



Natural Resources Committee

Subcommittee for Indigenous Peoples of the United States

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

March 14, 2019

**Written Testimony of
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Dear Chairman Gallego,

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

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

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

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

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



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

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

And recently, a 14-year-old girl from Northern Cheyenne, Henny Scott, was discovered nearly three weeks after she last spoke to her mother, Paula Castro, on December 7, 2018. The Bureau of Indian Affairs did not enter her into the missing person database until December 13³, and the Montana Department of Justice did not issue a Missing and Endangered Person Advisory for Scott until December 26. The body of Henny Scott was discovered on December 28 after a search party composed mostly of volunteers began searching for her. Scott's mother has expressed frustration with how her daughter's case was handled by BIA officials in Lame Deer when she was convinced her daughter was missing.⁴

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

Policy Recommendations to Address Murdered and Missing Indigenous Women

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



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

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

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

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



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

Conclusion

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