need. It’s amazing. She’s an amazing artist. She makes the most museum quality moccasins, Blackfeet moccasins shown at the Smithsonian. Amazing bead worker. But sometimes late at night, I have to get up, because I can hear her screaming. And what can you do? All you do is get up and sit with her and hold her tight. Our memories are long.”*

-NIAC Minneapolis, MN Witness

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**Themes raised in testimony:**

- One of the things to acknowledge is that the destruction of Tribal lands and Tribal waters reflects on and doubles the impact on Native women. When one looks at places where there are extractive industries, the violence against women increases.
- So many cases reflect how the system retains implicit (and sometimes explicit) bias against American Indian women.
- A holistic approach is essential, one that includes housing, behavioral or mental health, spiritual and cultural support, that includes the community.
- Small Tribes need services and support, too, so please keep them in mind in the recommendations.
- Those first days and hours are critical for missing persons. To not look for a month and a half is unacceptable.
- Grant programs, especially for Tribes without gaming or other outside revenues, are very problematic. Tribes need guarantees of funding to support LEOs, provide equipment, and other safety measures. As an example, a small grant creates a help phone number, the grant goes away, leaving the number with no one on the other end.
- LE coordination, especially off reservation, is so important because of jurisdictional issues.
- BIA and Tribal LE need updated, relevant training to prepare them for a position in Indian country, including skills to deal with MMIP and HT situations, cultural awareness and understanding, and techniques for staying healthy. The challenge is how to train recruits and others for 574 different cultures, environments and values.
- Parity of pay and benefits with federal and state LE authorities is essential. Tribes do not have the enticements to keep officers on their forces. Tribal police should not be just a training ground for other state, municipal and federal agencies.

- There is a significant amount of research that links trafficking and foster care. According to the National Foster Care Initiative, 60% of children exploited have history in the child welfare system. Traffickers prey on children deemed to be most vulnerable.

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*“We can’t forget the urban relocation programs in the 50s; I hope this Commission doesn’t forget those relatives that are living off rez.”*

-NIAC Minneapolis, MN Witness

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### **Field hearing #5: Blue Lake, California**

- *Subcommittee 2: Policies & Programs – Reporting and Collecting Data on Missing, Murdered, and Trafficked Persons*

This hearing was unique in its partnership with the Yurok Tribe and the Humboldt Area Foundation, which contributed significantly to the planning and outreach, provided leadership to open the hearing, and contributed food and beverages for participants. The Hoopa Valley Tribe also provided important support and outreach, and hosted Commissioners for dinner. As a result, community participation was high and engaged, with tables for memories, cultural items for healing, photos, banners, red skirts and shirts.

The hearing began with an opening ceremony led by Yurok Tribal Chairman Joseph James, with remarks from several other tribal leaders present, including Hoopa Valley Chairman Joe Davis. DOI was represented by Bryan Newland, Assistant Secretary for Indian Affairs, and Katherine Wawrzyniak, Chief of Criminal Division, US Attorney’s Office spoke on behalf of DOJ. The Commissioners introduced themselves and offered a moment of silence for those lost to MMIP and HT. A panel included: Judge Abby Abinanti, Chief Justice, Yurok Tribe; Merri Lopez Keifer, Director, Office of Native American Affairs, CA DOJ; Dr. Blythe George, University of California, Merced; April McGill, Red Women Rising, CA Consortium for Urban Health; and, Trish Martinez, MMIP advocate (via zoom).

That afternoon and Day Two was witness testimony, some choosing to speak in private with one Commissioner, a note taker, and a victim specialist present. Marcelino ToersBijns, MMU officer was also available for consultation on individual cases. Site visits included a roundtable of California Tribal leaders at Yurok, and testimony and a tour of service providers and LE facilities at Hoopa Valley.

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*“I must remind you that no data anywhere can fully capture what it means when someone is taken.”*

-NIAC Northern California Witness

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### Themes raised in testimony:

- Data is critical to addressing MMIP and HT issues. Funders, researchers, policymakers, and governing bodies all want to see the data. Without sound, comprehensive, defensible data MMIP and HT can only rely on the good will of those in power.
- Misidentification is a serious problem. LE, MEs, coroners, hospitals, etc. need multiple race identifiers and Tribal affiliation options, to ensure accurate data and a link to community.
- Misclassification of crimes can result in lack of prosecution, cases going cold, and justice not served. Coroners, as well as LE, have the responsibility to ensure the right classification is made, that the assumption is not “alcoholism,” or “suicide.” There needs to be a system for updating and/or correcting cause of death.
- There is a need for expansive interagency coordination, with protocols and funding. Tribes need full access to databases like NamUs.
- Collaboration between agencies that are collecting data or need data must be both mandated and incentivized. MOUs between a Tribe and a sheriff can help.
- Data on urban AI/AN populations is critical for improved funding and services.
- Confidentiality of Tribal data must be honored but with cooperation and trust, so that sharing may grow.
- Local County LE is too often unresponsive or even hostile to reports and requests for help, citing jurisdictional issues, or “too busy,” or “she’s gone missing before, come back in a week.”
- Data sharing is critical for finding runaway children in foster care, but often Tribes are not contacted.

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### **Field hearing #6: Albuquerque, New Mexico**

- *Subcommittee 3: Recruitment and Retention of BIA and Tribal Law Enforcement*
- *Subcommittee 6: Needed Legislative and Administrative Changes*

This hearing began on Wednesday in order to follow the Women Are Sacred conference held nearby earlier in the week. Many from the conference came to the NIAC hearing to testify. Day One began with a prayer from Gil Vigil, Tesuque Pueblo, followed by a moment of silence, and opening remarks from Heidi Todacheene, Senior Advisor to the Secretary, DOI; Alexander Uballez, US Attorney, District of New Mexico, DOJ; and, Elizabeth Reese, White House Domestic Policy Council. The first panel on BIA/Tribal LE recruitment and retention included: Barry Yoyhoeoma, BIA/OJS MMU; Arlene Armijo, Victim Specialist, BIA/OJS MMU; Greg O’Rourke, Yurok Tribal Police Chief (via zoom); Audrey Sessions, Associate Director, BIA Indian Police Academy; and, Troy Velasquez, Major, NM State Police. The second panel on legislative and administrative changes included Melody Delmar, MMIWR Coordinator, New Mexico Department of Indian Affairs; Senator Lopez, New Mexico State Legislator; Senator Pinto, New Mexico State Legislator; Don Metzmer, FBI Analyst; Raul Bujanda, FBI Special Agent in Charge; and, Robert Alguire, New Mexico State Police.

In the afternoon, the commissioners traveled to Isleta Pueblo Courthouse and Police facilities for a presentation and discussion with Victor Rodriguez, Chief of Police; Isleta Pueblo Governor, Max Zuni; Lieutenant Governor Eugene Jiron; two Assistant U.S. Attorneys and, many police and court staff. Commissioners also toured the facility and met staff. Day Two began with a prayer and shawl ceremony, and remarks from Lashawna Tso, Deputy Secretary, New Mexico Department of Indian Affairs, and Teresa Leger Fernandez, New Mexico Congresswoman. Commissioners heard witness testimony in the afternoon. Day Three began with welcoming remarks from Navajo Nation First Lady, Jasmine Blackwater Nygren, followed by witness testimony in the afternoon.

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*“When she [non-Indian] went missing, the PD was on it. She made national news. Within a few days they found the person who took her and murdered her and raped her in Flagstaff. Why aren’t you all doing anything about our people? ... Our skin color might be different, but we all bleed the same. Why does it take a White person to get all that national news and we get left out?”*

-NIAC Albuquerque, NM Witness

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#### **Themes raised in testimony:**

- Tribal LE training and police departments are too often a steppingstone for officers to move to positions with local, state or federal LE. They seek better pay and benefits, and in some cases an escape from the stress and trauma of working in a tribal community, especially if it is their own.
- Many Tribal communities are distrustful of LE and reluctant to share information. The community policing model with LE from the community can help build trust and create an information channel.
- State MMIW Task Forces, like New Mexico’s, can bring together LE at all levels with community, advocates, legislators, researchers, even family members to create a clearinghouse with effective, practical systems for gathering and sharing data.
- Families suffer from lack of communication with LE – BIA, Tribal, FBI – in missing persons cases. Some are cold for 20 or 30 years, as relatives try to keep the cases alive. The process involves navigating confusing systems to reach someone who can help, often dealing with cold, harsh, culturally unaware LE, and in the end receiving no useful information.
- Trafficking victims become trapped in a cycle of dependence and helplessness, at the mercy of a trafficker who controls the victim physically and emotionally, often with drugs or alcohol. Escaping this cycle can seem impossible. Often the authorities that might encounter the victim -- LE, health and social service providers – fail to recognize, or choose to ignore, the situation until it is too late.
- The so-called sober living homes scandal has done enormous harm to AI/AN families, especially in the southwest. Elders and those that are vulnerable for other reasons are kidnapped under the guise of providing treatment and badly needed services. They are kept, often drugged, unable to leave as the criminals bill health providers and government

agencies for their “treatment.” With prosecution of these rings, thousands of victims are released without the means, or even the understanding of how to return to their homes.

