



**OF NATIVE
SOVEREIGNTY AND
SAFETY FOR NATIVE
WOMEN**

November 2020 | Volume 17 | Issue 3



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Letter from the National Indigenous Women's Resource Center

Dear Friends,

We are honored to share the November 2020 issue of *Restoration of Native Sovereignty and Safety for Native Women* with you. There is no question that advocates in 2020 shined a light on some of the most pressing underlying issues we face in the United States: systemic racism, police brutality, and health inequality, all of which is creating a national divide that seems insurmountable.

Yet these issues have also illuminated the reality that this fight is a shared fight against the lasting effects of colonization for Black, Indigenous, and People of Color. Together we know the solutions to addressing these issues can be found in our traditions, must be community based, and rooted in understanding and acknowledging the perspectives of each other as relatives. This work is not easy, and we know our communities are tired and ready for change. We also know we must take each step forward together, demonstrating the resiliency and strength that our ancestors dreamed of. Together we must work alongside and in support of one another as we unlearn and decolonize Western approaches to safety, justice, and healing, as these were not the original ways of our communities. Together we envision a new path forward and the reclamation of what safety, justice, health and healing look like by those who know our communities and traditions: you.

Of course, with all of the devastating realities that revealed themselves this year, there is some good news: in July, we saw the Supreme Court affirm the Muscogee (Creek) Nation's tribal boundaries, ensuring the tribe's status as Indian country to allow for full implementation of the tribal amendments restored under the Violence Against Women Act, safeguarding Native women in their community; in October, we saw Savanna's Act and the Not Invisible Act finally become law after years of grassroots advocacy to push this legislation across the finish line; now in November, NIWRC recognized the historic 'lift up' of more Native women to Congress. Our staff and board carry these victories in our hearts and send our deepest congratulations to the survivors, grassroots advocates, and tribal communities who worked and organized together to make history.

We also want to extend our congratulations to new President-Elect Joe Biden and Vice President-Elect Kamala Harris. While we are hopeful for what the next few months will bring (prayers for a safe vaccine for the coronavirus and one that is distributed in a fair and safe way into tribal communities), we know this much: Native women will continue to lead the groundswell in calling for justice and safety. In these times, we want to remind our relatives to take extra care of themselves: breathe, drink water, smudge, pray. You are not alone. You have the strength of millions of Native women standing next to you, carrying you forward. We are with you each step of the way.

Prayers for healing and strength in the new year,



Ahéhee',
Lucy
Lucy Simpson, Esq.
Diné
Executive Director



Mvto,
Cherrah
Cherrah Giles
Muscogee (Creek)
Board Chair



**OF NATIVE
SOVEREIGNTY AND
SAFETY FOR NATIVE
WOMEN**

Restoration of Native Sovereignty and Safety
for Native Women Magazine, 2003-2020

During the reauthorization process of the Violence Against Women Act in 2005, several national organizations came together to take a stand for the safety of Native women: Sacred Circle National Resource Center to End Violence Against Native Women, Clan Star, Inc., the National Congress of American Indians, and the National Task Force to End Sexual and Domestic Violence. It was recognized that to fully participate in the national movement to create the changes needed to increase safety for Native women, broad communication was essential. **Restoration of Native Sovereignty and Safety for Native Women** emerged to fulfill this task.

Restoration is a publication dedicated to informing tribal leadership and communities of emerging issues impacting the safety of American Indian and Alaska Native women. The name of the magazine reflects the grassroots strategy of the Task Force that by strengthening the sovereignty of Indian nations to hold perpetrators accountable the safety of Native women will be restored. The magazine is a joint project of the National Congress of American Indians Task Force on Violence Against Women and the National Indigenous Women's Resource Center. It is produced and made available during national NCAI conventions and the annual USDOJ Tribal Consultation on VAWA.

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Cover: Advocates take reclaim former Christopher Columbus statue in Detroit: Photo courtesy of Rosa María Zamarrón. | Pg. 24

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Editor's Note



“I ask no favor for my sex. All I ask of our brethren is, that they take their feet off our necks.”—Justice Ruth Bader Ginsburg

The calendar year 2020 will be forever marked as a time of great challenge.

In 2020, we suffered a tragic loss in lives and wellbeing due to COVID-19; unjustified killings by police of Black, Native, and other Peoples of Color; and human suffering in detention facilities. Yet it also witnessed a groundswell of peoples across the nation calling for justice.

In 2020, victories were also won that allow us to continue to build toward a safer future. The affirmation of the Muscogee (Creek) Nation’s reservation by the U.S. Supreme Court is a historic legal victory. The removal of racist cultural icons, including statues and renaming of monuments, athletic teams, and racist commercial logos, are historic cultural victories. The groundswell calling for justice for missing and murdered Indigenous women is a victory challenging social tolerance for violence against Native women. And the release of “Konnón:kwe - Without A Whisper,” a movie providing the country the opportunity to know the truth of Native women’s contributions to the early suffragist movement for the right to vote, is a victory.

These victories and others are stepping stones to restoring respect for Native women and safety in their lives in the United States. And as the COVID-19 pandemic rages, circling our Mother Earth, the impact of decades of work at the international human rights level is being realized. Materials developed by international human rights bodies on

responding to the pandemic are inclusive of the consequences on the world’s Indigenous peoples, particularly women. Statements by international experts and Indigenous peoples and organizations provide insight, considerations, and resources to assist countries in responding to the pandemic in the context of Indigenous peoples.

2021 Transition in National Government

During a UN Commission on the Status of Women event Dawn Lavell-Harvard, the former President of the Native Women’s Association of Canada, spoke these words: *“To be born female and Indigenous in a country such as Canada, means that we are born political.”* Her words hold true for those born female and Native in the United States.

As the year comes to its end, the U.S. enters a period of transition of the national government. During these transitional periods, political clarity is essential to assert opinions, concerns, and recommendations for the path forward in 2021. The strategy to restore safety for Native women through strengthening the sovereignty of Indian Nations to protect women has guided the movement since the ‘90s. It reflects a stable and consistent political framework to achieve legal reforms to strengthen tribal authority to safeguard Native women’s lives. This strategy is affirmed in historic legal victories for almost two decades.

“Safety through strengthening tribal sovereignty” is a strategy created from an Indigenous view of the world. It reflects the essence of the grandmothers of the movement for Native women’s safety. A view essential to continued change under

Our role has and will continue to be to connect the violence beyond individual acts to the oppression that gives rise to the violence. As Native women, this violence is linked to the colonization by the United States of our nations, lands, and peoples.

—Tillie Black Bear, Sicangu Lakota, Grandmother of the Movement for Safety and a Founding Mother of NIWRC

the next administration.

Since 2008, the National Congress of American Indians Task Force on Violence Against Women has provided a transitional memo to the new administration highlighting long-standing priority issues. While the details of these concerns and recommendations change between administrations, the overarching themes remain constant—safety for Native women and sovereignty for Indian Nations. The specific legislative agenda for the next four years is provided in the testimonies of tribal leaders during the annual consultations on violence against women since 2006. These recommendations address the immediate changes that must be made to reduce the barriers that make Native women vulnerable to violence.

The United States Federal Trust Responsibility to Indian Nations

As we look back at 2020 and forward to 2021, we must see our everyday lives through a political lens, a set of glasses sharpening our vision to not only see what is happening around us but why it is happening, the truth of the injustices we face and the path forward.

“When we do not talk about colonization, then we seem to be the most violent of all people. The rates of violence against Native have an explanation.”—Tillie Black Bear

The relationship of the United States to Indian Nations is a political and legal one that does not derive from race or ethnicity. It is a relationship between governments established through hundreds of treaties, the Constitution, Congressional

Acts, Supreme Court decisions, and Presidential Executive Orders. In exchange for the land of Indian Nations, the United States agreed to provide the support necessary—health care, education, and much more—for Indian Nations to exercise self-government and maintain stable communities. The list of promises is long, but safeguarding the lives of Native women rises as a priority.

Restoring the safety of Native women requires legal reforms that are dependent on mass public education to understand the truth of colonization. Is this possible? The sweeping change in Justice Ginsburg’s opinions in tribal cases over the years creates hope it is possible. As we begin 2021, *Restoration* will continue its purpose to offer tribal perspectives on critical emerging issues.

In 2021, and the four years of the next administration, as stated in the *McGirt* decision on Justice Ginsburg’s final day, of her final term as a Supreme Court Justice—“*we hold the government to its word.*”

Prayers for healing and peace in the New Year,

Jacqueline “Jax” Agtuca,
Editor, *Restoration of Native Sovereignty and Safety for Native Women Magazine*



NIWRC PARTNERS WITH TRIBAL PROGRAM TO DEVELOP TOOLKIT FOR NATIVE 2SLGBTQ RELATIVES

NIWRC will host virtual conversations to develop resources to support family and friends of Native Two Spirit/LGBTQ victim-survivors of domestic violence

By Mallory Adamski (*Diné*), Director of Communications and Advancement, NIWRC

This winter, the National Indigenous Women’s Resource Center and the La Jolla Band of Luiseno Indians’ Avellaka Program will host a series of “Virtual Conversations with the Field,” where family, friends and Native 2S/LGBTQ survivors can discuss how to reconnect with cultural teachings to support Two-Spirit, Native lesbian, gay, bisexual, transgender and queer relatives facing domestic violence.

The goals of the virtual discussions are to engage in conversations and gather feedback from family members and friends of Native 2S/LGBTQ victim-survivors of domestic violence, as they are often the first responders for the protection and support in close-knit Native communities. Discussions will also focus on how families and friends can help minimize the isolation of their loved ones, assist them with safety planning, and provide validation, encouragement and long-term support.

“To develop resources for our Two-Spirit and LGBTQ relatives in a good way, we are asking community members to connect with our traditional teachings and values of being a good relative and to really dig deep about our relationships to each other,” said Wendy Schlater, Vice Chairwoman for the La Jolla Band of Luiseno Indians and NIWRC Board Treasurer. “Our goal is to encourage our relatives to remember their individual and collective responsibilities to support each other.”

There is little data to accurately represent the rates of domestic violence and sexual violence within the Two-Spirit/Native LGBTQ community. However, on a national scale, the rate of domestic violence within the LGBTQ community is considerably high, with 44 percent of lesbian women and



Wendy Schlater (La Jolla Band of Luiseno Indians), Director of Avellaka Program and NIWRC Board Treasurer. | Photo courtesy of Wendy Schlater.

61 percent of bisexual women – compared to 35 percent of heterosexual women – who have experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime, according to the 2010 National Intimate Partner and Sexual Violence Survey by the Centers for Disease Control and Prevention.

The survey also noted that 26 percent of gay men and 37 percent of bisexual men – compared to 29 percent of heterosexual men – experienced rape, physical violence, and/or stalking by an intimate partner at some point in their lifetime. For Native men, there can be an added layer of silence and stigma in seeking help for domestic violence or sexual violence, where many find it difficult to speak out without retaliation or shaming.

Register for Virtual Conversation with the Field

NIWRC and the Avellaka Program invite family and friends, Native 2S/LGBTQ survivors, and advocates to join one of two upcoming Virtual Conversations With the Field (CWTFs) focused on how families and friends respond to Native 2S/LGBTQ victim-survivors of domestic violence. The virtual events will take place on 12/8/2020 and 1/12/2021.

Register now online: bit.ly/3nUyRie.

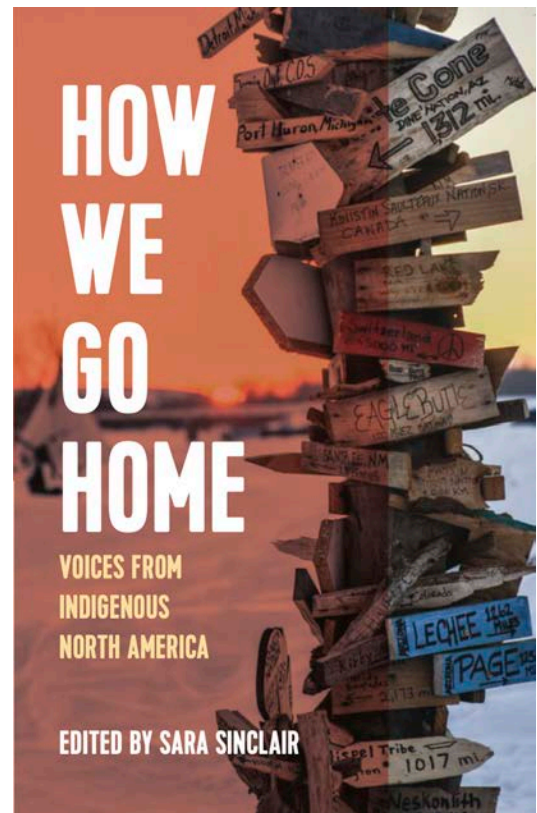
In The News

The information and feedback from NIWRC's virtual conversations will specifically help inform the development of a new specialized Native 2S/LGBTQ toolkit to assist family and friends concerned about a loved one, including available resources for victim-survivors. The toolkit is expected to be made available in Fall 2021.

Paula Julian, NIWRC Senior Policy Specialist, said what is learned from the conversations will not only help to develop the toolkit, but will also help inform national policy and recommendations when it comes to supporting Two-Spirit and Native LGBTQ relatives, and addressing colonization as the root cause of violence in Indian country, including homophobia, biphobia and transphobia.

“This work is really decolonization work,” Julian said, who works directly with partners at the Avellaka Program. “Holding space for our Two-Spirit and LGBTQ relatives requires that we connect with Native teachings about what it means to be family and create those healing spaces. This reconnecting and creating safe space cannot solely depend on having funding or resources to happen. At the same time, we recognize that without staff or resources, change can be slow and difficult.”

Family and friends, Native 2S/LGBTQ survivors, and advocates are invited to participate in the “Virtual Conversations with the Field,” scheduled for two dates: December 8, 2020, at 12 p.m. MST, and January 12, 2021, at 12 p.m. MST. The online discussion will be a two-hour interactive conversation. You can register for the virtual conversations at bit.ly/3nUyRie.



