

Missing and Murdered Indigenous Women and Girls in the United States

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In the past three decades, over 1000 Indigenous women and girls in Canada were murdered or disappeared without a trace (Royal Canadian Mounted Police, 2014; Mt. Pleasant, 2016). In 2004, Amnesty International released the first comprehensive report on violence against Indigenous women called *No More Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada*. In 2016, the Government of Canada initiated a National Inquiry into Missing and Murdered Indigenous Women and Girls; however, across the socially-constructed Canadian and United States (U.S.) border, NO comparable accountability system exists to accurately document the missing or lost lives of Indigenous Women and Girls.

The limited availability of U.S. statistics on Missing and Murdered Indigenous Women and Girls reflects their experiences with violence are not being fully recognized, understood, legitimized, or communicated to policymakers. This violence has affected and profoundly unsettles entire Indigenous communities, including the often-forgotten men (Innes, 2015; Dylan et al., 2008), transgendered, and Two-Spirited peoples.

Understanding the historical context of violence in Indigenous communities is vital to understanding our current situation. Violence is a legacy lived within many Indigenous families resulting from generations of physical, sexual, psychological, and spiritual abuse since colonization began. Sexual violence against women typically plays a pivotal role in the process of colonization and is well documented, including within North America (Brownbridge, 2008; Chenault, 2011).

Before the Violence Against Women Act (VAWA) of 1994, non-American Indian/Alaska Native (AI/AN) assailants could commit acts of violence against Indigenous women and tribes could not enact criminal charges, attributed to a 1978 Supreme Court case, *Oliphant vs. Suquamish*. The U.S. government reauthorized VAWA in 2013, allowing for tribes to prosecute non-AI/AN offenders in physical assault and special domestic violence criminal jurisdiction cases; however, there are many specifications imposing limitations. Thus, far only a very small percentage of tribes have been able to enact the expansion (National Congress of the American Indian, 2015). The government must do more to expand VAWA to include sexual assault and sex-trafficking by non-AI/AN offenders. VAWA needs to be comprehensive in the prosecution of other offenses, including attendant crimes and crimes involving children. Many brutal crimes are committed in the presence of, and against, children in Indian Country. Thomas Paul Shomin, former Tribal Councilor for the Grand Traverse Band of Ottawa and Chippewa Indians, stated, “Perpetrators know the difference between living on tribal land and not living on tribal land. They know the law and intentionally take advantage of the loopholes” (US Department of Justice, 2016b, p. 28). Jurisdictional issues and venue uncertainty provide these non-AI/AN offenders a safe haven to continue their pattern of behavior.

According to Senator Mark Daines (2017), “American Indian women face murder rates that are more than ten times the national average murder rate.” Homicide is the third leading cause of death among American Indian and Alaskan Native (AI/AN) women and girls between the ages of 10 and 24 (Daines,

2017). In a 2016 Department of Justice report, Rosay (2016) indicated in the lifetime of AI/AN women, 56.1% have experienced sexual violence, 84% physical violence, and 53.6% severe physical violence. Of those Indigenous women, 66% had experienced psychological violence and 49% had experienced stalking (Rosay, 2016). Of the women reporting experiencing violence in their lifetime, 97% reported at least one incident of violence perpetrated by a non-AI/AN and 96% reported at least one incident of sexual violence perpetrated by a non-AI/AN (Rosay, 2016).

“Indigenous men were also targets of this very same historical colonial violence... Yet, research has shown that Indigenous males have largely been studied from the perspective of the perpetrators of violence and never as victims” in Canada (Mt. Pleasant, 2016). Indigenous men are seven times more likely than non-Indigenous males to be victims of homicide in Canada (Statistics Canada, 2015). Some statistics from the US about AI/AN men indicate that 27.5% have experienced sexual violence and 82% physical violence (Rosay, 2016). Of the AI/AN men reporting experiencing violence in their lifetime, 89% reported at least one incident of sexual violence perpetrated by a non-AI/AN (Rosay, 2016). This violence warrants investigation from within a framework of colonial violence.