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*“We are looking for parity among federal and state law enforcement authorities. We don’t have the enticements to keep officers on our force. They make the best decision for themselves and their families.”*

-NIAC Albuquerque, NM Witness

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### **Field hearing #7: Billings, Montana**

- *Subcommittee 2: Policies & Programs – Reporting and Collecting Data on Missing, Murdered, and Trafficked Persons*
- *Subcommittee 5: Victim and Family Resources and Services*

Day One began with an opening prayer by Channis Whiteman, Vice Secretary, Crow Tribe, and a shawl ceremony organized by commissioners and local families. Commissioners held a moment of silence for those murdered, missing, or trafficked. Welcoming remarks were offered by Lynn Trujillo, Senior Counselor to the Secretary of the Interior, and Jesse Laslovich, US Attorney for the District of Montana. Justin Hooper, MMU Deputy Unit Chief, also introduced himself, offering private meetings with any attendee wanting to discuss a case. A panel of advocates included Mary Katherine Nagle, Counsel, National Indigenous Women’s Resource Center; Carmen O’Leary, Director, Native Women’s Society of the Great Plains; and, Earline Bearcrane, Family Member. A second panel addressed the Commissioners the morning of Day Two. Panelists were Big Horn County Attorney, Jeanne Torske and MMU officers: Justin Hooper, Regional Agent in Charge; Marcus Moulton, Special Agent; and, Travis Trueblood, Deputy Chief.

Because this hearing anticipated large numbers of attendees, witness testimony was taken simultaneously in two hearing rooms, each with a facilitator, note taker and about half of the Commissioners (6-7). Attendees could listen to testimony in either room as they wished. Private testimony ran concurrently in a separate room with a note taker and 2 commissioners, as well as MMU consultations in another room. In all 75 witnesses were heard in the two days, with a total attendance of 136. Additional witnesses were heard on the site visits to Little Big Horn College at Crow Agency and the Northern Cheyenne Little Wolf Capitol Building. In addition, Commissioners heard a presentation at the Crow Tribal Courthouse.

Several witnesses traveled long distances, from the Pacific Northwest and from the Dakotas. Carolyn DeFord, a member of the Puyallup Tribe, came from the Seattle area to share the Honoring our Medicine Paddle Blanket, a large hanging with small paddles sewed on, each bearing the name of an MMIP victim. She invited attendees to put the name of a loved one on a paddle to be added to the blanket. The blanket hung behind the Commission during the hearing. An image of the blanket is on the cover of this Report.

The National Indian Women's Resource Center (NIWRC) supported this hearing with travel funds and food for witnesses, and lunch for Commissioners on the site visit.

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*"My mom went missing. We looked for her for two days. They found her in a canal. I wonder, "How could you have drowned in a canal that was not even that big?" How was she found like that, no clothes on except for her top and her shoes were gone? How could her stuff be found so far away from her and her phone smashed and SIM card taken out? Another accidental death? My mom left all us kids here. Now we're all orphaned. My mom is not a statistic, and we deserve answers."*

-NIAC Billings, MT Witness

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#### **Themes raised in testimony:**

- Family members are angry and frustrated with the lack of communication about their cases. Prosecutors and LE cannot speak to them because the "investigation is ongoing," and then after 2 years the case is closed and goes cold. It feels as if no one cares.
- Federal LE is transferred out of Tribal communities often after just a few months. This leaves the community with a constant stream of inexperienced officers who need orientation to the culture and challenges facing the people. The burden is on the community to educate and build a relationship, over and over.
- Practices of ME/Cs are inconsistent, confusing and in some cases have violated existing law and regulation. The result is unreliable conclusions and inaccurate results. Families are often given little or contradictory information.
- There are AI/AN populations that are often left out of these discussions and are in many cases particularly needy: Urban Indian populations and the Two-spirit and transgender community. Both can be vulnerable and without access to the support and services others receive.
- There is a serious shortage of victim advocates to serve a needy population. Family members often have no idea where to go for the most basic help when a loved one is missing or murdered or trafficked. Support and assistance are needed during the long investigation period when families feel forgotten.
- Because there is often a delay in taking a missing persons report, or in responding to it, family and community members often begin their own searches or continue searches after LE has given up. Support for these volunteers and communication with LE is badly needed for the rapid recovery of the lost one.
- LEOs need regular training, every six months, in how to handle victims and family members in MMIP and HT cases. They need practice with different scenarios so they can learn to be respectful, patient, honest and clear. Too often the family feels dismissed, not valued, as if they are not worth communicating with.

- Crime scene investigations often produce confusing, contradictory conclusions. A suicide was ruled although the corpse was badly beaten, and personal belongings scattered far from the body. Or, the perpetrator, who had threatened the victim several times, was set free by claiming self- defense although the victim was not armed.
- Jurisdictional issues impact the ability of MMU officers to respond when the incident is outside Indian country, but impacting AI/AN people. MMU can only assist at the request of the state or local agency. Developing close cross-agency relationships can lead to more cross-deputization, which maximizes stretched LE resources.

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*“...missing or murdered two-spirit or transgender individuals, how are we dealing with that? They are an undercounted population. We cannot forget about those individuals. In our Lakota societies, those are special individuals, so let’s pay attention to that because we don’t want to lose them to murder.”*

-NIAC Billings, MT Witness

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### **Field hearing #8- National Virtual Hearing**

The Commission understood that only a limited number of witnesses could appear in person at one of the seven hearings, because of distance, lack of funds to travel and pay for lodging, work commitments, or family needs. To help ensure that all voices could be heard, following the last in-person hearing, Commissioners held a national virtual hearing, by Zoom, August 2-3. To accommodate a wide range of time zones the hearing was open twelve hours each day, from 10:00 am to 10:00 pm Eastern Daylight Time. The virtual room was staffed with a facilitator, a note taker, a victim specialist, and 4-6 commissioners, who took four-hour shifts. Although 114 attended the virtual hearing only eight testified. Witnesses spoke from the zoom screen. A breakout room with a victim specialist was available for anyone who needed it. Attendees were also invited to submit written testimony before the August 10 deadline.

Day One opened with a prayer from a commissioner and remarks from Deb Haaland, Secretary of the Department of the Interior. Secretary Haaland expressed appreciation to the Department of Justice for their partnership, and deep gratitude to all the NIA Commissioners for their commitment, time and energy to this cause. She pledged to keep the MMIP and HT crisis as a top priority for her Department. Commissioners held a moment silence for MMIP and HT victims.

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*“Oftentimes, we are invisible. You can see me at the grocery store, you know, I don’t look like a survivor, and I just want you all to recognize that this is more widespread than we even sit here and think.”*

-NIAC Virtual Hearing Witness

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**Themes raised in testimony:**

- Tribe in Idaho is promoting collaboration among all LE. Challenges are funding and staffing shortages that leave LE stressed and overworked. Funding is need for training to bring more people to the table to discuss collaboration in implementing changes that will affect MMIP.
- Medical examiners need to be included with LE and Tribes in collaboration efforts. Native people are being mis-identified as “other” races and cultures. The numbers are not reflecting the reality of the crisis in Indian country.
- Families are frustrated by ineffective search and rescue. Even if BIA, Tribal, and DHS LE are involved in search and rescue, “no one is the boss.” FBI doesn’t participate unless they can prove there was a crime.
- Funeral homes must communicate openly and honestly with family members. Families can be left unable to see the body, and with no information about the cause of death for months.
- It is important to include state information on AI/AN people. Each state has an Indian Affairs department or agency with information on Tribal membership, and some states have state-recognized Tribes. Maryland, for instance, has data on their Tribes that can be used to report and leverage what Indigenous people in Maryland need. The issue of MMIP and HT is bigger than the federal numbers being reported.
- Tribal sovereignty must be recognized for Tribal LE to be effective in collaboration with state and local LE. Tribes in PL-280 states have an even bigger challenge gaining respect and entering into cooperative agreements with state and local LE.
- Training in community-policing is critical for effective LE and cooperative community engagement.
- Being a witness in a courtroom is extremely stressful. Family members and others need support, information, and education about the process.
- There is a critical need to support and pass the BADGES for Native Communities Act.

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*“We will continue to diligently promote collaboration, but I do believe at some point in time, there’s going to have to be some mandates that come down – and that’s across the board, not just LE, state police or local police – but Tribes as well to come to this table to work out some remedies to this epidemic.”*

-NIAC Virtual Hearing Witness



#### **Appendix 4 – Glossary of Abbreviations**

AG – Attorney General

AI/AN – American Indian/Alaska Native

ASU – Arizona State University

AUSA – Assistant United States Attorney

BJA – Bureau of Justice Assistance

BJS – Bureau of Justice Statistics

BOP – Bureau of Prisons

CDC – Centers for Disease Control and Prevention

CJIS – Criminal Justice Information Services

CODIS – Combined DNA Index System

CPS – Child Protective Services

DA – District Attorney

DAPL – Dakota Access Pipeline

DB – Dead body

DOI – U.S. Department of the Interior

DOJ – U.S. Department of Justice

DPS – Department of Public Safety

DV – Domestic violence

EOUSA – Executive Office for United States Attorneys

FB – Facebook

FEMA – Federal Emergency Management Agency

FLETC – Federal Law Enforcement Training Center

GPR – Ground penetrating radar

HHS – U.S. Department of Health and Human Services

HT – Human trafficking

HUD – U.S. Department of Housing and Urban Development

ICW – Indian Child Welfare (often used as a generic term for the child protection unit in a Tribe)

ICWA – Indian Child Welfare Act

IHS – Indian Health Service  
IPA – Indian Police Academy  
LE – Law enforcement  
LEA – Law enforcement agency  
LEO – Law enforcement officer  
MCA – Major Crimes Act  
MDT – multi-disciplinary team  
ME – medical examiner  
MMIW – Missing & Murdered Indigenous Women  
MMIWR – Missing & Murdered Indigenous Women & Relatives  
MMIP – Missing & Murdered Indigenous Persons  
MMIP and HT – Missing & Murdered and Trafficked Indigenous People  
MMU – Murdered & Missing Unit (within BIA)  
NAGPRA – Native American Graves Protection and Repatriation Act  
NamUs – National Missing & Unidentified Persons System  
NBS – National Baseline Study (National Institute of Justice)  
NCAI – National Congress of American Indians  
NCIC – National Crime Information Center  
NCMEC – National Center for Missing and Exploited Children  
NCVS – National Crime Victimization Survey (Bureau of Justice Statistics)  
NIA – Not Invisible Act  
NIAC – Not Invisible Act Commission  
NIBRS – National Incident-based Reporting System  
NIJ – National Institute of Justice  
NISVS – National Intimate Partner and Sexual Violence Survey (Centers for Disease Control and Prevention)  
NIWRC – National Indigenous Women’s Resource Center  
OLJ – Operation Lady Justice  
OMB – Office on Management and Budget