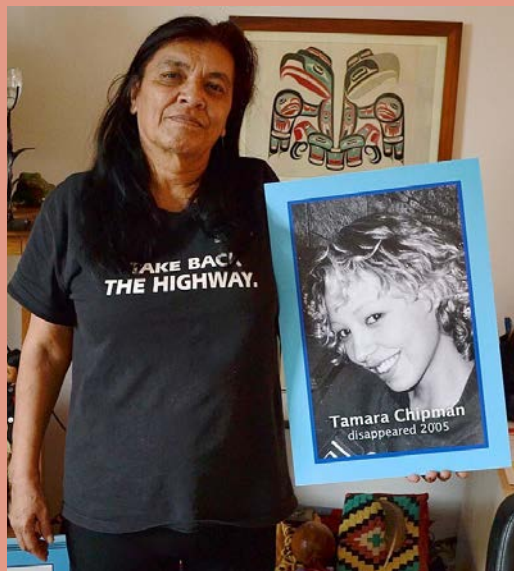
NEW BOOK SHARES FIRST-PERSON CONTEMPORARY INDIGENOUS STORIES FROM ACROSS NORTH AMERICA

By Mallory Adamski (*Diné*), Director of Communications and Advancement, NIWRC

Newly released in October 2020, human rights oral history nonprofit Voice of Witness partnered with Haymarket Books to release *How We Go Home: Voices from Indigenous North America*, which shares twelve contemporary first-person stories in the long and ongoing fight to protect Native life, land, and rights. These narratives are shaped by loss, injustice, resilience, and the struggle to share space with settler nations, speaking to the legacy of colonization, intergenerational trauma, gender-based violence, and the crisis of murdered and missing Indigenous women and girls.

By amplifying Indigenous voices and forging space for Native narrators to tell their stories in their own words, the book is a powerful tool for building connections across communities and resisting the misinformation and historic and present-day erasure around contemporary Indigenous experiences in North America.

Narrators in the book include Gladys Radek (Gitksan and Wet'suwet'en First Nations), a survivor of sexual violence whose niece's disappearance led her to become



(Top) *How We Go Home* editor Sara Sinclair, an oral historian, writer, and educator of Cree-Ojibwe and settler descent. (Middle) Gladys Radek (Gitksan and Wet'suwet'en First Nations), MMIW advocate. Photos courtesy of Voice of Witness. (Bottom) NIWRC Senior Policy Specialist Paula Julian speaks alongside grassroots advocates during *How We Go Home* virtual event on October 19, 2020, "Justice for Indigenous Women and Girls," organized by nonprofit Voice of Witness in partnership with NIWRC and Haymarket Books. Photo courtesy of NIWRC.

a family advocate for the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG) in Canada; Jasilyn Charger (Cheyenne River Sioux Tribe), who kickstarted a movement of Water Protectors at Standing Rock that roused the world; Ashley Hemmers (Fort Mojave), who addresses issues of intergenerational trauma, health care, tribal sovereignty, and rebuilding community as the tribal administrator on the Fort Mojave Reservation; Marian Naranjo (Santa Clara Pueblo), who led Santa Clara and nearby pueblos to document the environmental and cultural consequences of living next to Los Alamos National Laboratory; and more.

Narrator Gladys Radek survived sexual violence in the foster system and later lost her niece, Tamara Lynn Chipman, who went missing in 2005 at age twenty-two along the notorious Highway of Tears in Canada. This inspired Gladys to become a community activist and eventually a Family Advocate for the National Inquiry into MMIWG.

"The families' voices need to be heard," Radek said. "Each of our family members knows what the problems are in their communities, whether it be poverty, addiction, or the lack of social services.

Editor Sara Sinclair, an oral historian, writer, and educator of Cree-Ojibwe and settler descent, writes, "Over the three years I spent interviewing for this book, in cities and on reserves and reservations across the continent, I heard many stories that illuminated how the heightened risk of violence to Indigenous women and girls is yet another consequence of decades of government policies that have impoverished and fractured Indigenous communities. I also met many women, like Gladys, who are fighting for justice for the continent's countless missing and murdered Indigenous women and girls."

For educators and advocates, Voice of Witness developed corresponding free curricula for *How We Go Home: Voices from Indigenous North America*, available for download online to incorporate Indigenous narratives and perspectives into classrooms. To purchase *How We Go Home* and access free lesson plans, visit voiceofwitness.org/how-we-go-home.



FIRST SEXUAL ASSAULT SURVIVORS MEMORIAL IN THE U.S. ESTABLISHED IN MINNESOTA

By Rebecca Balog,
Program Coordinator,
MIWSAC



(Left to right) Angelica Allery and Nicole Matthews of Minnesota Indian Women's Sexual Assault Coalition stand next to Memorial to Survivors of Sexual Violence. | Photo courtesy of MIWSAC.

On the morning of September 30th, after months of planning and coordinating with other organizations and donors, staff of the Minnesota Indian Women's Sexual Assault Coalition (MIWSAC) visited the nation's first permanent Memorial to Survivors of Sexual Violence located at Boom Island Park in Minneapolis, Minnesota. This recently completed memorial was designed to create a space of healing and dialogue as well as show community support and solidarity for survivors of sexual violence.

The online dedication for this new memorial, "Survivors Memorial Dedication Ceremony," took place on October 10th and included words from MIWSAC Executive Director Nicole Matthews.

"This is the first of its kind," Matthews said. "This memorial is so incredibly important. Survivors past, present, and future will forever have a place to come to where they can see visually that they are believed and they are not alone. MIWSAC is honored to be a small part of this memorial, and grateful for the acknowledgment and inclusion of our Indigenous survivors."

To watch dedication video, visit bit.ly/351GNFy. If you need support, please call the StrongHearts Native Helpline at 1-844-762-8483 or the National Sexual Assault Hotline at 1-800-656-HOPE (4673) to be connected with a trained staff member from a sexual assault service provider.

(Right) Memorial plaque dedicated to survivors of sexual violence at Boom Island Park in Minneapolis. | Photo courtesy of MIWSAC.



(Left to right) Angelica Allery and Nicole Matthews of Minnesota Indian Women's Sexual Assault Coalition in Boom Island Park in Minneapolis. | Photo courtesy of MIWSAC

To join learn more about the Memorial to Survivors of Sexual Violence, visit survivorsmemorial.org.

Hear Tillie Black Bear's voice, Part 2, on Speaking Our Truth Podcast Ep. 8.



THOUSANDS HONOR TILLIE BLACK BEAR 'WOMEN ARE SACRED' DAY ON OCTOBER 1ST

By Jacqueline Agtuca, Editor, Restoration Magazine

Matilda 'Tillie' Black Bear is known as a founding grandmother of the movement to increase safety for women. | Photo courtesy of NIWRC.

A large part of the legacy of U.S. colonization is the cultural genocide committed against Indigenous peoples. For the movement to increase safety for Native women, it is reflected in the erasing of the leadership roles of Native women, their names, struggles, and victories. The public honoring of historic personalities shapes who we, as a society, uphold as cultural icons.

“As Indigenous peoples, and women, our story is not taught, recognized, or honored by mainstream America. This erasure from the public eye is part of the continuum of dehumanizing Native women,” said Lucy Simpson, Executive Director, NIWRC. “NIWRC, as an organization, is committed to unraveling the cultural foundations of violence against Native women. Telling our story is part of decolonizing.”

The federal laws and policies preventing full protection of Native women continue to legally justify the failed response of the government, but the social normalization of such violence is culturally based. The lack of public acknowledgment of the heroines that defended their nations, the grandmothers who stood against the criminalization of those ways of being a Native woman, must be challenged by inclusion and speaking our truth.

In 1978, Matilda Black Bear emerged as the first Native woman to advocate for battered Indian women at the national level. She continued in the movement for safety until her passage in 2014. Known to the movement as “Tillie,” she was well recognized as the Grandmother of the Battered Women’s Movement for her leadership spanning almost four decades. A citizen of the Rosebud Sioux Tribe, Tillie believed in the teachings of White Buffalo Calf Woman. One of the first teachings White Buffalo Calf Woman brought to the Lakota

people was that even in thought, women are to be respected. Tillie was given the Lakota name Wa Wokiye Win, which means “woman who helps everyone” in English, a name she fulfilled in life.

Tillie provided leadership at critical moments of our struggle for safety and sovereignty. Her handprints rest on historic national legislation and the founding of organizations to advance safety for women and a national agenda for strengthening Indian nations’ sovereignty.

In understanding the deep roots of violence against Native women, the NIWRC encourages our movement, all progressive people, and this country to honor our tribal women leaders and celebrate their lives. By creating national



Chief Arvol Looking Horse and Connie lead the prayer at the 2013 Quilt Walk for Justice, U.S. Supreme Court in Washington, D.C. | Photo courtesy of NIWRC.

holidays reflective of our reality as Indigenous women, we begin to challenge the cultural tolerance for violence against Native women.

Highlights of the 3rd Annual, Tillie Black Bear Women Are Sacred Day

“Today, we come together to recognize my Ina for her contribution to making the world a safer place for Native women, and for all women. I say this because if a Native woman can be abused, raped, go missing, or be murdered and nothing is done than other women at some point can also be in danger of suffering the same violence. So today, this October 1st, we stand together, to say our prayer for healing. We stand together to raise our voices to restore respect for Native women and to reclaim our sacred status. We join to raise our voices to restore the sovereignty of our Tribal Nations to protect women, children, their peoples, and also their lands and most sacred sites.”—Connie Brushbreaker, Daughter of Tillie Black Bear

On October 1st, thousands honored Tillie Black Bear for her leadership in developing the national movement to end domestic violence. National organizations and lifelong friends in the movement joined the event to comment and appreciate Unci Tillie’s dedication and strategic vision to change U.S. laws and policies denying justice and leaving Native women vulnerable to violence. Nearly 1,300 people registered for the annual Tillie Black Bear Women Are Sacred Day Webinar. Nearly 500 organizations signed on in support of NIWRC’s call to declare October 1st, Tillie Black Bear Women Are Sacred Day.

“Today, I would like to honor Tillie. I have known her all my life, and she is a relative. Tillie always talked about the women society, and that it was a woman that brought the sacred pipe to the people, and she would always tell me “remember that.” At different times she would come to Greengrass and bring food and offerings to the sacred bundle. I always remember her words today and how strongly she believed in our traditions, and our culture. Tillie was a great leader amongst our Nation.”—Chief Arvol Looking Horse

“Tillie was a leader and inspiration, a teacher, a mother and in many ways part of the soul of our movement. The NCADV has been in place for the last 40 years and we are still a grassroots movement, and it is in part because of Tillie Black Bear. She was the first woman of color to chair our board. Without Tillie I believe there would not be some of the activist elements that we still hold on to today. Tillie lives on in the work of NCADV.”—Ruth Glen, CEO, National Coalition Against Domestic Violence

“Miiyu Poolov Temet (hello and good day), I know Tillie’s spirit is soaring up above. A lot of you knew Tillie as Unci (grandmother), or muske (sister), but I knew Tillie also as Ina (mother). Tillie shared with us the teachings of the White Buffalo Calf Woman and set the marker for our work. She reminded us to go back home and revitalized our creation stories. She was instrumental in starting our coalition and our Avellaka Program here on the La Jolla Indian Reservation. Tillie was proud of our movement and thought it was Native

women’s leadership at its best.”—Wendy Schlater, Vice Chair, La Jolla Band of Luiseno Indians, and Treasurer of the NIWRC Board of Directors

In 1978, as a young woman, Tillie testified at the first U.S. Commission on Civil Rights hearings on wife beating. That same year, Tillie went on to lead in building organizations that continue to serve as houses of the movement such as the National Coalition Against Domestic Violence. At the same time, Tillie organized in her home community on the Rosebud reservation, serving as a founding mother to the White Buffalo Calf Woman Society. For the next three decades, Tillie’s leadership continued to indigenize federal legislation—the Violence Against Women Act, the Family Violence Protection and Services Act, Tribal Law and Order Act, and much more. In 1995, after the passage of VAWA, Tillie met with the Department of Justice to plant a stake for VAWA to include Indian tribes. In 2000, Tillie helped shape the new VAWA tribal coalition program. Tillie’s spirituality was constant, and in 2003, Tillie led a Wiping of the Tears ceremony at the Senate building to launch the struggle for the VAWA 2005 Safety for Indian Women Act. In 2011, as part of the NCAI Task Force, Tillie met with United Nations Special Rapporteur Rashida Manjoo as a pathway to the VAWA 2013 victory, restoring jurisdiction over non-Indians to Indian tribes. This same year, Tillie again provided leadership to create the National Indigenous Women’s Resource Center.

“NIWRC will forever hold Tillie in our hearts and honor her dedication to the safety of Native women and the sovereignty of Indian nations. We say thank you to her daughter, Connie, grandchildren, and her entire family, for sharing your beloved ina and unci with the movement for almost four decades.”—Lucy Simpson, NIWRC Executive Director

Webinar Recording: Tillie Black Bear ‘Women Are Sacred’ Day

On October 1st, the movement helped launch Domestic Violence Awareness Month by celebrating Tillie Black Bear, Wa Wokiye Win (Woman Who Helps Everyone) for her contributions as a founding grandmother, Unci, of the movement to end violence against women in the U.S. and across tribal nations. Speakers included spiritual leader Chief Arvol Looking Horse, Tillie’s grandson, Taylor Brushbreaker, and voices in the movement.

Watch online: bit.ly/3n9lcSP

Mohawk Clan Mother Louise Herne and Professor Sally Roesch Wagner shake the foundation of the established history of the women's rights movement in the United States. They join forces on a journey to shed light on the hidden history of the influence of Haudenosaunee Women on the women's rights movement, possibly changing this historical narrative forever.