Unfortunately, existing data on Indigenous victims of physical, sexual, and psychological abuse under-represent actual rates of occurrence. This under-representation may be attributed in part to inefficient data collection systems, operationalized definitions of abuse, and the entities responsible for entering data including law enforcement, judicial systems, and domestic relations organizations (Amnesty International, 2007). Many Indigenous women strongly believe authorities will not do anything if they report their victimization to law enforcement (U.S. Department of Justice, 2016b). These accounts of sexual assaults by Indigenous victims are often initially disclosed in psychotherapeutic settings. Further, incidents go unreported for many reasons including mistrust of law enforcement officials, mistreatment by judicial and law enforcement entities, and revictimization through the legal system process. Between 2004 and 2007, the U.S. Attorney’s Office declined to federally prosecute 62% of Indian Country criminal cases, including 72% of child sexual crimes, and 75% of adult rape cases (U.S. Department of Justice, 2016a).

The aforementioned challenges also apply to victims of sexual exploitation and sex trafficking, with underlying vulnerability and coercion as factors. Vulnerable individuals, taking into account age, socioeconomic status, individuals exposed to high rates of violence, and chemical dependency, are more likely to become targets of sex trafficking (NCAI Policy Research Center, 2016). Numerous reports conclude social injustices such as poverty, limited access to education and work, violence against females, and marginalization of people of color, are at the root of human trafficking. Three specific examples of these factors to support the need for action to track Missing and Murdered Indigenous Women and Girls in the U.S. are: 1) approximately 1:4 AI/AN were living in poverty in 2016 (U.S. Census Bureau, 2017); 2) a disproportionate number of Indigenous women are represented in the commercial sex trade in hub cities in Alaska and Minnesota where many Indigenous people seek employment (NCAI Policy Research Center, 2016); and 3) of those who identify as AI/AN as their only race, 33% lived on reservations or tribal lands (Pew Research Center, 2014). Many of the U.S. AI/AN lands are located in rural or remote areas. When transitioning from rural to city seeking employment, many Indigenous females are easy targets and easily lost.

Although several tribes have adopted statutes into their tribal codes that address sex trafficking and sexual exploitation of minors, more must be done at the federal level. The loopholes that allow non-AI/AN perpetrators to escape prosecution need to be closed. Federal sentencing must be amended to include appropriate sentencing fines and penalties for the violent crimes committed against Indigenous Women and Girls. Protection orders for victims must be afforded full faith and credit amongst various jurisdictional venues as this is a dangerous time for many women to leave their partners, sometimes ending in fatalistic outcomes.

Criminal cases are recorded in different databases nationally. For example, the Legal Information Office Network System (LIONS) is used by the U.S. Attorney's Office as a case management system. Different systems are used to track allegations reported to the Federal Bureau of Investigation, which does not fully incorporate those reported to the Bureau of Indian Affairs or tribal law enforcement, nor to states, including PL280 states (US DOJ, 2016, Indian Country). Currently, there is not a comprehensive U.S. database that accurately collects comprehensive data on missing Indigenous females, or sexual exploitation including human sex trafficking, of this population.

Our recommendation is for the United States to build upon the experiences of the multiple works in Canada on Missing and Murdered Indigenous Women and Girls. We do not want to replicate mistakes. We primarily want a comprehensive database to assess and address Missing and Murdered Indigenous Women and Girls in the United States. We want race specified, eliminating the "other" category where Indigenous peoples are often classified. We want all genders included and not limited to binary categorizations. Jurisdictional specification where the crime was committed should also be included in the data. In support of securing implementation of an accurate database, we want a training protocol developed and instituted and an alert system to increase the current response in such cases. We want law enforcement protocol reviewed, revised, investigative standards elevated, and the same investigative procedures already granted to mainstream America. We need to have mandatory reporting by all law enforcement agencies involved. According to Senator Tom Udall, "Native women should not be abandoned to a jurisdictional loophole," thus closure of these gaps is necessary. We do not want Indigenous victims discounted or treated as insignificant because of lifestyle; they are not "disposable people." We want our Indigenous Women and Girls to be recognized as daughters, mothers, grandmothers, sisters, aunties, and nieces and the crimes against them documented and addressed.