OPM – Office of Personnel Management

OTJ – Office of Tribal Justice

OVC – Office for Victims of Crime

OVW – Office on Violence against Women

PD – Police department

PHI – Protected health information

POC – Point of contact

PTSD – Post traumatic stress disorder

SAUSA – Special Assistant United States Attorney (usually a tribal prosecutor who is specially assigned to that U.S. Attorney’s office to assist with Indian country cases)

SANE – Sexual Assault Nurse Examiner

SCA – Stored Communications Act

SLEC – Special Law Enforcement Commission

SME – Subject matter expert

SMART - Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

SORNA – Sex Offender Registration and Notification Act

TAP – Tribal Access Program (allows participating Tribes access to NCIC)

TBIC – Tribal Interior Budget Council

TLOA – Tribal Law and Order Act

UNTCHI – University of North Texas Center for Human Identification

USA – United States Attorney

VA – U.S. Department of Veterans Affairs

VAWA – Violence Against Women Act

VOCA – Victims of Crime Act

WHCNAA – White House Council on Native American Affairs

### **Appendix 5 – List of Full Commission and Subcommittee Meetings**

The full NIA Commission and its respective subcommittees met routinely throughout the time of this Commission. The amount and dates of the meetings can be seen below.

The Full Commission met for a total of 8 times across the following dates:

- June 14-15, 2022
- July 21-22, 2022
- September 6, 2022
- January 26, 2023
- February 27-28, 2023
- May 24, 2023
- August 16-17, 2023
- September 19-21, 2023

Subcommittee One met 16 (Sixteen) times across the following dates:

- July 7, 2022
- August 16, 2022
- September 19, 2022
- October 3, 2022
- January 23, 2023
- February 8, 2023
- March 1, 2023
- May 3, 2023
- May 25, 2023
- June 14, 2023
- July 5, 2023
- July 19, 2023
- August 9, 2023
- August 23, 2023
- September 6, 2023
- September 27, 2023

Subcommittee Two met 20 (Twenty) times across the following dates:

- July 14, 2022
- August 23, 2022
- September 8, 2022
- October 6, 2022
- January 12, 2023
- January 26, 2023
- February 9, 2023
- February 23, 2023
- March 9, 2023

- March 23, 2023
- April 6, 2023
- April 20, 2023
- May 4, 2023
- May 18, 2023
- June 1, 2023
- July 13, 2023
- August 10, 2023
- August 24, 2023
- September 7, 2023
- September 12, 2023

Subcommittee Three met 18 (Eighteen) times across the following dates:

- July 14, 2022
- August 17, 2022
- September 1, 2022
- September 21, 2022
- January 11, 2023
- February 1, 2023
- February 22, 2023
- March 15, 2023
- April 5, 2023
- April 26, 2023
- May 17, 2023
- May 25, 2023
- July 12, 2023
- July 26, 2023
- August 16, 2023
- August 30, 2023
- September 13, 2023
- September 28, 2023

Subcommittee Four met 25 (Twenty-Five) times across the following dates:

- July 12, 2022
- August 16, 2022
- August 30, 2022
- September 13, 2022
- September 27, 2022
- October 11, 2022
- January 17, 2023
- January 31, 2023
- February 14, 2023

- February 21, 2023
- March 14, 2023
- March 28, 2023
- March 30, 2023
- April 11, 2023
- May 23, 2023
- July 11, 2023
- July 18, 2023
- August 8, 2023
- August 15, 2023
- August 29, 2023
- September 6, 2023
- September 12, 2023
- September 26, 2023
- September 28, 2023

Subcommittee Five met 20 (Twenty) times across the following dates:

- July 14, 2022
- August 29, 2022
- September 12, 2022
- September 26, 2022
- January 20, 2023
- January 30, 2023
- February 13, 2023
- March 13, 2023
- March 27, 2023
- April 10, 2023
- May 22, 2023
- June 5, 2023
- June 19, 2023
- July 10, 2023
- July 17, 2023
- July 31, 2023
- August 14, 2023
- August 28, 2023
- September 7, 2023
- September 25, 2023

Subcommittee Six met 20 (Twenty) times across the following dates:

- July 11, 2022
- August 24, 2022
- September 13, 2022

- October 4, 2022
- January 18, 2023
- February 7, 2023
- March 9, 2023
- April 4, 2023
- April 20, 2023
- May 4, 2023
- May 23, 2023
- June 13, 2023
- July 11, 2023
- August 1, 2023
- August 8, 2023
- August 22, 2023
- August 29, 2023
- September 5, 2023
- September 12, 2023
- September 26, 2023

## Appendix 6 – State and MMIP Task Force Recommendations Summary

### COLORADO

#### SB22-150 – Missing And Murdered Indigenous Relatives

##### Bill Summary

The Act requires the Department of Public Safety (Department) to **improve the investigation** of missing and murdered Indigenous relative cases and **address injustice in the criminal justice system's response** to the cases of missing and murdered Indigenous relative cases.

The Act **lists specific duties for the Department**, including:

- Assisting with missing Indigenous persons investigations and homicide cases involving indigenous victims
- Coordinating with federal, state, and local law enforcement agencies and with other states regarding missing or murdered Indigenous persons cases
- Developing and facilitating training related to missing and murdered Indigenous persons issues; and providing assistance to families of victims.

The Executive Director of the Department (Executive Director) may assign the duties to the Department's divisions and offices, including the Office of Liaison for Missing and Murdered Indigenous Relatives created in the act. **The Department must publish on a public website information regarding missing and murdered Indigenous persons.**

The Act **creates the Office of Liaison for Missing and Murdered Indigenous Relatives** (Office) in the Department to serve as a liaison on behalf of the Indigenous community on issues related to missing or murdered indigenous relatives and carry out duties assigned by the Executive Director. In carrying out its duties, the office is required to collaborate with the Colorado Commission of Indian Affairs; federally recognized tribes; state, local, and tribal law enforcement agencies; and Indigenous-led organizations. A community volunteer advisory board (board) is established in the office to identify and advise the office on areas of concern regarding missing or murdered indigenous relatives and issues of collaborative efforts related to missing or murdered indigenous relatives. The Executive Director of the Department appoints members to the board.

The Act **requires peace officers to receive training concerning issues relating to missing or murdered indigenous persons.** The peace officer standards and training board must work with the office to develop and facilitate the training.

The Act **requires the Colorado Bureau of Investigation (Bureau) to work with the office and federal, state, tribal, and local law enforcement agencies for the efficient investigation of missing or murdered indigenous persons.** The Bureau must operate a clearinghouse database on missing Indigenous persons from Colorado and prepare an annual report on information about missing or murdered Indigenous persons. The Bureau is required to operate a missing

Indigenous person alert program.

The Act requires a law enforcement agency that receives a report of a missing indigenous person **to notify the Bureau within 8 hours of a report of a missing adult or within 2 hours of a report of a missing child.**

The Act **appropriates \$497,250 to the Department of Public Safety** to implement the act, of which \$15,982 is reappropriated to the Department of personnel to provide fleet vehicles for the Department of Public Safety.

## **HAWAI'I**

### **Missing and Murdered Native Hawaiian Women and Girls Report (December 2022)**

#### **Preliminary Findings**

##### **Barriers**

Kānaka Maoli have been left out of dominant discourse and federal resource allocation to address violence against Indigenous communities in the U.S. The highly marginalized nature of Kānaka Maoli within the already sparse data on MMIWG contributes to public and legislative sentiment that Missing and Murdered Native Hawaiian Women and Girls (MMNHWG) is not a problem.

There is no uniform and streamlined way that data is collected on Kānaka Maoli by various agencies across Hawai'i. Governmental agencies and nonprofit organizations that work closely with lived experience survivors of NHWG violence either do not collect data that is disaggregated by race or collect data in a way that is not easily extractable for use in research. Using an intersectional approach to inquiry, sex/gender data is also either not collected or is not disaggregated by race. For instance, many governmental agencies collect sex data using the categories of male, female and Native Hawaiian, but do not specifically collect data on Kānaka Maoli females.

The lack of disaggregated data is further complicated by the inconsistencies in racial definitions when race data is collected. There are four main counties in Hawai'i: Kaua'i, Maui, Honolulu, and Hawai'i. The police departments in each county are responsible for responding to crimes and recording data for their entire jurisdiction using their own methods. Therefore, data are handled differently by county. All police department representatives stated that a barrier to understanding the problem of MMNHWG is because the data is only as good as what is reported at the time of the incident. Often this means that race data are not collected at all.

A common barrier to deeply understanding NHWG violence is that Kānaka Maoli are often misclassified as belonging to other racial categories. In the high-profile case of missing six-year-old Isabella Kalua, mainstream news outlets failed to identify her as Kanaka Maoli. Isabella Kalua was reported as Caucasian.

Because of the siloed nature of response to community concerns in Hawai'i by island and by governmental department, data sharing between islands and agencies to holistically understand the problem of MMNHWG and collaboratively enact solutions is not streamlined in a way that makes data requests timely and feasible for community awareness and research.

In addition to inconsistent and absent data collection processes, sexual and physical violence are highly underreported crimes because of fear of retribution and the shame associated with victim-blaming.