KONNÓN:KWE - WITHOUT A WHISPER

How Indigenous women influenced the early suffragists in their fight for freedom and equality

By Katsitsionni Fox, Director, Without A Whisper - Konnón:kwe

WITHOUT A WHISPER - KONNÓN:KWE is a journey of two unlikely friends, Professor Sally Roesch Wagner and Mohawk Clan Mother Louise Wakerahkatsteh Herne as they uncover the hidden history of how Indigenous women influenced the suffragettes in their fight for freedom and equality in the early 1800s.

During this period in history, Euro-American women were “dead in the law” losing all their rights and property to their husbands once they became married. They did not have a voice in politics, the economy or religion. At a time when non-Native women lacked even the most basic rights, they witnessed their Native counterparts, the Haudenosaunee (Iroquois) living in a matrilineal society in their traditional homeland of what is now New York State. Haudenosaunee women had inherent authority in all aspects of their life: politically, economically, socially and spiritually.

Louise Wakerahkatsteh Herne is Mohawk Clan Mother from the Mohawk Nation territory, located in upstate New York. She is fluent in her language, a spiritual practitioner, and political leader. She is well known for her work empowering Native women and youth. Dr. Sally Roesch Wagner, is one of the most important scholars of Women’s Studies in the United States. In her research, Sally made the surprising discovery of the Haudenosaunee women’s influence on the early feminists. A fact that was completely unknown. When Sally and Louise met, there was an immediate kinship and connection, echoing the relationship of feminists and Haudenosaunee women in the not so distant past. Since her discovery, Sally has fought many years for the re-writing of history to acknowledge the influence of the Haudenosaunee women on the women’s

(Right side panel and pg. 14) Images from film location of Without a Whisper. More information at withoutawhisperfilm.com. / Photos courtesy of Katsitsionni Fox and Xoichitl Rios.



(Right) A film poster for Without a Whisper. More information at withoutawhisperfilm.com. / Poster courtesy of Yen Tan.



(Opposite page) Images from film location of Without a Whisper. More information at withoutawhisperfilm.com. / Photo courtesy of Tahila Corwin Mintz.



rights movement. Louise has supported her in her quest, as she herself works to reignite the power of Haudenosaunee women in her community.

Haudenosaunee society is based on equality and balance amongst men and women rooted in their culture and worldview. Clan Mothers were responsible for selecting Chiefs and had the final say if men could go to war. Our protagonists give voice to the women of long ago, guiding us down a different path of women’s rights history that is unknown. Suffragettes, including Lucretia Mott, Elizabeth Cady Stanton and Matilda Joselyn Gage were astounded by the freedom and authority Native women possessed. Matilda Joselyn Gage remarked about the Haudenosaunee “Never was justice more perfect, never civilization higher than under the Matriarchate.” These women held the first women’s convention in the United States in Seneca Falls, New York in 1848 on the ancestral land of the Haudenosaunee. The struggle of these early American Feminists would take more than 70 years to win the right to vote in 1920. However, the influence of Haudenosaunee women on the early suffragists was side-stepped by the western male writers of history.

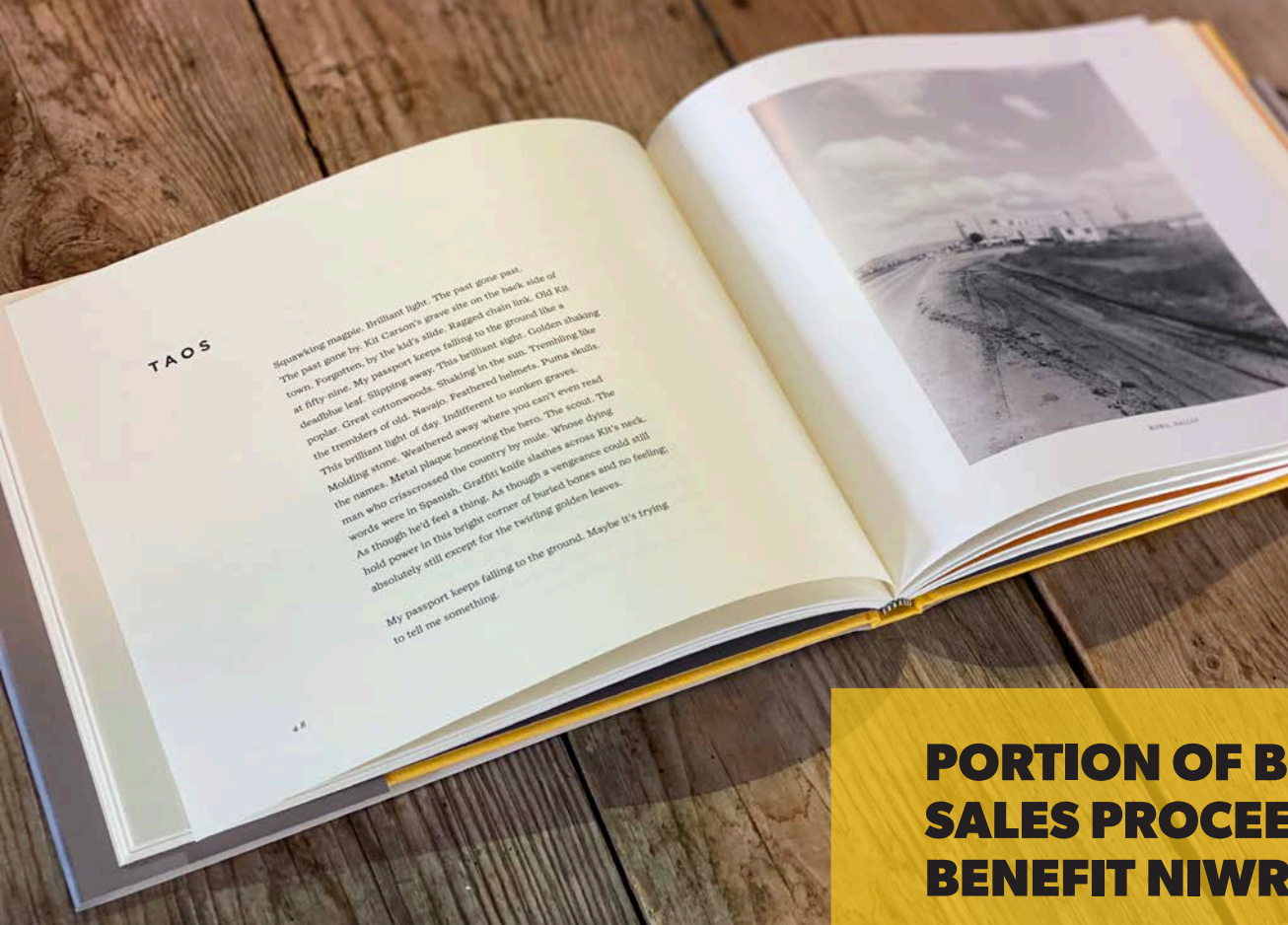
Ironically, during this time that Non-Native women gained strength and new-found freedoms, the roles and strength of Native Women began to deteriorate. Government enforced assimilation policies, land loss, and the influence of foreign religions caused the traditional Haudenosaunee way of life to unravel and women’s power declined.

Creation of a Partnership

When a publisher approached Sally Roesch Wagner to write an anthology on women’s suffrage, Sally agreed, granted she can write a more inclusive history that includes the influence of the Haudenosaunee. This collaboration is unprecedented, and the partnership gives a voice to an untold historic perspective and recollection. Sally Roesch Wagner is joined by Gloria Steinem and Louise Herne in New York City for the launch of this controversial book. In Louise’s community, Louise continues to empower Haudenosaunee women to reclaim their power and strength. The realization of a history that includes Indigenous women’s voices is upon us. The Haudenosaunee contribution to the women’s rights movement could be common knowledge for this generation.

• • •

“Sally Roesch Wagner joined Tillie Black Bear and other Native women in the ‘90s who were organizing to end violence against Native women. Together they did anti-racism work across South and North Dakota still remembered today. Sally is the author of several books, including “Sisters in Spirit,” many of us read in the early days of our movement for safety.”
—Carmen O’Leary, Board Member, NIWRC



PORTION OF BOOK SALES PROCEEDS TO BENEFIT NIWRC



Sam Shepard: New Mexico is a hand-numbered, 2000-copy, limited edition of classic Sam Shepard tales of Kit Carson in Taos, cruising Shiprock in a '40 Ford, reminiscing at his dad's casita, and drinking at the Pink Adobe

By Mallory Adamski (*Diné*), Director of Communications and Advancement, NIWRC

The late Pulitzer Prize-winning playwright, author, screenwriter, actor, and director Sam Shepard had a deep bond with Santa Fe, where he lived in the 1980s and from 2010-2015. But Shepard had some nomad in him, and beginning with *Motel Chronicles* in 1982, he spent just as much time crisscrossing the deserts of New Mexico as he did living in any one city.

The book, *Sam Shepard: New Mexico*, is illustrated by vintage, never-seen Ed Ruscha photos with contributions from Taylor Sheridan, Bob Dylan, and Josh Brolin. Presented by John Miller of Lawless Media, the book is now available for purchase. A portion of the proceeds will be donated to the National Indigenous Women's Resource Center.

(Top) Writer-director Taylor Sheridan wrote the introduction to *Sam Shepard: New Mexico*. Sam Shepard walked on July 27, 2017. (Bottom) Orders of *Sam Shepard: New Mexico* received by December 31, 2020, receive a free poster of Sam Shepard, as shown here. / Photos courtesy of John Miller.

Orders received before December 31, 2020, will include a free Sam Shepard poster. To order, please contact John Miller, Lawless Media, by email at miller@lawless.media or by phone at 415-722-0450.

StrongHearts Native Helpline Launches Advocacy Services for Victims of Sexual Violence

By CC Hovie (*Sault Ste. Marie Tribe of Chippewa Indians*), Communications Manager, StrongHearts Native Helpline

Now in its fourth year of operation, advocates at StrongHearts Native Helpline (StrongHearts) have responded to thousands of calls from Native Americans and Alaska Natives seeking domestic violence and dating violence services and resources. Because there is an undeniable connection between domestic violence and sexual violence, in August StrongHearts added advocacy services and resources for victims of sexual violence.

“Sexual violence is one of many tactics that is used in domestic violence; it’s used to exert power and control in a relationship and is very much connected to domestic violence, said StrongHearts Director Lori Jump (Sault Ste. Marie Tribe of Chippewa Indians). “It’s much too common for our relatives and something that we found we just cannot ignore.”

The dispiriting truth is that when compared to other races in the United States, Native women are twice as likely to experience sexual violence or rape and most likely at the hands of a non-Native. It’s an extension of abuse that began with European contact and has continued to this day, adding up to over 500 years of abuse. This continued tool of colonization represents a lack of respect for Native peoples and an assault on humanity.

“We can trace many of the ills in our Native communities back to colonization,” Jump said. “Native women were often violently targeted, degraded and terrorized as a way to undermine the very foundation of our communities.”

“It’s an atrocity that Native Americans continue to experience the highest rates of sexual violence across the nation and

until now, there hasn’t been a national culturally-appropriate service for them,” said Anna Nicolosi, StrongHearts Operations Manager. “In response, we developed advocacy training to prepare our advocates to meet the needs that are unique to American Indians and Alaska Natives.”

StrongHearts advocates completed specialized training about the dynamics of sexual violence including the impacts and effects of trauma. They also received training on reporting the crime, addressing health concerns and beginning the healing process. To prepare for providing support to survivors, advocates practiced real-life scenarios followed by discussion and feedback.

“We are really excited to be able to add this service,” said StrongHearts Services Coordinator Joy Samuelson (Standing Rock Sioux Tribe). “Advocates continue to study and learn more about sexual violence education and safety planning.”

Native Americans Are Disproportionately Affected

Sexual violence was introduced into our communities through colonization. As Native people, any form of violence such as sexual assault and sexual abuse is unnatural and goes against traditional teachings. Around the world, Indigenous peoples have been and still are being victimized by dominant civilizations. The impacts of colonization, and specifically rape still impact Native communities to this day.

Nationwide, someone in the U.S. is sexually assaulted every 73 seconds and every nine minutes that victim is a child. For Native Americans specifically, the picture is even bleaker.

- American Indians and Alaska Natives are twice as likely to experience a rape/sexual assault compared to all other racial groups in the United States.
- Every year an average of 5,900 American Indians ages 12 and older experience sexual assault.
- 41 percent of sexual assaults against American Indians are committed by a stranger; 34 percent by an acquaintance; and 25 percent by an intimate or family member.
- On average, there are 433,648 victims (age 12 or older) of rape and sexual assault each year in the United States.
- 21 percent of transgender, genderqueer, or nonconforming (TGQN) college students have been sexually assaulted, compared to 18 percent of non-TGQN females, and 4 percent of non-TGQN males.
- Millions of men in the United States have been victims of rape. Statistically, one out of ten rape victims is male.

Beyond those statistics remain the innumerable victims who do not report or cannot report sexual assault for any variety of reasons.



When compared to other races in the U.S., Indigenous women are twice as likely to experience sexual violence or rape and most likely at the hands of a non-Native perpetrator. / Photo courtesy of StrongHearts Native Helpline.

Effects of Sexual Violence and Possible Reactions

After a sexual assault has occurred, the victim can experience a multitude of debilitating emotions. Processing trauma is never easy, but putting labels on the emotions can help put things into perspective.

- Fear is the most common victim reaction. The victim will associate the assault with certain sights, sounds, smells, thoughts, places, etc. For weeks or months after the assault, fear and anxiety can be triggered by any number of reminders of the assault.
- Guilty feelings may be the result of self-blame. Victims may think such things as “I shouldn’t have been out that late.” or “I should have dressed differently.” They may even feel guilty about what they had to do in order to survive (they didn’t scream, fight back or report the crime). It can also be a result of living in a society where victim-blaming is prevalent.
- Shock occurs when the victim feels numb and disconnected. It occurs when the victim just can’t process what had happened to them. Victims who remain calm or can’t cry is an indication in of itself that they are experiencing an emotional shock.
- Disrupted relationships often occur when the victim feels embarrassed or ashamed and becomes withdrawn and/or depressed. This could lead the victim to avoid people, places, and things that remind them of the trauma.