References

- Amnesty International. (2004). *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada* (AI Index: AMR 20/003/2004). Retrieved from <https://www.amnesty.ca/sites/amnesty/files/amr200032004enstolensisters.pdf>
- Amnesty International. (2007). *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA* (AI Index: AMR 51/035/2007). Retrieved from <https://www.amnestyusa.org/pdfs/mazeofinjustice.pdf>
- Brownridge, D. A. (2008). Understanding the elevated risk of partner violence against aboriginal women: A comparison of two nationally representative surveys of Canada. *Journal of Family Violence, 23*, 353-367. doi: 10.1007/s10896-008-9160-0
- Chenault, V.S. (2011). *Weaving strength, weaving power: Violence and abuse against Indigenous women*. Durham, NC: Carolina Academic Press.
- Daines, M. (2017). Statement of Senator Mark Daines on the Senate Floor [citing Missing and Murdered Native Women and Girls statistics]. Washington, DC. Retrieved from: <https://www.daines.senate.gov/news/videos/watch/daines-to-mark-national-day-of-awareness-for-missing-and-murdered-native-women-and-girls>
- Dylan, A., Regehr, C., & Alaggia, R. (2008). And justice for all?: Aboriginal victims of sexual violence. *Violence Against Women, 14*, 678-696. doi:10.1177/1077801208317291
- Innes, R. A. (2015). Moose on the loose: Indigenous men, violence, and the colonial excuse. *Aboriginal Policy Studies, 4*, 46-56. doi: 10.5663/aps.v4i1.24193
- Mt. Pleasant, J. (2016). Violence Against Indigenous Males in Canada with a Focus on Missing and Murdered Indigenous Men. *Social Justice and Community Engagement, 11*, 1-56.
- National Congress of the American Indian. (2015). *Special domestic violence criminal jurisdiction pilot project report*. Retrieved from http://www.ncai.org/attachments/NewsArticle_VutTUSYSfGPRpZQRyzWcuLekuVNeetaOBBwGyvkWYwPRUJOioqI_SDVCJ%20Pilot%20Project%20Report_6-7-16_Final.pdf
- NCAI Policy Research Center. (2016). *Human & sex trafficking: Trends and responses across Indian Country*. Retrieved from <http://www.ncai.org/policy-research-center/research-data/prc-publications/TraffickingBrief.pdf>
- Pew Research Center. (2014). *One-in-four Native Americans and Alaska Natives are living in poverty*. Retrieved from <http://pewrsr.ch/STO2Z6>
- Royal Canadian Mounted Police. (2014). *Missing and murdered Aboriginal women: A national operational overview*. Retrieved from <http://www.rcmp-grc.gc.ca/wam/media/460/original/0cbd8968a049aa0b44d343e76b4a9478.pdf>
- Rosay, A.B. (2016). *Violence against American Indian and Alaska Native women and men: 2010 Findings from The National Intimate Partner and Sexual Violence Survey*. Washington, DC: U.S. Department of Justice, National Institute of Justice.
- Statistics Canada. (2015). *Homicide in Canada 2015*. Retrieved from <https://www.statcan.gc.ca/pub/85-002-x/2016001/article/14668-eng.htm>
- Udall, T. (2012). *Udall: Tribal victims of domestic violence deserve justice*. Retrieved from <https://www.tomudall.senate.gov/news/press-releases/udall-tribal-victims-of-domestic-violence-deserve-justice>
- United States (2013). *Violence Against Women Reauthorization Act of 2013*. 113th Congress. Retrieved from <https://www.gpo.gov/fdsys/pkg/BILLS-113s47enr/pdf/BILLS-113s47enr.pdf>
- US Census Bureau. (2017) *FFF: American Indian and Alaska Native heritage month: November 2017*. Retrieved from <https://www.census.gov/newsroom/facts-for-features/2017/aian-month.html>
- US Department of Justice. (2016a). *Indian Country investigations and prosecutions*. Washington, DC: Department of Justice.
- US Department of Justice (2016b). *Office on Violence against Women: 2016 Tribal consultation report*. Retrieved from <https://www.justice.gov/ovw/page/file/953291/download>