## MINNESOTA

### MMIW Task Force Report (December 2021)

#### A Call to Action: Mandates from the MMIW Task Force

*The Minnesota Legislature included five requirements for the MMIW Task Force. The calls to action and mandates included in this final section of the report respond directly to each of these five requirements. Some of the mandates will require action by the Minnesota Legislature. Other mandates do not necessitate policy changes, but may require changes in policies or practices at state or local agencies. Some of these mandates may require additional advocacy efforts, and most will require additional funding and development before they can be implemented. Finally, the MMIW Task Force completed tribal consultations and we have some suggestions from and for tribal nations in Minnesota to consider.*

**Requirement #1: Examine systemic causes behind violence that Indigenous women and girls experience, including patterns and underlying factors that explain why disproportionately high levels of violence occur against Indigenous women and girls, including underlying historical, social, economic, institutional, and cultural factors which may contribute to the violence.**

**Mandate 1: With tribal consultation, create an MMIW Office to provide or support the following activities:**

- Hold the MN Legislature and state agencies accountable for implementing the mandates in this report, and develop additional recommendations to address the MMIW injustice.
- Facilitate further research to refine the mandates in this report and to assess the potential efficacy, feasibility, and impact of all recommendations.
- Develop tools and processes to evaluate the implementation and impact of MMIW-related efforts.
- Facilitate technical assistance for local and tribal law enforcement agencies during active MMIW cases.
- Conduct and report on the results of case reviews for the following types of MMIW cases: cold cases for missing Indigenous people; death investigation review for cases of Indigenous people ruled as suicide or overdose under suspicious circumstances; and prosecution and sentencing review for cases where a perpetrator committed a violent and/or exploitative crime against an Indigenous woman, girl, or two spirit person and/or when the perpetrator is a repeat offender.
- Ensure legislation includes the necessary provisions to create access to the data needed to conduct these reviews.
- Review sentencing guidelines for MMIW-related crimes, recommend changes if needed, and ensure consistent implementation of the guidelines across Minnesota courts.
- Coordinate these efforts with:
  - The stakeholder groups that were represented on the Task Force and/or state agencies that are responsible for the systems involved in the MMIW injustice,

including: Minnesota Chiefs of Police Association; Minnesota Sheriffs' Association; Bureau of Criminal Apprehension; Minnesota Police and Peace Officers Association; tribal law enforcement; Minnesota County Attorneys Association; United States Attorney's Office; juvenile courts; Minnesota Coroners' & Medical Examiners' Association; United States Coast Guard; Minnesota state agencies such as Health, Human Services, Education, Corrections, and Public Safety; Minnesota Indian Affairs Council; service providers who offer legal services, advocacy, and other services to Indigenous women and girls; the Minnesota Indian Women's Sexual Assault Coalition; Mending the Sacred Hoop; Indian health organizations; and Indigenous women and girls who are survivors.

- The 11 tribal nations that share geography with Minnesota.
- Organizations and leadership from urban and statewide American Indian communities.
- Work with relevant DPS divisions to maintain communication and coordinate, as relevant, with the Bureau of Indian Affairs' Cold Case Office through Operation Lady Justice and other federal efforts, as well as efforts in neighboring states and Canada. This recommendation pertains to state efforts; tribes are sovereign nations that have the right to determine if and how they will coordinate with these other efforts.

**Mandate 2: Ensure adequate funding and resources are made available to implement these recommendations.**

**Mandate 3: Address systemic racism in all systems that interact with Indigenous women and girls (education, health care, housing, child welfare, law enforcement, criminal justice, etc.) by hiring more Indigenous staff, by providing training and education to reduce bias among professionals working in these systems, and by demanding accountability to eliminating bias.**

- Create **employment pipelines for Indigenous people** to enter careers within the systems of education, health care, housing support, child welfare, law enforcement, and criminal justice.
- **Provide training** for law enforcement officers and leaders of local and state agencies **about tribal sovereignty and laws** that pertain to Indian country and American Indian people, jurisdictional issues, the MMIW injustice, and related policies.
  - Coordinate with the **Minnesota County Attorneys Association** and other organizations to make MMIW a required topic of coordinated training for prosecutors and judges.
  - Amend **Minnesota Statute 595.02** to include MMIW as a related topic in the 40 hours of required training for sexual assault advocates. Ensure that community-based organizations are involved in providing the training.
  - Coordinate with the Minnesota Legislature and the Peace Officer Standards and Training (POST) Board to **change law enforcement officer licensing requirements to include training on MMIW.**
  - Coordinate with law enforcement programs in colleges and universities in Minnesota to **add MMIW to curriculum.**

**Mandate 4: Focus on eliminating poverty and meeting basic needs of Indigenous women, girls, and two spirit people, and their communities, both in greater Minnesota and urban areas.**

- More **affordable housing**.
- More employment opportunities that pay a **living wage**.
- More **job training**.
- More **supportive, culturally specific housing** for people who are at risk of or are exiting domestic violence or trafficking.
- More resources for **culturally specific, trauma-informed residential treatment programs** for addiction and mental health care.
- **Make funding in these areas more flexible**, i.e., not tied to specific programming, but can be used for infrastructure and operation costs.

**Requirement #2: Examine appropriate methods for tracking and collecting data on violence against Indigenous women and girls, including data on missing and murdered Indigenous women and girls.**

**Mandate 5: The MMIW Office or another entity should produce an annual MMIW report and dashboard that will pull in data from state data systems to provide an overview of the MMIW injustice, to track how the issue changes over time, and to see how the MMIW statistics change relative to various programs, initiatives, and systemic changes.**

**Mandate 6: Ensure state and federal technical assistance and support is provided so tribes have access to and can fully participate in all relevant data systems.**

- Tribal law enforcement and local law enforcement should have the **same access to information about Orders for Protection** (whether issued by the tribe or county). These OFPs should be **enforced consistently** by all law enforcement agencies, regardless of if a tribal or state court issued it.
- All data that tribes are being asked to share with state or federal agencies regarding the MMIW injustice need to be **reciprocally shared, streamlined, and timely**. State and local agencies must respect the sovereignty of tribes, including data sovereignty.
- Find ways to **address the challenges created by the MN Data Privacy Act** in relation to local and tribal law enforcement agencies sharing data to effectively investigate MMIW cases; ensure that tribal data sovereignty is accounted for in any policy decisions or changes.
- Support tribes and the respective counties and municipalities they share geography with to **ensure all law enforcement officers working in an area have access to relevant data systems** and information for that area.

**Requirement #3: Report on policies and institutions such as policing, child welfare, coroner practices, and other governmental practices that impact violence against Indigenous women**

and girls and the investigation and prosecution of crimes of gender violence against Indigenous people.

**Mandate 7: Support tribes to exercise their sovereignty and increase their jurisdictional authority to investigate, prosecute, and sentence perpetrators of violence against Indigenous women and girls.**

- Turn **Executive Order 19-24** into law.
- Specify that the Minnesota Joint Exercise of Powers extends to MMIW investigations and add clarification and guidance regarding **Minnesota Statutes 626.90-626.94** for responding to and investigating MMIW cases.
- **Consult with each tribe individually to determine whether joint powers agreements are still serving tribes' needs.** Work to strengthen agreements where they are still desired by tribes and counties and dismantle the agreements where they are not.
- **Support tribes to develop and implement AMBER Alert programs,** using available TA resources from the Tribal National Criminal Justice Center.
- **Support tribes to strengthen their justice systems** and their authority to prosecute MMIW cases using enhanced sentencing jurisdiction under the Tribal Law and Order Act and special domestic violence jurisdiction via the Violence Against Women Act.
- Consider **opportunities for cooperative agreements** to share prosecutors between a tribe and county, or with the federal government (depending on the tribe and jurisdiction).
- The **Minnesota Department of Corrections** has a policy and practices in place to ensure that tribes are being notified when a sex offender or violent offender is being released back into their community or a nearby community. Continue to provide these notifications to tribal police chiefs, sheriffs, and municipal police chiefs and support these agencies to **notify the relevant tribal government leaders who will then ensure that the appropriate local domestic violence and/or sexual assault programs are notified.** Ensure that local law enforcement agencies cooperate with tribes that do not have their own law enforcement agencies to notify the appropriate tribal authorities.

**Mandate 8: Coordinate with legislators, tribes, and the National Congress of American Indians to advocate for the U.S. Congress to sign the 2020 Violence Against Women Act (VAWA) and to strengthen tribes' use of VAWA funds.**

- Make **training on how to expand VAWA jurisdiction** accessible to all tribes who are interested.
- It is currently a requirement that DPS Office of Justice Programs meet with all tribes every four years to discuss how VAWA funds can be used to strengthen criminal justice efforts to address the MMIW injustice; **this should occur more frequently, every two years.**

**Mandate 9: Extend Safe Harbor law to all trafficking victims (not just youth 24 and younger)**

- **Ensure the necessary resources are made available to provide services to these victims.**

- Add **regional Indigenous-specific Safe Harbor Navigators** to existing Safe Harbor Navigator model.

**Mandate 10: Increase personnel and state resources dedicated to addressing the MMIW injustice**

- Increase the 0.5 FTE American Indian Human Trafficking Child Welfare Liaison position within the Minnesota Department of Human Services to 1.0 FTE.
- **Amend Minnesota Statutes 275.0755-275.0769** and provide adequate funding to expand the capacity/staffing of the Ombudsperson for American Indian Families and reduce restrictions on funds so the person in this position can meet with communities on MMIW-related issues.
  - Allow this position to be able to accept grants, gifts, and donations to provide increased resources for this work beyond what the Minnesota Legislature has allocated.
  - Collaborate and work closely with local and state governments, tribes, the American Indian community, agencies, counties, community organizations, courts, schools, and other organizations to develop policies, rules, and laws that impact violence against American Indians, such as policing, coroner practices, mortuaries and funeral homes, child welfare policies and practices, and other governmental practices to improve outcomes for American Indian families.
- **Provide community outreach, resources, information, and education to American Indian families who have missing family members** and, when necessary, assist in investigations for non-compliance of the law. If non-compliance is found, recommend prosecution to appropriate state and county authorities to ensure prosecution.