Post Traumatic Stress Disorder (PTSD) is a serious psychological disorder suffered by millions of people who have been exposed to extreme stress, violence or loss. PTSD can cause many trauma responses, from rendering a victim mute to living in a heightened state of panic.



Ericca “CC” Hovie (Sault Ste. Marie Tribe of Chippewa Indians, is the Communications Manager of the StrongHearts Native Helpline, a project of the National Indigenous Women’s Resource Center and the National Domestic Violence Hotline. / Photo courtesy of CC Hovie.

Reporting the Crime

According to The National Crime Victimization Survey, the majority of sexual assaults are not reported to the police. In fact, only 230 out of every 1,000 sexual assaults are reported to the police. That means about 3 out of 4 go unreported.

The self-reported incidence of rape or sexual assault more than doubled from 1.4 victimizations per 1,000 persons age 12 or older in 2017 to 2.7 in 2018. Despite the increase in self-reports of rape and sexual assault, there was a decrease in reporting to police from 2017 to 2018. Forty-percent (40%) of rapes and sexual assaults were reported to police in 2017, but only about 25% were reported to police in 2018.

Of the sexual violence crimes not reported to police from 2005-2010, the victim gave the following reasons for not reporting:

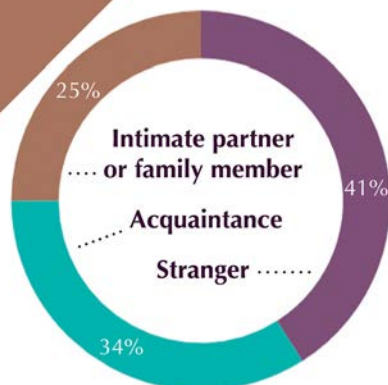
- 20% feared retaliation
- 13% believed the police would not do anything to help
- 13% believed it was a personal matter
- 8% reported to a different official
- 8% believed it was not important enough to report
- 7% did not want to get the perpetrator in trouble
- 2% believed the police could not do anything to help
- 30% gave another reason or did not cite one reason

Native victim-survivors also face intersecting barriers to safety and justice like geographic isolation, lack of law enforcement, fear of being identified, historical mistrust of law enforcement and cross-jurisdictional issues when seeking help and gaps in culturally-based supportive services.

If the perpetrator is someone who the victim knows, the victim may feel confused and not realize that what happened was actually rape or sexual violence. Of the sexual violence crimes reported to police from 2005-2010, the survivor reporting gave the following reasons for doing so:

- 28% to protect the household or victim from further crimes by the offender

Sexual assaults against American Indians are committed by...



STRONGHEARTS
Native Helpline

<https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men>

What is Sexual Violence?

Sexual violence is an umbrella term that refers to any sexual activity without the consent of all parties. Consent is defined as mutual, ongoing, and enthusiastic agreement to engage in sexual activity made in a clear state of mind and free from coercion.

Sexual violence is often perpetrated by someone a survivor knows, and this includes intimate partner relationships. There are many different terms to refer to sexual violence that occurs within intimate partnerships, including intimate partner sexual violence, domestic violence, intimate partner rape, marital rape, and spousal rape. No matter what term is used or how the relationship is defined, it is never okay to engage in sexual activity without someone's consent.

Sexual Violence in a Relationship

Domestic violence happens when an intimate partner uses a repetitive pattern of abuse to maintain power and control over their partner. As a form of domestic violence, sexual abuse is used to assert power and control in the relationship. The behaviors can range from:

- Calling the victim degrading sexual names
- Fondling, grabbing or pinching the sexual parts of the victim's body
- Constantly pressuring the victim to have sex when they don't want to have sex
- Becoming angry or violent when refused sex
- Demanding or normalizing demands for sex by saying things like, "I need it, I'm a man"
- Drugging or restricting the victim to where they are unable to consent to sexual activity
- Forcing the victim to have sex or engage in unwanted sexual activity (ex. rape, anal rape, forced masturbation or forced oral sex)
- Using weapons or other objects to hurt the sexual parts of the victim's body
- Records or photographs the victim in a sexual way without their consent
- Intentionally tries to pass on a sexually transmitted disease to the victim
- Threatening to hurt the victim or their children if they do not have sex
- Demanding the victim to dress in a sexual way
- Forcing the victim to watch pornography

Sexual violence also occurs outside of intimate partner relationships. In fact, about 15% of female victims of rape reported being raped by a stranger.

- 25% to stop the incident or prevent recurrence or escalation
- 21% to improve police surveillance or they believed they had a duty to do so
- 17% to catch/punish/prevent offender from reoffending
- 6% gave a different answer or declined to cite one reason
- 3% did so to get help or recover loss

- general information about jurisdiction and legal advocacy referrals

"This is such a sensitive and often unspoken topic among Native peoples and our main focus is to create a safe space for that initial dialogue," said Samuelson. "It's extremely brave to share your story, so we want everyone who reaches out to us to feel secure, validated, and empowered."

StrongHearts Advocates Can Help

StrongHearts Native Helpline advocates are trained to take a Native-centered, empowerment-based approach to every call or chat. Services are completely free, anonymous and confidential. For those experiencing or who have experienced sexual violence, advocates offer the following services:

- peer support and advocacy
- basic information about health options
- safety planning
- locating a local health facility or crisis center that is trained to care for survivors of sexual assault and offers services like sexual assault forensic exams
- referrals to Native-centered sexual violence service providers that can assist with your next steps toward healing and recovery and long-term support

Help is available for victims of domestic, dating and sexual violence by calling 1-844-7NATIVE (1-844-762-8483) or visiting strongheartshelpline.org daily from 7 a.m. to 10 p.m. CT. Callers reaching out to StrongHearts outside of operating hours may connect with the National Domestic Violence Hotline by choosing option one.

StrongHearts is a project of the National Domestic Violence Hotline and the National Indigenous Women's Resource Center.





AFTER COVID-19 SCARE, NIWRC'S ANNETTE SCALPCANE AND FAMILY STILL RECOVERING

Members of the Scalpcane family. / Mike Clark, Billings-Gazette.

By Victor Flores, Originally
Published in Billings-Gazette

More than 13,000 Montanans have recovered from COVID-19. More specifically, those people tested positive for the disease caused by the novel coronavirus, did not die from it and no longer have to quarantine, per Centers for Disease Control and Prevention guidelines.

The experience of COVID-19 was not nearly that simple for four family members in Lame Deer.

Keanu Scalpcane was asymptomatic. His mother, Annette Scalpcane, who works at the National Indigenous Women's Resource Center, developed relatively minor symptoms. Keanu's sister and Annette's daughter, Tasia Scalpcane, got so dehydrated she took a trip to the ER. Tasia was pregnant at the time, but the virus did not cause any major complications. Her son, who was born last month, is healthy.

The coronavirus was much worse for August "Tiger" Scalpcane, Annette's husband, the father of Keanu and Tasia and the athletic director at Lame Deer High. Tiger was taken to Billings Clinic, where he spent several lonely days wondering if he would recover.

"I've never been that sick before in my life," Tiger told The Billings Gazette and 406mtsports.com. "It's traumatizing what you go through. The pain. The fevers."

The Scalpcanes, who contracted COVID-19 in mid-August, feel fortunate. This disease has killed more than 215,000

Americans, and Tiger was almost one of them. His recovery was a rare piece of good news during a trying 16 months for the family.

'The flu on steroids'

The Scalpcanes were careful during the first six months of the pandemic. Both of Tiger's parents are more than 70 years old, and Annette's are in their 60s. One of Tasia's daughters has asthma. Keanu's 2-year-old son has health issues stemming from a premature birth. Maybe the coronavirus wasn't as serious as it seemed, they thought, but they weren't going to take any chances with their loved ones' health.

They all wore masks, constantly washed their hands and avoided most people, including friends and older family members. Tiger disinfected his truck after every shopping trip to Billings. He went to work, but Lame Deer did not (and still doesn't) have in-person classes or sports because of COVID-19 (the Morning Stars' fall season was later canceled).

Tiger has tried to retrace his steps, but he can't remember anybody he came in contact with who knowingly had the disease. All he knows is that he got it, passed it to his family members and went through a hellish week.

On Aug. 15, Tiger thought his allergies were acting up. His nose was runny, his eyes were watery, he frequently sneezed and he felt a bit feverish. The next day, he had a slightly upset stomach.

Aug. 17 was when Tiger realized he probably had COVID-19.

His body ached like never before. He had shortness of breath. His fever intensified. He got chills. He felt so weak, he had a hard time walking around the house. “It was like the flu on steroids,” Tiger said.

Tiger got a rapid COVID-19 test on Aug. 18, and the results confirmed his fear. Annette, Keanu, Tasia and other close contacts were tested the same day. While the first three tested positive, nobody else did. They were especially relieved to hear Keanu’s 2-year-old son, Kyren, tested negative (three times) after he spent five days in the hospital with pneumonia, which is often caused by COVID-19.

The four infected Scalpcanes immediately quarantined, which meant Tasia had to stay away from her 8- and 6-year-old daughters (her grandmother took care of them while Tasia was in quarantine). Tasia and Annette developed milder symptoms than Tiger, but the disease still tired them out, so Keanu’s asymptomatic condition was especially valuable. A former National Guard member and coal miner, Keanu was used to activity and routine. He cooked and cleaned throughout the quarantine. He made sure his family members got up and about. He tended to their horses.

“It was that repetitiveness from him that was very helpful. Sanitize, clean, put your mask on if you’re not feeling good,” Annette said. “He was our rock.”

While his family members recovered, Tiger’s symptoms worsened. On Aug. 22, his family took him to the Crow/Northern Cheyenne Hospital. Doctors determined he had pneumonia and a dangerously low oxygen level, so he was transported to Billings Clinic that night. The doctor there told him that if he had waited another day to go to the hospital, he might not have survived, Tiger said. That’s how low his oxygen was.

The good timing didn’t guarantee a recovery.

“This could go either way,” the doctor told Tiger. “Some people come out of it, some people don’t.”

Doctors treated Tiger with steroids, which helped get the pneumonia out of his lungs, but severe symptoms persisted. Tiger coughed up so much phlegm, nurses gave him a bucket. He developed agonizing chest pain and felt too weak to even walk to the bathroom.

Tiger had to go through all of this by himself. Doctors and nurses would occasionally check in on him and respond if he requested them, but they kept their distance. Health-care workers who treat COVID-19 patients are wary about catching it not just for their own health, but to prevent hospitals from being understaffed and so they don’t bring it back to their loved ones.

This is also why Tiger’s family members couldn’t be in his hospital room. Because Tiger was so sick, Annette worried he couldn’t give the doctors and nurses clear enough information about his condition. She believed she could help them better, and she wanted to be there for her husband. Instead, she had to sit in her car or home. She talked to Tiger over the phone and through video chat, but those conversations couldn’t replace being by his side.

“It was scary,” Annette said through tears. “I had to pray, and that’s where I found my strength.”

She, Keanu and Tasia also received support from family, friends and other community members during Tiger’s hospital stay. Without that, “I don’t think I could have made it through,” Annette said.

Tiger started to feel better the night of Aug. 24. Two days later, his doctors ran tests and were surprised he was holding up so well so soon after such severe symptoms. His oxygen level was normal, his wind was back and his cough had mostly disappeared. He was released from the hospital that day.

“(I cried) happy tears,” Annette said. “I told him I missed him, and I told him I was glad he was healthy. I was glad he was coming home.”

By that weekend, Tiger felt like himself again. In the two months since, he has not felt any lingering effects.

“I can’t believe I went through all that,” Tiger said. “It definitely was one of the worst experiences of my life. Not the most, but one of the worst.”

‘Work’s not done’

The worst experience of Tiger’s life happened on June 12, 2019, when his son, Keeshawn, took his own life at the age of 15.

Tiger thought about Keeshawn during his lowest moments with COVID-19. He also thought about his brother, Shane Ewing, who was hit by a car and died in 2009. Doubts crept into Tiger’s head during his three days at Billings Clinic.

“I was like, ‘Well, if this happens to go the bad way, I’m going to be at peace with it because I really miss my brother and I really miss my son,’” Tiger said. “In the Cheyenne way, there are no words for goodbye. We believe that you go over to the next camp, the Happy Hunting Grounds. ... I said, ‘Well, if this is my time, I’m going to be at peace with it. I’ll just join my other relatives at the Happy Hunting Grounds.’”

“I was just trying to keep myself balanced and grounded in the hospital. You’ve got to be able to look at it both ways. We’re

always taught that only the rocks live forever.”

After Keeshawn died, Tiger’s cousin told him, “Your work’s not done here yet.” Tiger thought about that as he coughed in his hospital bed.

Annette, Keanu and Tasia were daily reminders of the work to be done. They checked in constantly, and they sent photos of his grandchildren. His step-siblings also passed along pictures of their children. Some of Tiger’s loved ones are in the next camp, but more are in this one.

People sometimes ask Tiger how he keeps going after all the pain he’s suffered. “I don’t even know how I can think or how I can function, but obviously I’ve got some strength there,” he said. “My biggest strength is my family.”

‘Not a hoax’

Before he got COVID-19, Tiger wondered if it was even real. Since March, the coronavirus has dominated the news and caused American life to shut down for months, but it’s been difficult for many people to detect. Other crises, like a natural disaster or a terrorist attack, provide visible wreckage and visceral images. The coronavirus is invisible and attacks the inside of human bodies. Its victims are mostly contained within hospitals, care homes, prisons and other places that cameras can’t access.