**Mandate 11: Provide more training and resources to professionals, especially in Indian country and greater Minnesota, to conduct effective investigations of MMIW-related cases and to ensure all current guidelines and best-practice recommendations are being followed consistently.**

- Improve coordination and collaboration between tribal and state law enforcement agencies and courts. (This may partly be accomplished through the creation of the MMIW Office, recommended above.)
- Provide more training to law enforcement officers, especially those working in and around Indian country and on MMIW-related cases, on conducting missing persons investigations.
  - Provide training to all law enforcement agencies in the state in the use of Forensic Experiential Trauma Interviewing (FETI), provide technical assistance or regional coordination, or otherwise increase capabilities for all tribal and local law enforcement agencies to conduct effective forensic interviews.
  - Facilitate multidisciplinary partnerships between law enforcement agencies and advocates in community organizations so that advocates can conduct forensic interviews with victims (instead of law enforcement) as part of the investigation.
- Strengthen education and awareness of who is the responsible authority for the

investigation when a missing person crosses jurisdictions, and create a mechanism to resolve any jurisdictional disputes.

- Develop strong partnerships between the BCA Clearinghouse and tribes; the BCA should play a stronger role in working with tribes, including educating tribes on what to do when someone goes missing, verifying if missing reports are on file, helping resolve jurisdictional disputes, and conducting DNA collection events in tribal communities for families of missing persons, as well as conducting investigations in all reported missing person cases.
  - Create partnerships to provide training and technical assistance to law enforcement agencies, advocates, and communities about laws surrounding MMIW investigations.
- Create a Tribal Community Category for the Crime Alert Network to improve inter-tribal communication when an Indigenous person is missing.
  - Ensure all tribes have access to state and federal databases as appropriate to assist with missing persons cases.
  - Require a point-of-contact (POC) in every law enforcement agency in Minnesota for MMIW investigations (much like tribal liaison POCs) who has training on MMIW issues and is prepared to work effectively in a tribal context.
  - Create and provide guidance to all law enforcement agencies with a standardized statewide missing adults protocol.
    - This protocol should include clear guidance around how family members are kept informed and involved during the investigation process; this requires a trauma-informed approach and understanding of how Indigenous communities have been harmed or not served well by investigations historically.
    - Section 144.05, subdivision 4 should be implemented -- the Department of Health should create and maintain a website with information about unidentified deceased persons that may aid in identifying these individuals and for purposes of notifying relatives who may be seeking these individuals. The information will remain on the website continuously until the person's identity is determined.
  - Increase funding under Minnesota Statute 299A.71 to further support the capacity of local law enforcement to conduct sex trafficking investigations.

**Mandate 12: Ensure that all MMIW-related deaths receive an autopsy and are investigated by a coroner or medical examiner.**

- Develop a mechanism to obtain a second review of a coroner's/medical examiner's ruling of a death as suicide or overdose, especially when an autopsy has not been completed.
- The MMIW Office should determine who conducts this second review with particular attention to how the victim's family members and other community advocates can be involved.
- Create a mandatory protocol to document if and why an agency declines to investigate or prosecute an MMIW-related case (a case involving an Indigenous woman, girl, or two spirit person that involves violence, exploitation, and/or kidnapping).

- Provide training in protocol use.
- Review aggregate data from the protocol periodically to assess for systematic bias and compliance issues.
- Develop a publicly accessible website that disaggregates declinations by district and victim race/ethnicity.
- Change Minnesota Statute 390.005 so that the death investigation system in Minnesota has a licensed medical examiner conducting death investigations in each county.
- Modify Minnesota Statute 390.11 to ensure the four-day burial custom of some Indigenous cultures in Minnesota is honored in the process of conducting a thorough death investigation.

**Mandate 13: Strengthen the trauma-informed and victim-centered response of law enforcement, courts, and the health care system to Indigenous survivors of sexual assault, trafficking, and violence.**

- Expand access to Sexual Assault Nurse Examiner (SANE)/forensic exams in tribal and rural areas; consider more regional partnerships across health systems and with tribes to expand access to nurses with this training and expertise.
- Provide training to law enforcement and emergency room staff about providing trauma-informed care for Indigenous women and girls who have experienced violence and sexual assault, including working with victims of trafficking and those who are being exploited by their own relatives or caregivers.
- Create policies and guidance so people who report being sexually assaulted, trafficked, or a victim of intimate partner violence will not be arrested or charged with a crime due to outstanding warrants.
- More coordinated efforts to support victims and relatives through the prosecution process; increase access to victim services providers.

**Mandate 14: Address the harm that the child welfare system has done to Indigenous families and communities by making the following reforms and providing guidance and training to staff of local and tribal child welfare agencies accordingly.**

- Ensure consistent implementation of the Indian Child Welfare Act (ICWA).
- Use a harm reduction and trauma-informed approach; acknowledge and be responsive to the harm this system has caused Indigenous families over multiple generations.
- As the Family First Prevention Services Act is implemented in Minnesota, ensure Indigenous communities are considered in shifting child welfare funds to providing material support to women to meet their family's basic needs.
- Respect and honor Indigenous parenting practices, values, and needs in agency policies and practices; provide training to child welfare workers that reflects Indigenous parenting practices and family structures.
- Integrate intergenerational cultural healing; work with the entire family.
- Provide better protection for women who come forward with domestic violence and/or substance use/addiction issues, so their children are not removed from their custody.
- Expand options for women in substance use disorder treatment to keep their children

with them.

- Increase the number of Indigenous foster care providers.
- Consider and expand full family foster care models for Indigenous families.

**Requirement #4: Report on measures necessary to address and reduce violence against Indigenous women and girls.**

**Mandate 15: Provide education on healthy relationships and consent to all students in Minnesota's K-12 schools and tribal schools. The curriculum should be age appropriate, culturally responsive, trauma-informed, and include topics such as inappropriate sexual contact, intimate partner violence, and trafficking and sexual exploitation.**

- Facilitate collaborations between law enforcement and Indigenous community organizations to create safety guidelines and educate youth on social media and apps that sex traffickers use, how sex traffickers groom victims, ways in which traffickers exploit and control their victims, etc.
- Advocate for the Minnesota Legislature to approve HF 2768 to
- Identify and disseminate existing curriculum or develop new curriculum that is culturally responsive to American Indian culture.

**Mandate 16: Draw on existing Indigenous community organizations to increase awareness of MMIW issues and specific MMIW cases among the general public.**

- Increase funding for community organizations to provide multidisciplinary (e.g., legal, technical) MMIW training for educators, school social workers, emergency room staff and first responders, etc.
- Create public awareness campaigns specifically about sex trafficking and Indigenous women:
  - Recruit and fund local Indigenous artists and media specialists to create these campaigns specific to Minnesota.
  - Encourage the Governor of Minnesota to make a proclamation for a MMIW day.
- Increased funding to organizations that include voices of survivors.
- Create standard protocols for how the media covers MMIW cases (e.g., not using old mug shots of the missing person or referencing any criminal background, highlighting and centering the victim's life, consistently sharing info such as crisis hotlines)
- Increase resources to Indigenous community organizations and Indigenous news media in Minnesota to create and disseminate these standard protocols.
- Statutes 2017 Supplement, section 120B.021, subdivision 1, which would require child sexual abuse prevention instruction in health classes modify Minnesota trafficking prevention.

**Mandate 17: Prevent and reduce the harms of trafficking, sexual exploitation, and normalized violence for Indigenous women and girls who are involved in the child welfare system and/or the criminal justice system.**

- Provide additional training and resources about trafficking and sexual exploitation to Indigenous women and girls who are incarcerated or involved in the child welfare system

since they are at most risk of becoming MMIW. Information should include the definition of trafficking, what to do if it happens to them, resources available to help trafficking victims, etc.

- Increase funding for Indigenous community organizations to provide these trainings.
- Provide training and guidance to the professionals who work with Indigenous women and girls involved in these systems, including guidance from DHS about youth in out-of-home placement who run away, and ensure the guidance is implemented consistently.
- Create and implement a mandatory, culturally responsive, and valid tool to complete a forensic interview and immediately connect the victim to services that counties and tribal law enforcement agencies can use every time there is a mandated report about abuse of an Indigenous child.
- Provide additional support to foster parents and caregivers who are caring for Indigenous youth who are at-risk of or involved in trafficking.
- Pass a law to create a new non-caregiver sex trafficking assessment for child protection, which would provide a path for juvenile victims of sex trafficking to access services without fear of being prosecuted or being removed from their family. Instead of the typical child welfare investigation process, this assessment should help determine which services to provide to the child and their family. The tribe should be notified in cases where the child is a tribal member. Child welfare workers should be required to participate in training about sex trafficking and exploitation. These services should be culturally specific.
- Review statutory language related to domestic violence and trafficking crimes to determine if additional legislation is needed. Further research is needed to assess how plea bargains are used, especially in and around Indian country, whether plea bargaining is exacerbating the MMIW injustice by leading to repeat offenses, and if limitations are needed on plea bargains. Tribes need to be able to access information about the sentencing of their tribal members and perpetrators of their tribal members. The Task Force also wants consideration given to the overrepresentation of Indigenous people and other communities of color in the criminal justice system when sentencing guidelines are created and revised.

**Mandate 18: Require sex trafficking awareness training and targeted prevention to Indian country, areas where extractive industries such as oil and mining camps are located, and casinos and hotels; partner with and hold companies accountable.**

- Build on work of existing task forces and workgroups to develop these trainings and policies.
- State agencies (e.g., Minnesota Pollution Control Agency, Public Utilities Commission) that oversee extractive industry work should clarify and implement changes to the process, including:
  - All entities involved in the negotiations of impact-benefit agreements related to resource extraction and development projects must include provisions that address the impacts of projects on the safety and security of Indigenous women and girls, as well as provisions that ensure Indigenous communities equitably benefit from the projects through employment opportunities and the financial

- benefits of a new industry to a community.
- Social infrastructure must be expanded and service capacity built to meet the anticipated needs of the host communities in advance of the start of extractive projects or new extractive facilities or sites; this includes, but is not limited to, ensuring that policing, social services, and health services are adequately staffed and resourced.
- Require criminal background checks for workers in extractive industry camps and housing, and ban those with a criminal background involving violent crimes or exploitation of women or children from working at these sites.
- Require that industry has a plan to train all workers on trafficking before permits are granted to any extractive industry project.
- Collaborate with tribes that have these programs in place to expand training to non-tribal hotels (hospitality business in general) and use existing training materials as a resource for other tribes. Provide support for these efforts.

**Requirement #5: Examine measures to help victims, victims’ families, and victims’ communities prevent and heal from violence that occurs against Indigenous women and girls.**

**Mandate 19: Ensure that any initiatives, programs, and decisions related to the MMIW injustice are informed by Indigenous women and girls, especially those who have lived experiences with violence and exploitation.**

- Create more opportunities and hire more Indigenous people into law enforcement, health care, child welfare, education, and other fields that interact with MMIW.
  - Pass the legislation introduced in the previous two legislative sessions as the Increase Teachers of Color Act.
  - MMIW Office should review minimum law enforcement requirements to see where changes can be made to recruit more Indigenous people into law enforcement.
- Provide more training and create more positions for Multidisciplinary Action Teams; create more positions for advocates who are Indigenous and/or trained in Indigenous domestic violence and sex trafficking and Indigenous healing practices; these positions should be embedded within victim services in law enforcement and court response.

**Mandate 20: Promote healing of perpetrators, survivors, relatives, and communities by supporting culturally responsive, community-led efforts.**

- Services for survivors of trafficking should be person-centered, holistic, and address basic needs such as housing and health care, as well as issues such as trauma, self-esteem and self-care, physical and mental health and well-being, cultural connections and community engagement, education and employment, etc.
- Address statute and department policies, as needed, to increase providers’ ability to be reimbursed for culturally responsive treatment and healing services. Modify grant guidelines and billable service codes to allow tribes and Indigenous programs more flexibility.
- Once guidelines are modified, ensure that funding for healing ceremonies as

reimbursable under DPS's crime victim services funding is advertised in a way that is less culturally biased (e.g., adding information to DPS's website on how these funds can be used in Indigenous healing ceremonies) and directed to Indigenous victims.

- Increase awareness of and access to resources available through the Minnesota Crime Victims Reparations Act (Minnesota Statutes 611A.51-611A.68) for Indigenous culturally specific healing services; these services are eligible for reimbursement, but victims may not be aware of that. Clarify that the law allows for victims of sex trafficking and prostitution to be eligible for reparations, regardless of their criminal status, and so the amount they are eligible for is not reduced due to them being involved in another crime or being criminally negligent at the same incident where they were victimized. (The law is already clear that a victim of sex trafficking is not committing a crime purely by being involved in an act of prostitution.)
- Increase resources to Indigenous-led community organizations with funds specifically earmarked for improving and increasing services for two spirit and LGBTQ+ survivors.
- Implement community safety models that reduce crime:
  - Fund and support holistic wraparound models of case planning for justice involved women and girls.
  - Create diversion programs and restorative practices for Indigenous women and girls who have been arrested for involvement in or charged with prostitution or have been victims of sex trafficking.

## **MONTANA**

### **MMIP Task Force<sup>79</sup>**

#### **Objectives**

- Reduce Indigenous missing persons in Montana
- Improve collaboration
- Identify families' needs
- Create a reporting system
- Track data on Montana missing indigenous persons
- Create a network of communication among tribal communities

#### **Goals**

##### **Establish a task force to break down jurisdictional barriers**

1. Primary duties: Identify jurisdictional barriers between federal, state, local, and tribal law enforcement and community agencies
2. Work to identify strategies to improve interagency communication, cooperation, and collaboration to remove jurisdictional barriers and increase reporting and investigation of missing Indigenous persons.

**Portal for resources and reporting in Montana:** <https://www.mmipmt.com>

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<sup>79</sup> <https://dojmt.gov/mmip-home/#>

## **NEW MEXICO**

### **MMIP Task Force Report (December 2020)**

#### **Recommendations**

*The following recommendations were created by the New Mexico MMIWR Task Force based on information and testimony gathered at public task force meetings. In addition to quantitative data gathered, the task force staff tracked qualitative data during meetings with stakeholders, families and others about the MMIWR crisis in New Mexico.*

#### **Data Must be Reported and Documented Accurately**

- Support increased data-gathering capacity across law enforcement agencies (LEAs) to increase accountability and ability to understand frequency, type and location of crimes. In order to support changes to data gathering, policies and legislation need to be created or adjusted to include more information.
- Establish a data institute to track and study cases of Missing and Murdered Indigenous Women, Girls, Trans/2S+ and LGBTQ community members that also documents tribal-specific data.
- Tribal governments need to pass laws and policies that require reporting of all missing persons cases to the State Missing Persons Clearinghouse.
- The state needs to consistently report missing persons cases to NamUs as required by House Bill 16 (2019).
- Enact federal legislation requiring NCIC to track tribal affiliation and ethnicity data in the missing persons reporting forms.
- Include tribal affiliation when documenting missing persons, trafficking, and cases of homicide to improve data gathering and policy development.
- Initiate in-depth data collection by examining case files to help document gaps in the investigation and prosecution processes. The task force has identified the individual cases that it recommends for review.

#### **Support Services for Survivors and Families**

- Establish secure and confidential shelters within tribal communities and border towns for individuals, families and youth in crisis.
- Expand support services to include housing support, mental health, substance abuse and trafficking aftercare (e.g., The Life Link in Santa Fe).
- Provide more victim-centered resources and availability of victim advocates and/or a family liaison.
- Increase state and local funding to provide resources and programs that can support survivors and families.
- Inclusive service programs need to include community members from youth, LGBTQ Trans/2S and rural locations.
- Strengthen services provided for long-and short- term housing to improve crisis response and increase access to mental health and substance abuse treatment.

### **Support Tribal Justice Systems with Resources**

- Address the extreme underfunding of tribal justice systems and related infrastructure that is needed to adequately respond to crime in Indian County. Doing so means TLOA and VAWA can be fully enacted.
- Support actions to increase funding for tribal courts (safety, equipment, and technology) and expand resources to strengthen tribal courts and laws.
- Tribal governments need to pass laws and policies that prohibit human trafficking on tribal land.
- Advocate for additional New Mexico grant opportunities that fund additional Special Assistant United States Attorney (SAUSA) positions in tribal courts.
- Improve coordination and collaboration between tribal, state, city, county and federal agencies  
by establishing liaison positions, meeting regularly to address challenges, and developing agreements to streamline processes.

### **Education and Outreach, and Other Preventative Measures Are Needed**

- Invest money for scholarship opportunities to increase student and Native youth participation in criminal justice and rehabilitation programs to ensure that tribes and the state build expertise and expand the future workforce.
- Expand youth programs and community education to raise awareness and prevention of sexual violence and domestic violence.
- Raise awareness of MMIWR with informational materials and media campaigns that will be posted in public places and businesses.
- Secure updated equipment and implement training for investigations and crime scene documentation.
- Request training for agencies from the New Mexico MMIWR task force and from the human trafficking task force.
- Develop education, outreach and training for community members and law enforcement to identify signs of human trafficking and domestic violence.

### **Identified Law Enforcement Recommendations**

- Create law enforcement MOUs. Develop tribal law enforcement agreements between state/ county/city agencies and tribal agencies to help fill the gap between agencies and increase communication and collaboration.
- Tribal nations should meet with the Department of Public Safety to review successful commissioning and cross-commissioning models and identify solutions to jurisdictional gaps that prevent rapid response.
- Establish a permanent MMIWR task force, including a cold case review team composed of BIA and state cold case investigators.
- Pass legislation that provides tribal law enforcement officers who meet New Mexico training standards with similar law enforcement powers of New Mexico law enforcement officers. This would eliminate the need for NMSA § 29-1- 11 because every tribal officer who graduates from the Federal Law Enforcement Training Center (FLETC) would also be recognized to have New Mexico law enforcement powers.

- Pass legislation that mandates BIA or tribal police to be included in the New Mexico Department of Homeland Security Emergency Management Fusion Center. This will provide better collaboration between state and tribal entities for murdered and missing persons investigations and will include New Mexico tribes in a comprehensive, consolidated and coordinated program of mitigating and collaborating for these types of incidents. Tribes should also have the ability to post or send info out via the New Mexico Fusion Center that will be viewed by all New Mexico law enforcement entities when needed for better response and collaboration, especially when timing is critical.
- Establish agreements with New Mexico's tribal nations to include tribal members in a registry with the state so tribal affiliation can be determined.
- Require mandatory MMIWR reporting to the state from all law enforcement agencies.
- Support all New Mexico tribes' participation in the 2013 VAWA act, which will give their law enforcement officers criminal jurisdiction over non-Indians in domestic violence cases, dating violence and criminal violations of protection orders.
- Streamline the process to commission state police officers with the Special Law Enforcement Commission (SLEC), which allows state police to act as FBI or BIA officers who can more often quickly increase manpower and response times in rural areas. The current application process is tedious and all paperwork must be sent to Washington, D.C. before the officer is approved for the commission. Even then, once the officer takes the course and passes the class, it takes several months to a year for that officer to receive his SLEC commission from Washington (BIA). The current SLEC, once issued, is also only valid for five years and there is no renewal or recertification class. The officer must complete the entire process again every five years.
- Implement an agreement between the BIA and NMDPS to provide the SLEC training to all NMSP recruits during their initial training.
- Establish a mandatory protection order sharing between tribes and New Mexico Law Enforcement officers via NCIC.