The scale of COVID-19 can also be hard to grasp. The United States has reported more than eight million cases of the disease, and Montana recently surpassed 20,000 positive tests. Those numbers make up less than 3% of both the country’s and state’s populations. Even accounting for the other people who have gotten COVID-19 without being tested, the vast majority of Americans have likely yet to contract it. Many don’t know anyone who’s died from COVID-19 or even developed symptoms from it. This, plus rampant misinformation, has contributed to denial of the disease’s severity or existence.

COVID-19 is not as deadly as diseases like Ebola, but it’s much more severe than illnesses like the common cold. The bulk of people who contract the coronavirus survive, but it’s the third leading cause of death in the U.S. this year. Most of the deceased had other health issues (that’s true for people who die of other illnesses such as the flu, for which there is a vaccine, unlike COVID-19), were elderly and/or lived in poor communities, such as Indian reservations.

Lame Deer is located on the Northern Cheyenne reservation, and its residents make up a large chunk of Rosebud County’s 700-plus cases and 20 deaths caused by COVID-19. Those numbers were lower before August, so many residents like Tiger knew no one who had the disease.



Tiger Scalpcane. / Mike Clark, Billings-Gazette.

Tiger’s close call wasn’t the only reason his perspective on COVID-19 changed. His aunt and uncle died from it, as did a good childhood friend. Lame Deer is a small, tight-knit community, and many people he knows have also lost loved ones because of the disease.

“It’s just heartbreaking,” Tiger said. “There’s a lot of grief here already.”

Since their recoveries, the Scalpcanes have encountered people who don’t wear masks, who frequent crowded places, who share social media posts calling COVID-19 a hoax manufactured for political reasons.

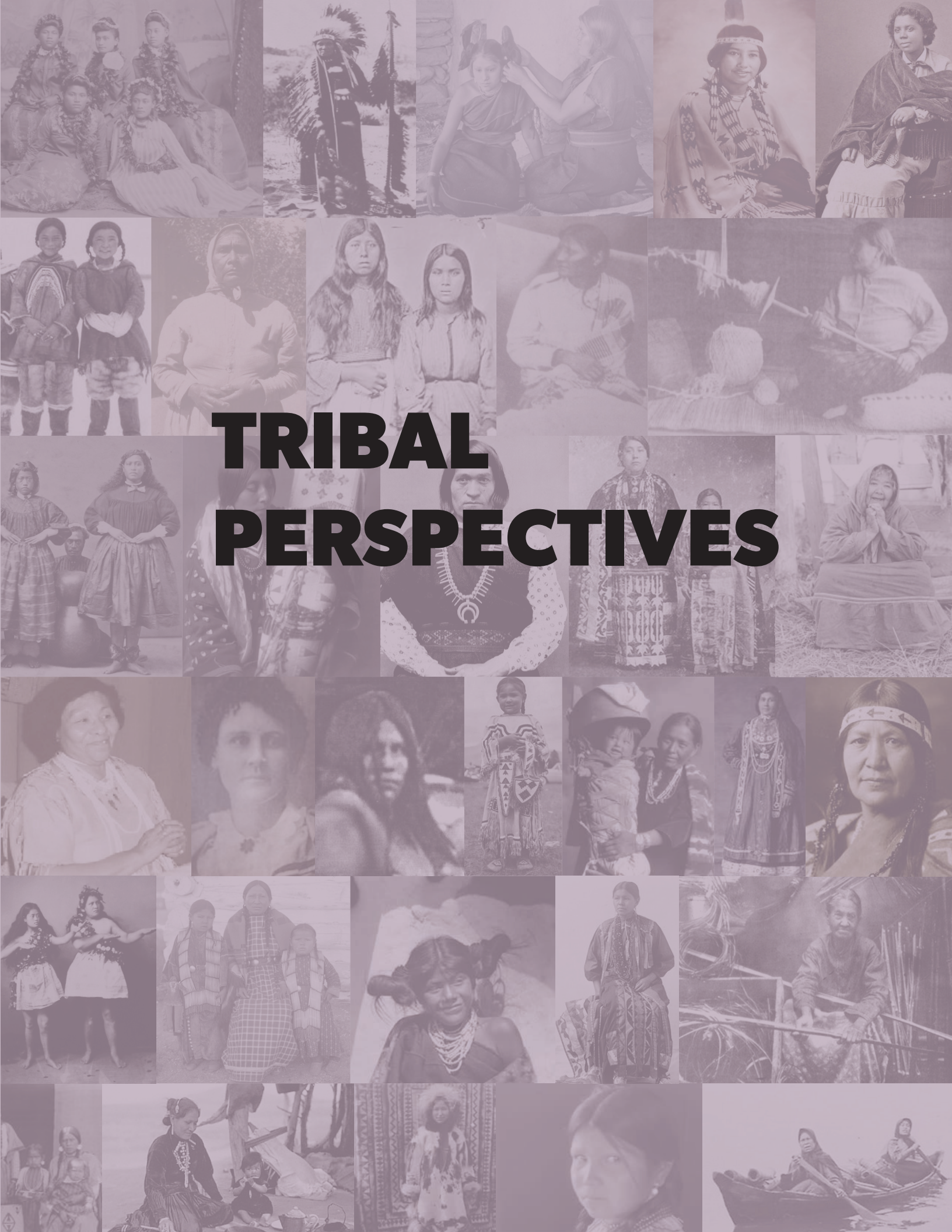
“I take offense to that. I take it personally,” Tiger said. “Now that I’ve experienced it and what we’re going through now, I get upset. It’s not a hoax. It’s real.”

While Tiger and Keanu have not suffered after effects of COVID-19 (that they know of), Annette and Tasia have. Some foods and drinks, including coffee, don’t taste the same to Tasia. Before getting COVID-19, Annette would try the food she was cooking and adjust ingredients accordingly. Now, she needs Tiger to taste for her.

All four Scalpcanes have technically recovered, but that term ignores Annette’s and Tasia’s weakened taste buds. It doesn’t detail Tiger’s traumatic experience. It doesn’t include the grief they’ve felt when a family member or friend has died of COVID-19.

The Scalpcanes get frustrated by people who deny or downplay the pandemic, but they don’t wish them ill. They simply want those people to take it seriously before it’s too late.

“I can’t change their perspective or their mind, but I can pray for them and I can hope that it doesn’t hit their home,” Annette said. “It’s serious and it’s taking lives, and I would not wish this on anybody.”



TRIBAL PERSPECTIVES



THE STRENGTH OF OUR COLLECTIVE SURVIVAL AND RESISTANCE

**Uplifting and Centering our
People's Knowledge, Vision
and Message of Healing for
Native Women and Tribal
Nations**

By Rose M. "Lashaawat" Quilt, (Yakama),
Director of Policy and Research, NIWRC



Advocates take
reclaim former
Christopher
Columbus statue
in Detroit. Photo
courtesy of Rosa
María Zamarrón.

In July, as statues around the globe began to topple in the midst of the Black Lives Matter movement, four Native women gathered in Detroit to stand in solidarity and reclaim a platform where a Columbus statue previously stood for over 100 years.¹ Indigenous people know the region traditionally as Waawiiyaatanong, before it was renamed Detroit.

Beautifully dressed in their regalia, each woman reclaimed the space as they thought of their ancestors and history.

Wrapped in her shawl, Courtney Miller (Grand Traverse Band of Ottawa and Chippewa Indians), gracefully occupied the top of the column. At the foot of the former Columbus monument stood Hadassah Greensky (Waganakising Odawa), Joelle Joyner (Black and Indigenous Meherrin) and Teia McGahey (Anishinaabe) adorned in their jingle dresses.

Many observing the photo may not understand the origin, vision and spiritual significance of the jingle dresses in relation to healing and the sacred role of Native women as shared by our Ojibwe relatives. There are several versions of the origin of the jingle dress but all rest on healing. “During World War I, an Ojibwe girl became very sick, possibly from the widespread Spanish influenza epidemic. Her father feared he was going to lose her and sought a vision to save his daughter. He saw the dress and the instructions for the dance, and went about putting the dress together for his daughter, then asked her to do a few “spring like” steps, in which she always kept one foot on the ground. She started feeling better, and kept dancing.²

Finally, she recovered completely, and kept on dancing, and eventually she formed the first Jingle Dress Dance Society.³

As our Sisters stood strong re-indigenizing that space, they felt strength, pride and healing. Each felt the spirituality of that moment and since that momentous occasion, their photo has traveled virtually across the globe signaling: not only are we not invisible but we stand as part of survival and healing of Indigenous women and nations based on our tribal beliefs.

The symbolism and sacredness of their dresses carries their own history and ceremony. Just like the blue dress (originally made for Tillie Black Bear, Grandmother of the Movement) worn by Lisa Marie Iyotte, who stood beside then President Obama in 2010 when he signed the Tribal Law and Order Act into law.⁴ In many ways, as Lisa stood watching that historic moment, it was a time of prayer and healing, just as the origin and vision of the jingle dress. The journey of their traditional

1 <https://www.bridgemi.com/urban-affairs/solidarity-indigenous-communities-join-detroits-black-lives-matter-movement>

2 <https://indiancountrytoday.com/archive/origins-of-women-s-jingle-dress-dancing-g3WkMh6AmECyELjx3rZaww>

3 *Id.*

4 Agtuca, Jacqueline, “Safety for Native Women: VAWA and American Indian Tribes” (2015).



Rose M. “Lashaawat” Quilt (Yakama) is the Director of Policy and Research for the National Indigenous Women’s Resource Center. / Photo courtesy of Rose Quilt.



Hear more about the movement to remove racist monuments on Speaking Our Truth, Ep. 12.

dresses to Waawiiyaatanong along with the blue dress and the herstorc TLOA signing ceremony are among many beautiful stories that reflect the strength of our movement firmly rooted in tribal women within their respective tribal beliefs and nations.

Increasing Safety for Native Women Requires Cultural Change

As an Indigenous-led advocacy organization dedicated to ending violence against Native women, the NIWRC continues to support the removal and renaming of statues, monuments, and imagery that glorify settler colonialism, genocide, and conquest. Symbols such as these represent centuries of injustice and oppression, by honoring historical figures who used colonizing and genocidal tactics such as war, violence and systemic racism to subjugate Black people, Indigenous people, and People of Color (BIPOC).

The very existence of colonial monuments and imagery perpetuates not only the idea that violence against BIPOC is acceptable but that such violence should be celebrated and revered. Many statues were erected in the early 1900s, an era when the federal government continued to aggressively dismantle Indian tribes, tribal lands, and families by way of frontier, military, and systemic violence with a hostile federal Indian law policy agenda. The historic legal relationship between the United States and Indian tribes serves as the foundation for American cultural tolerance of violence against Indigenous people, specifically Native women.

Statues were often erected as memorials, which are distinctly commemorative. Take Hannah Duston, one of the first white women memorialized as a publicly funded monument.⁵ Her statue brandishes a hatchet in one hand and a fistful of scalps in the other – six of whom were Native children—for which she was generously rewarded. Duston’s statue

5 <https://www.theguardian.com/us-news/2020/aug/03/hannah-duston-statue-new-hampshire-native-americans>

As Indigenous peoples, we hold a shared belief in spirituality and respect. Solutions to systemic barriers must center the voices, beliefs, and traditions of our communities.

served to demonize Indigenous people and to celebrate westward expansion and colonization. Voices in support of Duston claimed her statue should remain because she killed Native Americans in self-defense. Upholding cultural icons of colonization, such as Duston, Christopher Columbus, Andrew Jackson and others, only continues the genocide, dehumanization and legitimization of violence against Native women and has exacerbated the MMIW crisis rippling across tribal nations to present day.

The current epidemic rates of violence against Native women are the contemporary mirror of the violence adopted by European nations to achieve domination of Indian nations. However, through the perseverance, strength and unity in action of grassroots advocates, organizers, tribal leaders, and the resistance movement, enhanced protections and legal victories have been achieved for Native women along with continued advocacy despite layers of opposition. By centering our people, our knowledge, ceremony and values, we are changing the trajectory by returning to our sacred traditional ways to safeguard the lives of Native women.

Now is the Time

As Indigenous people, violence and oppression do not align with our traditional values, and NIWRC stands firmly in solidarity with the peaceful removal of any and all imagery, symbols and monument or names that perpetuate racial violence, inequality, hate, genocide, misogyny and oppression. Recently, a resort that hosted the 1960 Winter Olympics was applauded by many tribal activists when they announced they would change the name “Squaw Valley Ski Resort” due to its derogatory meaning.⁶

Research reveals the resort was given the S-name based on

⁶ https://www.espn.com/olympics/story/_/id/29938592/why-former-olympic-site-removed-native-american-slur-women-name

a young white man traveling on his wagon who planned to “shoot and kill the first Indian” he saw. Upon reaching what is now the Olympic Valley, he shot and killed a Native American woman. The U.S. Government-sanctioned violence not only opened the way for frontier violence but encouraged it with rewards, with many colonizers often brutalizing, raping and killing Native women with impunity. Surviving colonization through traditional beliefs, Native women live with a legacy of dehumanization.

However, as Indigenous peoples, we hold a shared belief in spirituality and respect. Solutions to systemic barriers must center the voices, beliefs, and traditions of our communities. It is in this spirit that NIWRC stands with our relatives in their collective advocacy against institutionalized violence and in their continued removal of any remaining statues, monuments and names representing hate, fear, injustice and division that we have been forced to endure for centuries. Collectively we must continue to reframe the truth about this nation’s history and work to decrease the social tolerance of violence toward Native women. By expanding NIWRC’s national strategy of safety and sovereignty, we can restore women’s respectful status, safeguard the lives of Indigenous women and support the vision of healing for our women, people and nations. Our Unci, Tillie Black Bear reminds us, “*as Indian Women we have survived. As tribal Nations we have survived because of our beliefs, teachings, and traditions.*”



AT A GLANCE

Some of the Recently Removed Statues of Colonizers

A: Statue of Juan de Oñate
Alcalde, NM | Status: Removed
on June 15, 2020

Snapshot: The New York Times reports, “The agitation against honoring Oñate reflects a tension that has long festered between Native Americans and Hispanics over Spain’s conquest more than four centuries ago, with protests this year over police violence unleashing a broader question of race relations in this part of the West.”

B: Statue of Juan de Oñate
Albuquerque, NM | Status:
Removed on June 16, 2020

Snapshot: Oñate was governor of the Province of Santa Fe de Nueva Mexico from 1598 to 1610, where he violently repressed Native people in the 1599 Acoma Massacre. Retaliating for the death of thirteen Spaniards at the hands of the Acoma, Oñate attacked and killed 800 Acoma Pueblo people and ordered his men to cut off the feet of at least 24 male captives.

C: Christopher Columbus
Detroit, MI | Status: Removed
on June 15, 2020

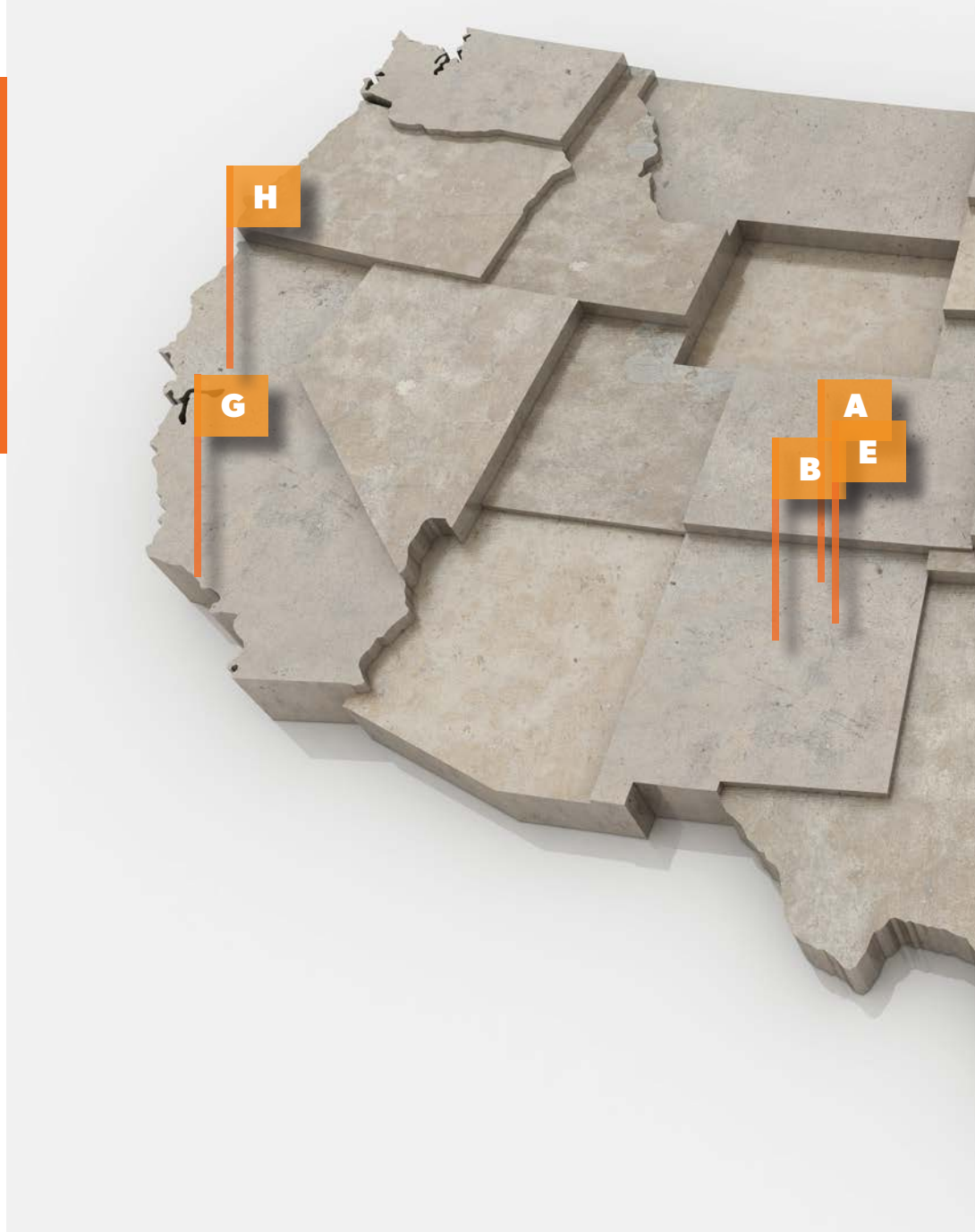
Snapshot: For 110 years, a bust of Christopher Columbus stood next to Detroit’s City Hall. Mayor Mike Duggan approved the decision for its removal, stating that City Hall should be a place of civility. Detroit voted to eliminate Columbus Day three year ago and celebrated its first Indigenous Peoples’ Day on October 7, 2018.

D: Christopher Columbus
Columbus, OH | Status: Removed
on July 1, 2020

Snapshot: A 20-foot-tall statue of Columbus in front of City Hall in Columbus, Ohio was removed this summer and placed in storage. Mayor Andrew Ginther announced that the spot outside of City Hall will now be devoted to “artwork that demonstrates our enduring fight to end racism and celebrate the themes of diversity and inclusion.” Columbus State Community College in the city removed its Christopher Columbus statue as well in June 2020.

E: Don Diego de Vargas
Santa Fe, NM | Status: Removed on
June 18, 2020

Snapshot: The legacy of Spanish territorial governor Don Diego de Vargas is celebrated annually during Fiesta de Santa Fe, where men portraying European colonists reenact his “bloodless reconquest” of Santa Fe in 1692. This one-sided history disregards de Vargas’s genocidal campaign as noted by the Santa Fe New Mexican: “Following that initial peaceful interlude came years of brutal war, executions and enslavement of Pueblo Indians by the Spaniards.” The statue was removed from Cathedral Park hours before a planned demonstration.





Research by Kelsey Turner. / Photo: Shutterstock.

F: Theodore Roosevelt
New York, NY | Status: Approval of Removal Announced June 21, 2020
Snapshot: A statue of Theodore Roosevelt stands in front of the American Museum of Natural History in New York City. The statue depicts the 26th president on a horse with a Native American man on one side and an African man on the other side. On June 21, the New York City mayor's office approved the removal of the statue, saying in a statement to CNN that it "explicitly depicts Black and Indigenous people as subjugated and racially inferior."

G: Junípero Serra
Ventura, CA | Status: Removed on July 23, 2020
Snapshot: Junípero Serra, an 18th century Franciscan friar who led the California mission system during the era of Spanish colonization, was controversially canonized by Pope Francis in 2015. In July, Ventura City Council voted to remove two Serra statues from outside of and inside the City Hall building. Supporters of the statues' removal say Serra contributed to the forced conversion of Native people to Catholicism, confined Native people to missions and banned Indigenous beliefs and customs.

H: John Sutter
Sacramento, CA | Status: Removed on June 15, 2020
A week after being vandalized with red spray paint, a statue of John Sutter was removed from Sutter Medical Center in Sacramento. Sutter, a German-born Swiss immigrant, was a key player in the genocide of Native Americans, enslaving and sexually assaulting hundreds of Native people. The Sutter Medical Center's statue will be kept in storage and returned to its original donor, the United Swiss Lodge, at a later date.



POLICE **The Danger Native Women Face:** **State Law Enforcement Killings**

Community members march for justice for Puyallup tribal member Jacqueline Salyers, who was killed by Tacoma Police officers in January 2016. | Photo courtesy of Puyallup Tribe of Indian YouTube channel.

By Jacqueline Agtuca, Editor,
Restoration Magazine

In 2014, when 34-year-old, Jeanetta Riley (Suquamish) took out a knife and threatened to kill herself, her husband took her to a nearby hospital for help. Sandpoint, Idaho police officers responded and within 15 seconds of exiting their vehicle, shot and killed Riley, claiming her knife posed a threat. Riley was pregnant and the mother of three.¹

In 2016, after shoving 27-year-old Loreal Tsingine (Navajo) to the ground, a Winslow, Arizona police officer shot and killed Tsingine. With a history of mental health related issues, Tsingine was suspected of shoplifting and had allegedly brandished a pair of scissors at the officer.²

In 2016, 32-year-old Puyallup tribal member Jacqueline Salyers was inside her car with her partner when two Tacoma, Washington police officers shot and killed her. The officers claim Salyers had intended to run them over with the car, a claim her family members heavily disputed. Salyers was pregnant and a mother of two.³

In 2012, Karen Day-Jackson, a 45-year-old Shawnee mother and grandmother with a history of mental health issues, was shot and killed by Wichita, Kansas police officers. She had been wielding a knife and yelling at the officers, “shoot me.”

Day-Jackson was a mother and grandmother.⁴

The stories of Jeanetta Riley, Loreal Tsingine, Jacqueline Salyers, and Karen Day-Jackson are tragically similar. Each woman was shot and killed by police officers. Each had a history of mental illness or substance abuse. Two of the women, Riley and Salyers, were both pregnant and homeless. Each killing was ruled justified, meaning their killers paid no consequences. And all four women were Native American. And these are just four of the cases of police shootings of Native women. In these cases the families and tribal nations called for justice.

In the Salyers case, the tribal leadership and family members led a statewide campaign in Washington to pass police reform legislation mandating de-escalation training and other reforms. They also met with the Office of Tribal Justice at the U.S. Department of Justice to call for an independent investigation. Included in the calls for justice was the statement, “Women Are Sacred.” A tribe can be effective in ways an individual advocate or advocacy group cannot. “We have a trust relationship with the federal government, so we are a sovereign nation with the full weight of the United States behind us. We also have the recognition and respect of local governments,” said former Puyallup Tribal Council Member Reynon.⁵

When the legislation was signed into law by Washington
⁴ <https://www.kansas.com/news/local/crime/article1107650.html#:~:text=Karen%20L.,night%20at%20a%20local%20hospital.>
⁵ https://inthesetimes.com/features/native_american_police_killings_native_lives_matter.html

¹ <https://bit.ly/35QDEsQ>; <https://bit.ly/3ee0H15>

² <https://www.azcentral.com/story/news/local/arizona/2016/03/31/navajo-womans-death-hands-winslow-officer-sparks-outcry/82479392/>

³ <https://www.thenewstribune.com/news/local/crime/article79049822.html>

Governor Jay Inslee in 2019, the Salyers' family and tribal leadership were present.⁶ "For tribes and Native People, this bill will clarify and strengthen the requirements of law enforcement agencies to notify us when one of our members is involved in one of these situations. And it will make sure that we have a voice at the table, that our voices are heard, and that our culture is reflected in the policies that will be adopted going forward."⁷

State Law Enforcement Killings

The National Indigenous Women's Resource Center advocates strengthening local, tribal responses to domestic and sexual violence to increase safety for Native women within their Nations. Native women living off tribal lands face a different reality of systemic racism within state government justice systems, that are often unresponsive to violence against Native women. State law enforcement also commit acts of police brutality and shootings resulting in the death of Native women.

Native Americans are killed in law enforcement actions at a higher rate than any other race or ethnicity, according to CDC data from 1999 to 2015. A 2015 study by Claremont Graduate University researchers found that, of the 29 Native deaths by police examined, nearly half were people threatening suicide and experiencing other mental health crises.

Shootings of Native Women by City Police

Jeanetta Riley, Suquamish Indian Tribe, Armed with pocket knife, shot three times by City of Sandpoint, ID, police officers in 2014.

Loreal Tsingine, Navajo Nation, Armed with scissors, shot five times by a Winslow police officer in Arizona, in 2016.

Jacqueline Salyers, Puyallup Indian Tribe, Driving and shot four times by a Tacoma, WA, police officer in 2016.

Karen Day-Jackson, Shawnee, Armed with a knife, shot four times by City of Wichita, KS, police officers in 2012.

6 <https://indiancountrytoday.com/news/justice-for-jackie-gets-police-use-of-deadly-force-bill-onto-washington-ballot-9ktNeMwOj0aRhaKVxjfwgg>
7 <http://news.puyalluptribe-nsn.gov/justice-for-jackie-is-justice-for-all-its-now-the-law/>

Seventy-nine percent of these killings occurred off reservations in urban Indian communities where mental health clinics are funded at even lower rates than the underfunded on-reservation facilities. As a result, police with limited or no mental health training have increasingly become the first responders to mental health crises.

"We recognize Native women suffer violence by state law enforcement—city police departments and county sheriffs," said NIWRC Executive Director Lucy Simpson. "Tribal communities have rallied to demand justice in cases of excessive force and police killing of Native women, and we join the movement to create responsive and meaningful change to the criminal justice system."

Militarized Policing of Indian Nations

From the perspective of many tribal nations, policing in the United States has always been problematic. "The historical record shows how Federal policy created a system that served the interest of the U.S. government and non-tribal citizens and failed to promote the ability of Indian nations to design and exert meaningful control over their own policing institutions."⁸ U.S. colonization of Indian nations was achieved through militarized strategies and occupation under the Department of War. In 1824, the Bureau of Indian Affairs was established within the War Department for dealing with Native Americans. A quarter century later, when the Department of Interior (DOI) was established, it became responsible for the management of American Indian, Alaska Native, and Native Hawaiian lands and the BIA.

Militarized policing of Indian nations includes a long history of brutality, rape, and killing of Native people. The United States, over centuries of ill-advised policy decisions, have continued to undermine and restrict the authority of Indian nations and Indigenous justice responses to safeguard the lives of Native women and tribal citizens. This federal system was not designed to promote the ability of Indian Nations to create meaningful tribal policing or response to conflict or crime. It was not until 1975, under the Indian Self-Determination Act, that Indian tribes could establish their own government functions by contracting with the BIA; however, the federal funding available in Indian Country to provide public safety and address the needs of victims is woefully inadequate.