### **Develop Community Resources for Strong Responses**

- Identify trusted community members who can be trained to serve as facilitators for grief and loss support groups
- Educate youth about MMIWR, emphasizing prevention
- Develop Multi-Disciplinary Teams (MDTs) within tribal communities to spread awareness about MMIWR, focused on prevention. Educate the community about available resources, including the following partners: schools, Indian Health Services, behavioral health services and law enforcement.

### **Next Steps and Considerations for MMIW Task Force – Phase 2 Goals**

- Secure funding for MMIWR task force.
- Establish a permanent position within the state (ex: MMIWR Director/Tribal Liaison).
- Complete a MMIWR clearinghouse with task force work products.
- Enhance qualitative and quantitative data collection.

- Create a MMIWR data institute.

### **Conclusion**

- Establish a network with agencies and organizations, nationally and locally.
- Help develop and steer policy guidance.
- Conduct tribal consultation.
- Develop manual for law enforcement.
- Develop outreach and education material.
- Strengthen evaluation of crime against Indigenous Peoples in border towns.

## OREGON

### U.S. Attorney's Office District of Oregon Report (February 2021)

#### Goals

**Tribal Consultations:** The USAO plans to schedule virtual USAO Tribal Consultations with each of the federally recognized tribal governments in the District of Oregon. The USAO intends to meet with all tribal government and all tribal law enforcement entities to discuss MMIP issues and identify MMIP cases associated with each Tribe.

**Gathering of MMIP Data:** Starting in February 2021, MMIP Coordinator Wilkie Gillette plans to request data from all law enforcement offices that respond to Oregon Tribes or relevant Tribal offices that would have MMIP data. This data would include name, gender, Tribal Affiliation, missing or murdered circumstances, and case status of all cases of missing and murdered Indigenous persons. In addition, MMIP Coordinator Wilkie Gillette is also committed to continuing to identify and maintain MMIP data from all available data sources, including identifying known MMIP issues like racial misclassification (when a missing or murdered person's information in a database is listed as the wrong race), other factors contributing to under-reporting, tracking found and repeat missing persons, and including Tribes as data contributors. USAO data collection that is connected to the District of Oregon will not be excluded based on gender, last known location of the missing or murdered Indigenous person, or an Oregon Tribe's Public Law 280 status.

**Develop MMIP Tribal Community Response Plans:** The USAO plans to work with each Tribe to establish Tribal Community Response Plans (TCRP) in all tribal communities. The TCRPs would include creating four different protocols relevant to MMIP: (1) Community Outreach Protocol; (2) Law Enforcement Agency Protocol; (3) Victim Services Protocol; and (4) Public and Media Communications Protocol that can be culturally customized for each Tribe.

**Creation of a District of Oregon MMIP Working Group:** The USAO plans to invite representatives from Tribes and all relevant law enforcement to establish a District of Oregon MMIP Working Group to share information and work collaboratively to address Oregon MMIP issues.

**Increase collaboration and communicate:** The USAO plans to collaborate and communicate with all Oregon law enforcement to better track and provide assistance to all missing and murdered Indigenous cases. In addition, MMIP Coordinator Wilkie Gillette will continue to identify and communicate with District of Oregon MMIP stakeholders, including MMIP victim families and grassroots Indigenous persons and groups. The USAO is also committed to track and assist in any missing and murdered Indigenous person cases connected to the District of Oregon, including Oregon tribal members that are outside of Oregon.

**Address issues identified in OSP Report:** The USAO is committed to assisting OSP in

implementing the recommendations and overcoming the barriers identified in the OSP Report. The USAO is prepared to develop a strong partnership with Oregon Law Enforcement focused on addressing MMIP issues in the District of Oregon. The USAO is committed to assisting the OSP to address any barriers impacting MMIP cases, including addressing data and information sharing, improving communications between the different jurisdictions involved in investigations, and facilitating resource sharing.

## WASHINGTON

### MMIW Task Force Interim Report (August 2022)

*25 task force members with family members, activists, grassroots advocates, and survivors of violence against indigenous communities. First interim report was released in August 2022<sup>80</sup>.*

#### Recommendations

1. **Extend the MMIWP Task Force timeline** through June 30, 2025.
2. The Task Force data and research team will **pay special attention to the link between gender and violence**.
3. All law enforcement agencies should **expand their collaboration and coordination with federal, state, county, local, and tribal social and health services**. The Task Force shall **develop best practices** for law enforcement agencies and for social and health services to improve this collaboration and coordination.
4. Community service and resource programs should **utilize inclusive language** that reflects the experiences of MMIWP families and survivors.
5. The Legislature should **establish and fully fund a Cold Case Investigation Unit** within the Attorney General's Office with a focus on MMIWP cold cases.
6. All law enforcement agencies should identify and **implement strategies and practices to improve communication** and transparency with family members in MMIWP cases.
7. Require all law enforcement agencies to use the **National Missing and Unidentified Persons System**.
8. The Attorney General's Office shall update and **re-issue the Missing Person's Resource**.
9. Public agencies should consider adopting policies to waive or reduce fees for parks, permitting fees and other costs, and **reduce administrative burdens associated with hosting large events such as MMIWP marches, rallies, vigils and memorials**.
10. The Task Force will continue to **provide consultation to federally-recognized tribes** in support of sovereignty and self-determination.

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<sup>80</sup> <https://www.nwpb.org/2022/08/03/washingtons-mmiw-p-task-force-releases-first-report/>  
<https://www.atg.wa.gov/washington-state-missing-and-murdered-indigenous-women-and-people-task-force>

## **WISCONSIN**

### **MMIW Task Force: Women's Leadership Cohort MMIW**

*Report authored by Commissioner Kristin Welch.*

#### **Key Components of an Ecosystem of Care**

##### **Data Sovereignty – Indigenous Data Specialist to guide initial planning, collecting, and reporting of task force findings**

- The initial listening sessions could utilize real time data and survey to use community voice to drive the initiative and creation of solutions
- Collection Efforts
- Reporting to Tribal Nations and urban areas findings of the Task Force
- Use collective data to report to local and state task forces
- Use combined data to present solutions/report to tribal legislatures and task forces

##### **Ecosystem of Care Issues – Examined through MMIW Task Force Work Survivor response/preventative services- (grassroots and formal agency)**

- Safe spaces- safe homes
- Crisis response- crime victims, DV shelters, Police Dept., recovery support Grassroots efforts-mentors, elders, sweat lodge, support groups Advocacy-formal and informal
- Indigenous Wellness Groups – non-profits
- Access to original lands, foods, and languages for Indigenous Peoples Culture leaders, elders, traditional healers

##### **Policies, Institutions, Issues impacting violence against indigenous women**

- Incarcerated women-violence within system Foster care/child welfare
- Policing-funding (resourcing)
- Data tracking-storage (reporting)
- Historical violence against Indigenous women
- Social Determinants of Health-access to /barriers to care
- DV/SA services-resources/ access to/ responsiveness
- Access to legal representation
- BIA/Tribal relationship
- Local/county/state police systems and relationships- under sourced
- Court Systems
- Human Trafficking
- Resource Extraction
- Training for Tribal and non-tribal courts around trauma, jurisdiction, and mental health

##### **National Work Around MMIW**

- National listening sessions for Executive Task Force
- Planning for how our state/local task force findings will be influenced by National Efforts

How can our voice/findings be heard at national level-engaging partners  
Data/reporting/prevention

- Justice/advocacy
- Creating a model that engages local, tribal, state, national, and international MMIW Work

### **Tribal Rights to Self-Determine and Protect Indigenous Women, Water, and Mother Earth**

- Creation of tribal codes to prevent, protect, and serve survivors of violence
- Creation of Human Trafficking Tribal Codes, Services, and Preventative measures founded in culturally relevant actions
- Acknowledge and defend sacred sites, places of MMIW, and Waters
- Recognizing Rights of Nature
- Creation of legal representation codes for survivors of trafficking and gender-based crimes within reservation boundaries and unceded territories
- Creation of inter-tribal agreements to respect other nations rights to self-determine, codes, and resolutions
- Creation of codes to protect Indigenous women against non-native offenders within tribal courts
- Creation of codes to denounce resource extraction within tribal lands, due to increased acts of violence against Indigenous women and girls in these areas
- Support of Indigenous led grassroots efforts in the prevention, healing from, data collection, and research around issues of MMIW
- Creation of codes, services, and procedures for reducing, eliminating, and healing of trauma survivors of violence experience within the system, that can be founded in culture and utilizes land-based places of healing
- Support of Tribal Nations in state, national, and international efforts to effectively combat issues of MMIW Support the development of tribal codes to protect tribal communities and protocols for collaboration between tribal law enforcement and legal systems, state and county authorities.

## WYOMING

### MMIP Task Force Statewide Report (2021)

*The Governor's Taskforce on Missing and Murdered Indigenous Persons released its first statewide report on MMIP on January 7, 2021. The report, developed by the University of Wyoming's Wyoming Survey & Analysis Center, was the culmination of an 18-month long look into law enforcement data on Indigenous missing persons and Indigenous homicide victims in Wyoming.*

### Recommendations

#### 1. Protocols and Data Systems

**Develop consistent protocols and data systems** on MMIPs to inform both law enforcement and families. Pay particular attention to documenting tribal affiliation in official records, coroner reports, and vital records.

*This recommendation is supported by the passage of Savanna's Act (Public Law No. 116-165) by the 116th U.S. Congress on October 10, 2020. This legislation requires the federal government to update information relevant to Indigenous people and improve tribal access to local, regional, state, and federal crime databases. It also mandates the creation in collaboration with tribes of standard protocols for responding to MMIP cases.*

#### 2. Community Awareness

Raise community awareness by educating the public (preferably by Indigenous educators) about the prevalence of MMIP, contributing risk and protective factors, and available resources. Distribute a list of community resources and efforts, broken down locally, across the United States, and by sovereign nations.