"In the context of Indian Nations, NIWRC continues our efforts to remove legal barriers preventing the full sovereignty of Indian nations to safeguard the lives of Native women," said Elizabeth Carr, NIWRC Senior Native Affairs Advisor. "In addition, we advocate for increased federal funding of Indian Nations to develop Indigenous justice systems

8 Wakeling, et al. Policing on American Indian Reservations, A Report to the National Institute of Justice. NCJ 188095. NIJ July 2001. <https://www.ncjrs.gov/pdffiles1/nij/188095.pdf>.

to resolve disputes and maintain stable tribal communities. NIWRC understands while individuals commit acts of violence against Native women, it is the systemic barriers that leave Native women vulnerable and unprotected.”

Reform of State Policing

The U.S. Indian Relocation Program of the 1950s resulted in a massive migration of Native peoples from tribal lands to urban areas as part of the federal design to terminate Indian nations. The systemic racism experienced by Native peoples relocated to urban cities included police discrimination and brutality.

The killings of Indigenous peoples by city and county police is linked to and consistent with the history of U.S. colonization and federal policies to terminate Indian nations. The forced removal, violence, and death of Indian children during the U.S. boarding school era is just one example of such federal policies. The families and tribal nations of victims of police brutality and killings have demanded justice for decades.

The chronic lack of response to reports of missing and murdered Indigenous women is indicative of the dehumanized view that police have toward Native women. This view endangers Native women and future generations.

“NIWRC joins with the movement to reform and create responsive and meaningful local, city, county, and state police departments developed in cooperation with the communities served,” Simpson said. “The continued efforts to shift funding from supporting a militarized police presence to community-based policing is necessary and long overdue.”

Native Americans are killed by law enforcement police at a higher rate than any other racial or ethnic group across the country.¹

In Alaska, at least 30 percent of the people killed by police were Alaska Native, yet in the same five-year period, January 2015-August 2020, Alaska Native people were about 15 percent of Alaska’s population.²

¹ CDC report. See also Elise Hansen, The forgotten minority in police shootings, CNN (Nov. 13, 2017) <https://cnn.it/3jwNexY>

² <https://bit.ly/3mBysjp>



“This signing by Gov. Inslee of House Bill 1064 was a great day for sure, as the people were tested and it was they who brought us to this historic place. It won’t bring my Jackie back, but it brings me some peace knowing that she was with us throughout this journey, and because of her, and all those families that stood together to lead this effort, this bill will build our community trust and preserve our future generations,” said Jackie Salyer’s mother Lisa Earl. | Photo: Flickr.

Say Her Name

With the #SayHerName campaign for awareness of police violence gaining support, the names of Black women killed at the hands of law enforcement authorities are starting to be recognized nationwide. Now it is time to illuminate the systemic, widespread nature of unjust police responses. As we seek justice and lift up Black women’s stories like Breonna Taylor and fellow people of color, let us also lift those of Native women unjustly killed, and make their names heard. Let us honor and say names of Native women such as Riley, Tsingine, Salyers, and Day-Jackson.

Through anti-racist, tribal sovereignty focused policy analysis and reform, systemic change can be achieved. To take meaningful action to address these injustices beyond responding to individual police abuse in single cases, NIWRC recommends engagement with urban Indian communities to identify and remove systemic barriers underlying patterns of abuse by state law enforcement.

Initial recommendations for organizing to address such needed reforms include:

- Supporting calls for justice in police killings of American Indians.
- Supporting the hiring of a police force representative of the service population, specifically dense Native American urban communities.
- Acknowledging that cases of excessive force and shootings by state law enforcement further social tolerance and normalization of violence against Native women.
- Recognizing and supporting the sovereign right of Indian Nations to self-government, including non-western, Indigenous justice-based approaches.

The spirituality of the movement is a natural extension of the way of being as Native women and peoples. / Photo: Shutterstock.



The Struggle for Safety and Sovereignty

Spirituality is Organic to Who We Are as Indigenous Peoples

By Jacqueline Agtuca, Editor, Restoration Magazine, and Edited by Brenda Hill, Director of Technical Assistance and Training, NIWRC

The origins of the movement for the safety of Native women are deeply rooted in the spirituality of the grandmothers who gave it life. As Native women, the movement's founding mothers anchored in their tribal nations naturally connected their spiritual beliefs, ceremonies, and practices of their nations to building the movement for safety.

Based on the Indigenous beliefs of the grandmothers, the relationship between spirituality and the struggle for safety and sovereignty is connected. It is organic.

The United States through the colonization of Indigenous peoples and their Indian Nations criminalized all concepts foundational to being indigenous—spirituality, tribal family relationships, language, sovereignty. Understanding this reality, the cultural genocide of colonization, is necessary to restoring safety for Native women.

Spirituality is an Indigenous Cultural View of the World

"It is our belief that we are spirits on a human journey. In that way, every step we take in our human life is a spiritual act. Every word we speak is a conversation with the creator."—Tillie Black Bear

The spirituality of the movement is a natural extension of the way of being as Native women and peoples. The movement's mothers as tribal women carried into the developing movement

for the safety of Native women beliefs held by their tribes over centuries since their beginnings. The movement for safety was a reflection of who they were as daughters of their tribal nations.

"In the early years, women opened their homes to other women in need, and the children that came with their mothers. In the seventies, we did this as women helping other women, sisters helping sisters, as relatives."—Tillie Black Bear

The beliefs of Indigenous nations held women as sacred and respect a cultural foundation of relationships. These beliefs were natural protections and community safeguards for women within their nations. The introduction of violence against Native women was part of the colonization of the Indigenous nations by foreign governments, including the United States, and other countries around the world. The very laws and policies of the United States endangered Native women and eroded these social protections for Native women.

Criminalization of Indigenous Spirituality, Women, Nations

The long history of violence committed by the United States through the process of colonization is generally not understood by the American public. While the United States, acting through Congress, acknowledged and apologized for these official acts, this history is generally not taught in schools or to the public. The 2010 apology "recognizes that there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes."¹

¹ Apology to Native Peoples of the United States, H.R. 3326, page 45,

“History is not what happens, it’s who tells the story.”—Sally Roesch Wagner²

In response to this reality, Tillie Black Bear often said, “*We are a movement of resistance to colonization.*” The legal and cultural justification for the targeting of Native women rests on the United States Congress, the President, and Supreme Court. These acts, executive orders, and decisions provide the detailed history of cultural genocide and gender based violence against Native women that continues today. For allies of Native women, understanding this history is essential to understanding the importance of reforms strengthening sovereignty. While individuals carried out these mandates, unlike other populations of women, it was often under the color of law and at the direction of the federal government.

Spirituality as a Foundation for Survival

The First Amendment of the U.S. Constitution specifically states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” Yet in 1883, the Code of Indian Offenses, defined the offense and the punishment for the practice of Indigenous spirituality. Two clauses, the 4th and 6th, specifically illuminate the cultural genocide the code intended to achieve.

“4th. The “sun-dance,” the “scalp-dance,” the “war-dance,” and all other so-called feasts assimilating thereto, shall be considered “Indian offenses,” and any Indian found guilty of being a participant in any one or more of these “offenses” shall, for the first offense committed, be punished by withholding from the person or persons so found guilty by the court his or their rations for a period not exceeding ten days; and if found guilty of any subsequent offense under this rule, shall be punished by withholding his or their rations for a period not less than fifteen days, nor more than thirty days, or by incarceration in the agency prison for a period not exceeding thirty days.”

“6th. The usual practices of so-called “medicine-men” shall be considered “Indian offenses” cognizable by the Court of Indian Offenses, and whenever it shall be proven to the satisfaction of the court that the influence or practice of a so-called “medicine-man” operates as a hinderance to the civilization of a tribe, or that said “medicine-man” resorts to any artifice or device to keep the Indians under his influence, or shall adopt any means to prevent the attendance of children at the agency schools, or shall use any of the arts of a conjurer to prevent the Indians from abandoning their heathenish rites and customs, he shall be adjudged guilty of an Indian offense, and upon conviction of any one or more of these specified practices, or, any other, in the opinion of the court, of an equally anti-

<https://www.govinfo.gov/content/pkg/BILLS-111hr3326enr/pdf/BILLS-111hr3326enr.pdf>.

² <https://www.withoutawhisperfilm.com/>



Carmen O'Leary at 2019 Shawl Ceremony. / NIWRC.

progressive nature, shall be confined in the agency prison for a term not less than ten days, or until such time as he shall produce evidence satisfactory to the court, and approved by the agent, that he will forever abandon all practices styled Indian offenses under this rule.”³

“As young children we would wait on the ridge to watch for government agents to warn those in the purification lodge.”—Tillie Black Bear

It was not until the American Indian Religious Freedom Act of 1978⁴ that the right of Indigenous peoples—American Indians, Alaska Native, and Native Hawaiians—in the United States to exercise their Indigenous spirituality was restored. After 95 years, the Act reversed federal policy and recognized the inherent right of Indigenous peoples to “believe, express, and exercise” their “traditional religions.” It decriminalized what the Code of Indian Offenses made illegal.

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.” —American Indian Religious Freedom Act, 1978⁵

The Spirituality of the Movement for Safety: Growth and Victories

1995 Wiping of the Tears Ceremony, February 23, 2004, Washington, D.C.

In 1995, following the passage of the Violence Against

³ <https://rclinton.files.wordpress.com/2007/11/code-of-indian-offenses.pdf>
⁴ 42 U.S.C. § 1996. See <https://www.smithsonianmag.com/blogs/national-museum-american-indian/2018/11/30/native-perspectives-american-indian-religious-freedom-act/>

⁵ <https://www.govinfo.gov/content/pkg/STATUTE-92/pdf/STATUTE-92-Pg469.pdf#page=1>



(Top) Quilt Walk for Justice, 2015. (Middle) Shawl Ceremony, honoring MMIW, 2018. (Bottom) Chief Arvol Looking Horse at the Quilt Walk for Justice, 2015. / Photos courtesy of NIWRC.

Women Act services for women continued to be tribally based and grounded in the specific beliefs and healing ceremonies of the women to be served. These services were based on relationships, and the women seeking safety were viewed as relatives. This organic linkage between tribal beliefs and the women to be served was an Indigenous approach to the wellness and healing of the woman from the abuse. The western approach of criminal prosecution was not, and for many Indian nations continues to be, not an option.

While federal grant programs limit the project purposes and services that can be offered, tribal-based services are essential for Native women. These services often are not needed for one time but are essential as ongoing support as the woman continues her healing journey. To be meaningful these services must reflect the beliefs of the women to be served. The concept of victim services being statutorily defined is often in conflict with tribally based services that are specific to each tribal nation.

As a social justice movement, the movement mothers found guidance in their tribal beliefs. One example of this leadership was the Wiping of the Tears Ceremony held at the Senate Hart building on February 23, 2004. The event was hosted to inform and increase awareness of members of Congress of the need to reauthorize the 2005 Violence Against Women Act to include the Safety for Indian Women title. The new tribal title asserted the federal trust responsibility to Indian tribes in safeguarding the lives of Native women. The VAWA was reauthorized in 2005 and included Title IX. Safety for Indian Women.

2015 Quilt Walk for Justice, U.S. Supreme Court

On December 7, 2015, hundreds of people walked in front of the United States Supreme Court to send a message of “no more” in the *Dollar General* case. At question was the jurisdiction of the Mississippi Band of Choctaw Indians over the Dollar General Corporation—whose non-Indian store manager had repeatedly sexually assaulted a thirteen-year-old Choctaw boy while working at the store on the reservation. At 9 a.m., when hundreds arrived and began circling the sidewalk in front of the Court, a social media thunderclap in support of the Quilt Walk for Justice reached over two million people. When the case began, the walk paused and those gathered outside and across Indian Nations joined together in a National Prayer for Justice and Safety for Native women.

Traditional Chief Arvol Looking Horse led the national prayer for the safety of Native women that looked to a greater power than the United States Supreme Court. The national prayer reflected the strong belief of the people in prayer as a foundation for all components of one’s life. Chief Looking Horse, who supported and assisted Tillie Black Bear and the movement over many decades, shared thoughts before leading the national prayer.

“We are the First Nations people here today. We come on behalf of our First Nations as one voice, one prayer, and united as relatives. We are the voice of our ancestors, our prayers, our songs. Today, we come here to support our relative during the hearing going on now inside the Supreme Court. Today, we say from this day forward no more abuse to women and children. We have come to this place after all the years and generations of abuse to women of this Turtle Island. Today, as we walk with our relatives, we represent ourselves as the original people showing that we honor our traditions, our nation, our beautiful way of life here on Turtle Island. We honor the women as the life-givers, Mother Earth as the source of life, not a resource.”

“As women of the movement we play many roles. One is to understand and reform those laws, policies, lack of resources, and so much more that continues to separate us as Native women. Another is to restore the sovereignty and protections that are original to our Indian tribes.”
—Tillie Black Bear

Connie Brushbreaker, daughter of Tillie Black Bear, traveled from the Rosebud Indian Reservation to join Chief Looking Horse to sing a traditional Lakota encouragement song honoring women. She introduced it by explaining, “the song I am going to share today is one that my mother, Tillie Black Bear, always sang in her work in the women’s movement since the mid 70s.”

The U.S. Supreme Court upheld the lower court in favor of the Mississippi Band of Choctaw Indians.

2019 Shawl Ceremony, United States Capitol, Washington, D.C., September 17, 2019

This organic link between the spirituality of the grandmothers of the movement for safety continues today. It has shaped and guided the movement and is recognized in the saying, “Women Are Sacred.” On the 25th anniversary of the Violence Against Women Act, September 17, 2019, a celebration was held on the lawn at the Capitol in Washington DC. It was sponsored by the National Congress of American Indians and the National Indigenous Women’s Resource Center. The celebration began with an opening prayer song by Juana Majel Dixon gifted to our movement by her mother, elder Loraine Dixon, in 2001. Following the prayer song Carmen O’Leary, a member of the

Board of Directors of NIWRC, led a Shawl Ceremony in honor of victims of domestic violence, sexual assault, stalking, and missing and murdered Native women. Elder Jessie Johnnie of the Sitka Tribe gifted the Shawl Ceremony to the movement in 2004. An honor song accompanied the shawl ceremony.