#### 3. MMIP Advocate

**Create an Indigenous advocacy position** or response team that can **help families navigate the reporting and investigation process** from initial inquiry to final outcome. The advocate can serve as a communication point person, helping to reduce the emotional burden for families of repeating details of the incident to multiple agencies.

## NEBRASKA

### **LB154 Report: Prevalence of Missing Native American Women and Children in Nebraska; Barriers to Reporting and Investigating; and Opportunities for Partnerships**

*Multiple recommendations follow from the results of this study. LB 154 required that this report provide recommendations regarding “how to increase state criminal justice protective and investigative resources for reporting and identifying missing Native American women and children in Nebraska.” The results from the quantitative and qualitative data point to three main areas which could improve the response to missing Native women and children within the state. We provide them in order of priority, with law enforcement activities being the most actionable activities in the short-term (**bolded** items have already been adopted):*

#### **Nebraska State Patrol and Tribal and Non-Tribal Law Enforcement Cooperation:**

1. Develop and implement a missing persons policy for both juvenile and adult missing persons in each of Nebraska’s law enforcement agencies. Develop and provide a Standard Operating Procedure (SOP) illustrating a step-by-step process for handling missing persons cases.
2. Whenever possible, include information on the race of the missing person in a missing persons report.
3. Whenever possible, include information on the tribal affiliation of the missing person in a missing persons report.
- 4. Increase the capacity of tribal law enforcement departments through the cross-deputization of Nebraska State Patrol officers.**
5. Encourage Memorandums of Understanding (MOUs) between tribal and non-tribal law enforcement agencies.
- 6. Develop and implement Native American cultural awareness training for Nebraska State Patrol officers.**
7. Establish a Law Enforcement Task Force for Missing Persons and include tribal law enforcement agencies on the task force.
8. Implement Nebraska State Patrol Tribal Liaison program.
- 9. Increase the recruitment of Native American persons to the Nebraska State Patrol; allow recruits to stay in their home area upon request.**

#### **Enhance Awareness of Reporting Options and Mechanisms to Native Communities:**

1. Facilitate NamUs training in tribal communities and encourage both tribal and non-tribal law enforcement as well as family members to utilize.
2. Work with Department of Health and Human Services and Department of Education to provide schools/teachers with a better awareness of children who are being victimized, as well as the appropriate reporting mechanisms.
3. Encourage each tribe to hold regular law enforcement meetings with tribal, local, county, state, and federal law enforcement partners.

**Be Aware of the Potential Interrelatedness of Missing Persons to Human Trafficking and Other Social Challenges:**

- 1. Extend human trafficking training resources to tribal law enforcement agencies.**
- 2. Extend human trafficking training resources to tribal casinos and hotels.**
3. Engage the Department of Health and Human Services regarding domestic violence, substance use, and mental health needs in tribal communities.
4. Engage victim services agencies regarding the needs of the family members of missing persons.

**Further, the *Nebraska Commission on Indian Affairs* will:**

1. Seek legislation to mandate the use of NamUs by Nebraska's law enforcement agencies. At present, only law enforcement agencies in Arkansas, Illinois, Michigan, New Mexico, New York, Oklahoma, and Tennessee are required by law to use NamUs (Chakraborty, 2019).
2. Work to establish a Task Force focused on the underlying issues in Native communities associated with "going missing" such as economic challenges, substance abuse, suicide, child abuse and neglect, poverty and pervasive hopelessness.
3. Seek funding for a new, full-time staff position to manage the Task Force operations. This staffer will report to the Executive Director of the Nebraska Commission on Indian Affairs.

## Appendix 7 Past Reports

**Congressional Research Service “Missing and Murdered Indigenous People (MMIP): Overview of Recent Research, Legislation, and Selected Issues for Congress” (2022):** This report provides background on the issue of MMIP, including data sources, barriers in the justice system to addressing the issue, and efforts that have been undertaken to address this crisis among AI/AN persons.<sup>81</sup>

**U.S. Government Accountability Office (GAO) “Missing or Murdered Indigenous Women: New Efforts are Underway But Opportunities Exist to Improve the Federal Response” (2021):** The GAO examined “the extent to which the number of missing and murdered AI/AN women in the U.S. is known” and the responses by DOJ and DOI to address this crisis.<sup>82</sup>

**U.S. Commission on Civil Rights “Broken Promises: Continuing Federal Funding Shortfall for Native Americans” (2018):** The United States Commission on Civil Rights (USCCR) produced the “Broken Promises Report” in 2018, which updated and echoed its earlier 2003 report findings and highlighted the continued, persistent disparities in resources and services provided to Tribal communities. The report exposed the longstanding systemic issues that have contributed to the vulnerability of Native people, including the lack of adequate law enforcement resources and access to justice.<sup>83</sup>

**U.S. GAO “Human Trafficking: Information on Cases in Indian Country or that Involved Native Americans” (2017):** The GAO examined “(1) the extent to which tribal and major city LEAs have encountered human trafficking in Indian country or of Native Americans, (2) factors affecting the ability of LEAs to identify and investigate this specific human trafficking, and (3) availability of services to Native American victims of human trafficking.”<sup>84</sup>

**U.S. GAO “Human Trafficking: Action Needed to Identify the Number of Native American Victims Receiving Federally-funded Services” (2017):** The GAO focused “on Federal efforts to address human trafficking, including the extent to which (1) agencies collect and maintain data on investigations and prosecutions of human trafficking in Indian country or of Native Americans regardless of location and (2) Federal grant programs are available to help address such trafficking, and how many Native American trafficking victims have received assistance

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<sup>81</sup> Congressional Research Service. Jan 2022. *Missing and Murdered Indigenous People (MMIP): Overview of Recent Research, Legislation, and Selected Issues for Congress*. R47010. Available at: <https://crsreports.congress.gov/product/pdf/R/R47010/2>.

<sup>82</sup> U.S. Government Accountability Office. Oct 2021. *Missing or Murdered Indigenous Women: New Efforts are Underway but Opportunities Exist to Improve the Federal Response*. GAO-22-104045.

<sup>83</sup> U.S. Commission on Civil Rights. Dec 2018. *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. Available at: <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>

<sup>84</sup> U.S. Government Accountability Office. Jul 2017. *Human Trafficking: Information on Cases in Indian Country or that Involved Native Americans*. GAO-17-624.

through these programs.”<sup>85</sup>

**Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence (2014):** The Advisory Committee released a report in 2014 focused on addressing the exceptionally high rates of violence impacting Native children. This report underscored the intergenerational effects of trauma and violence and highlighted the necessity of comprehensive and culturally sensitive services for children and families exposed to violence in Native communities. It recommended significant increased funding for Tribal systems and programs and the removal of Federal restrictions that limit the ability of Tribal governments to design and implement solutions for their own communities.<sup>86</sup>

**Indian Law & Order Commission “A Roadmap for Making Native American Safer: Report to the President & Congress of the United States” (2013):** The Indian Law & Order Commission conducted an in-depth examination of the criminal justice system in American Indian and Alaska Native communities in 2013. Their report emphasized the dire need for improvements in law enforcement, increased investment in Tribal justice systems, and collaboration between federal, state, and Tribal authorities. The report aimed to address the high rates of crime and violence that disproportionately affect Tribal communities.<sup>87</sup>

**State-Level Commission Reports on MMIW (Various Years):** In addition to Federal efforts, several states have established their own commissions to address the issue of missing and murdered Indigenous peoples (MMIP). These State-level commissions have produced reports that focus on the specific challenges and solutions within their respective jurisdictions. These reports have often called for better data collection, improved coordination between law enforcement agencies, and increased support for victims and their families.<sup>88</sup>

**Reports by Indigenous Organizations (Various Years):** Much of the credit for raising the level of public awareness about the MMIP and trafficking crises goes to Indigenous organizations who took it upon themselves to conduct research and document the issue. These organizations, including the Urban Indian Health Institute and the Sovereign Bodies Institute, have produced

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<sup>85</sup> U.S. Government Accountability Office. Mar 2017. *Human Trafficking: Action Needed to Identify the Number of Native American Victims Receiving Federally-funded Services*. GAO-17-325.

<sup>86</sup> Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence. Nov 2014. *Ending Violence so Children Can Thrive*. Available at: <https://www.justice.gov/sites/default/files/defendingchildhood/pages/attachments/2014/11/18/finalaianreport.pdf>

<sup>87</sup> Indian Law and Order Commission. Nov 2013. *A Roadmap For Making Native America Safer: Report To The President And Congress Of The United States*. Available at: [https://www.aisc.ucla.edu/iloc/report/files/A\\_Roadmap\\_For\\_Making\\_Native\\_America\\_Safer-Full.pdf](https://www.aisc.ucla.edu/iloc/report/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf)

<sup>88</sup> See, e.g., *Study Committee on Missing and Murdered Indigenous Women and Girls Final Report (AZ: November 2020)*; *Washington State Patrol, Missing and Murdered Native American Women Report (2019)* (Retrieved from [https://www.wsp.wa.gov/wp-content/uploads/2022/02/Missing-and-Murdered-Native-American-Women\\_2019.pdf](https://www.wsp.wa.gov/wp-content/uploads/2022/02/Missing-and-Murdered-Native-American-Women_2019.pdf)); and *U.S. Attorney's Office, District of Oregon. Missing and Murdered Indigenous Women Report (February 2021)*.

reports detailing the MMIP crisis across the country, including in urban areas.<sup>89</sup>

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<sup>89</sup> See, e.g., Urban Indian Health Institute, *Missing and Murdered Indigenous Women & Girls: A Snapshot of data from 71 urban cities in the United States*, (2018); Sovereign Bodies Institute, *Taaqtam Müüy'müy'k - Hidden Bodies: MMIWG2 & MMIP of Central & Southern California*. (2022).