“Today we must remember who this is really about the women who are not here today. The shawls represent the women that are not here and what they went through.”—Carmen O’Leary, Board of Directors, NIWRC.

The 25th anniversary celebration of VAWA once again reflected that the culture of our movement is based in spirituality, respect, and honoring of women as sacred. The VAWA 2005, Safety for Indian Women title, was passed stating specific findings including, “the unique legal relationship of the United States to Indian tribes creates a federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.”⁶

The concept of “safeguarding” has a deeper meaning than the western criminal justice system’s prosecution of perpetrators. Safeguarding is more holistic, encompassing the wellbeing of the survivors of violence to continue their journey in life. This tribal worldview of safety and justice for Native women offers assistance in understanding the purpose and focus of federal legislation including the reauthorization of the Violence Against Women Act and Family Violence Prevention Services Act.

During the 2019 Violence Against Women Consultation, Daphne Joe, representing the Asa’carsarmiut Tribe, clearly stated the role of federal legislation to Indian tribes. *“The federal programs providing resources must be based on our tribal way of life. Federal resources can help us but not by changing who we are, but by supporting who we are as Yup’ik people, who we are as Alaska Natives.”*

As we organize to reauthorize the Violence Against Women Act and the Family Violence Prevention Services Act, it is helpful to look to the spiritual foundation of the movement for the safety of Native women. The western approach to providing safety is important but not foundational to restoring the sacred status of Native women within their nations.

“As women of the movement we play many roles. One is to understand and reform those laws, policies, lack of resources, and so much more that continues to separate us as Native women. Another is to restore the sovereignty and protections that are original to our Indian tribes.”—Tillie Black Bear

⁶ VAWA 2005.

More than Words

The words “Women Are Sacred,” are often heard throughout our movement for safety and sovereignty. This belief appears in many places in our movement’s history. Understanding the importance of uplifting the voices of Native women, NIWRC organized a webinar of Indigenous women to discuss and share their thoughts on tribal beliefs of “Women Are Sacred.” Three Indigenous sisters—Amanda Takes War Bonnet, Cheryl Neskahi Coan, Rose Loke Pettigrew—were invited to discuss three important questions regarding the tribal belief of “Women Are Sacred.” These three sisters are all rooted in their respective cultures and understand advocacy work for women. The time spent together was both energizing and calming, and we hope by sharing a part of the webinar—the voices of our sisters—it will be for you as well.

“I think coming together as women, even if it is in the form of a webinar, is ceremony and medicine,” said Brenda Hill, NIWRC Director of Technical Assistance and Training. “We set some energy out there in a certain direction, and everyone that listens to it or reads these words is free to use what was shared to think, create, or explore on your own the nature of women, our spiritual strength, our roles in society, and on and on. I hope women will come together with other women to also make ceremony. In these trying times it is important to remember that our ancestors are with us. We need to remember their struggles and their resilience.”

Q: What does Women Are Sacred mean?



***Amanda Takes War Bonnet,
Native Women’s Society of
the Great Plains, Reclaiming
Our Sacredness***

The understanding of “Women Are sacred” was ingrained in our belief system from our ancestors because women were the life givers. Beliefs and lifestyles were developed around the protection of women and their children, or the survival of the

of the people. Reclaiming our sacredness is important today. Our Society uses this philosophy in our work, within our trainings, and when we advocate for the safety of women and children. We do this when we use our cultural teachings to reclaim that sacredness and to teach women about advocacy and keeping women safe, keeping children safe, and just all the different levels of the protection. Through understanding, encouraging and supporting our cultural identity of why we are sacred in our work, whether through ceremonies for healing or just identity, supporting self-love, or always finding ways to reclaim that sacredness that we have in us, that’s, what’s going to keep us strong as women and keep us safe.



***Cheryl Neskahi Coan,
Indigenous Crime
Victim Services Referral
and Resource Center,
Silverdale, WA in
conjunction with the
Women’s Spirit Coalition***

I think in many ways it is a very broad question, but at the same time, it’s a self-question. Each of us have to really look at that and understand. You know, when we are created by virtue of being a female being in our traditional stories, our traditional teachings, our traditional culture, there was so much that it meant as women. The power, the strength, the resiliency, all of those things that bring this question to us today, from where we came from, and from our elders that are now our teachers, our spiritual protectors, and honoring that part of who we are as life givers. We are natural advocates. Those are roles that became a part of who we are because of our createdness. And so the advocacy of looking after and teaching and molding, our babies, our children into who they are today and looking at that piece of the mental wellness, the emotional wellness, the physical wellness, and the spiritual wellness of what that means, as part of our createdness.



***Rose Loke Pettigrew,
Pouhana O’Na Wahine
(Pillars of Women)***

As a Native Hawaiian, the sacredness of a woman begins at birth. The creator, Akua, created women to be the birthers, to be the nurturers of our nation. There’s a responsibility to carry the families, generations of our people, and to support the continuing legacy of who we are. Colonization really decimated, and created a division within our identity, and who we are as women.

Where I come from many of our women experienced domestic violence, and other issues that really take them away from who they are as Native Hawaiian, or as a woman, a mother, a sister, and auntie, and all the relations to relatives. For me, everything is spiritual. Working with the women that I work with, it’s heartbreaking to know the level of violence that they experience, and the sacredness of us as women to birth the nation, to nurture the children.

So we need to be firm as women because our bodies were sacred from creator, and continue to be, and will always be sacred. The Pouhana O’Na Wahine uphold our families,

our nation. And, we educate on what it means to be Native Hawaiian, to be respectful, and to understand where we come from. In ancient times, women were a part of everything that happened, the responsibilities in the family, and the caring of the land. We are the land, and the land is sacred. That's what gives us life as well. Our people are the land. Our women are the land.

Q: In the face of the impact of colonization and modern-day levels of violence against Native women, how do we as Indigenous women experience, understand, nurture, and protect our sacredness?

Amanda Takes War Bonnet

In order to protect our sacredness, we really need to have that understanding of what that means, what is it? If we have that better understanding of it, then we can promote those teachings of why we are sacred, and why we value our sacredness. So, the most important thing is that understanding and to continue those teachings. How do we teach our girls? How do we teach our women to do this? A part of it is when we look at our self-understanding of our sacredness and the impact of colonization. One of the teachings that we had was our connection to Unci Maka, Mother Earth, we have that connection in our DNA, from our ancestors.

So when they ask why do we have water protectors? Why do we think about climate change? Why do we think about Unci Maka? This is simple and to the point, you know, all things are made of earth, but were just made differently. So that really gives us that spiritual understanding of life and why we need to protect our sacredness. So when we talk about how are we going to do that? Well, storytelling was a big part of history. It was something that was done since we first came on this earth and it was also a part of our ancestors' way of teaching. And we see it today in many forms in the world. Storytelling was that human behavior that we used, to promote culture and beliefs. Our ancestors did it. Europeans did it. When they came, they had their storytelling, they had the fables, they had their own way of using stories to ingrain their beliefs. And they brought that over here. And we call that a part of the colonization.

Cheryl Neskahi Coan

Sometimes this is something that can be hard, but I think it is important to understand that violent colonization is a part of our history, that it continues today. You know the raping of our women was used as a weapon, a violent taking of who we are as women, deep, deep down to our spirit, and the destruction that happened to us as women, you know, who were raped and thrown away. The concept now of how women are rape-able and is used as a weapon to weaken a nation.

And I think that's a very important piece of understanding,

especially when we look at trying to understand that we're sacred. Even trying to understand the concept that we are rape-able as women. Much of our healing has to come from understanding that that's not a normal feeling, that's not a normal way for our culture, our tradition, as tribal Native women in being created, as sacred beings. From the beginning, we were created as sacred beings.

So for a long time, these were things that we were not able to talk about. It was shaming. We felt shame. We were treated with shame. All of those things about how we feel as Native women, if you've been raped, if you've been sexually assaulted. It's tied to domestic violence.

It took a long time for us to get to the place of being able to understand power and control, to understand that I'm a victim. I did not realize that that's something that I should not have to be blamed for. It's not my fault. It's not a part of our culture. Reclaiming our sacred - reclaiming ourselves is the beginning of nurturing and protecting our sacredness.

Rose Loke Pettigrew

We need to protect our sacredness by understanding who we are, where we come from, and how to engage in the teachings of our Kupu. Today we have the movement of Kapu Aloha, which means sacred love. Love is everything. If you feel love, you feel better. The love that is a genuine love for each other and for the sacredness through love and knowing that we're Kapu. And connecting ourselves to that for healing as well to nurture and protect ourselves and teach our ways to our people, our women, our men. Because there's so much trauma in both through life experiences that have hurt, each and every one. So the essence of sacred love is what guides Native Hawaiians. So we have to rise above the violence, domestic violence, racial violence, and just other violence in communities to continue to try to love and not use all that negativity.

You know, it's like the 30-meter telescope, and our people are rising and standing together and coming together to protect sacred sites. And the sacredness of what it means, in this particular Mauna Kea. You know, that, is a place where the connection between the birth of our people began. So, protecting the sacredness of not only our beings, but all that is sacred to us. Āina is our land and that's who we are. That's how we live. That's where we survive, through our lands and our teachings to protect that and to continue to teach the generations that maybe are disconnected, or were disconnected from who they are and where they come from. Again, I say, for me, and many other Hawaiian it's the identity? Who are you? Where did you come from? So you can start to heal and learn the stories and traditions and ways of life that we have been so far removed from. Now it's time to regain the teachings of our ancestors.

Past and Current United States Policies of Forced Sterilization

Support immediate investigation of forced sterilization of Indigenous women by the Department of Homeland Security

By Jacqueline Agtuca, Editor, Restoration Magazine, with Research by Kelsey Turner, Fellow, Restoration Magazine

On October 2, 2020, the United States House of Representatives passed a resolution condemning unwanted, unnecessary medical procedures on individuals without their full, informed consent. It states: “Whereas, a growing number of women are coming forward to share stories of unwanted, unnecessary medical procedures, including full or partial hysterectomies and other procedures involving their reproductive organs, performed without their knowledge or consent.”¹

The resolution is in part a reaction to a complaint filed to the Department of Homeland Security on September 16, 2020, expressing concerns about unnecessary hysterectomies performed on detained immigrant women without their informed consent.

“Dawn Wooten’s whistleblower account is terrifying and brings to light the generational trauma caused by efforts to exterminate communities of color and people with disabilities. We need an investigation,” said Rep. Deb Haaland (D-N.M.), a tribal citizen of the Laguna Pueblo.

Haaland and 172 other Congressional members signed a letter calling on the Inspector General of Homeland Security to open an investigation. It states, “The reports of mass hysterectomies cause grave concern for the violation of the bodily autonomy and reproductive rights of detained people. Everyone, regardless of their immigration status, their language, or their incarceration deserves to control their own reproductive choices and make informed choices about their bodies.”²

“While we applaud the resolution, we are greatly concerned that it illustrates the United States as a government that continues a policy of forced sterilization,” said Lucy

1 <http://jayapal.house.gov/wp-content/uploads/2020/09/Irwin-County-House-Resolution.pdf>

2 <https://jayapal.house.gov/wp-content/uploads/2020/09/DHS-IG-FINAL.pdf>



U.S. History of Sterilization of Native Women

Start Here

1870s

The history of reproductive violence against Native women begins with the injustices and violence of U.S. colonialism. Beginning in the 1870s, the federal government pursued a campaign of assimilation to erase the language, clothing, culture, and spiritual practices of Native peoples. As ceremonial practices such as women's coming-of-age ceremonies and birthing procedures were criminalized, these practices were driven underground or ceased.¹

¹ <https://bit.ly/3dFLGIw>

1900

As the federal government forced Native peoples onto reservations and the influx of disease into non-immune Indigenous communities, state violence caused the American Indian population to fall to less than 250,000 by 1900.

1970s

Despite the regulations requiring informed consent following a 1974 Supreme Court decision¹, the U.S. Indian Health Service (IHS) was accused of sterilizing Native American women without their informed consent throughout the 1970s. One of the most common violations of Native American women's rights to informed consent was the lack of an interpreter to explain in their own language about the surgical procedure. Physicians would also refrain from explaining its irreversibility or offering optional means of birth control. Doctors would oftentimes work in conjunction with a social worker, threatening to withdraw patients' welfare benefits or take their children away from them unless they underwent sterilization. As a result, thousands of Native American women in the 1970s were faced with an impossible decision—either losing their children to social welfare agencies or losing their ability to have children.²

¹ Relf v. Weinberger (1974)

² <https://bit.ly/2Hivnp5>

1974

In 1974, Dr. Connie Pinkerton-Uri, a Choctaw/Cherokee physician, found that at least one in four American Indian women had been sterilized without consent. Her study concluded that IHS appeared to have “singled out full-blooded Indian women for sterilization procedures.” The study indicated that 25,000 Native American women would be sterilized by the end of 1975. Dr. Pinkerton-Uri also found that “Indian women generally agreed to sterilization when they were threatened with the loss of their children and/or their welfare benefits, that most of them gave their consent when they were heavily sedated during a Cesarean section or when they were in a great deal of pain during labor, and that the women could not understand consent forms because they were written in English at the twelfth-grade level.”

1970

In 1970, a Creek woman filed the first civil lawsuit to address sterilization abuse as a civil rights issue. She underwent tubal ligation after delivering her son, who was immediately removed to a foster home. In addition, her other two children were also taken from her custody and placed in foster homes under false pretenses. She did not sign a consent form for the surgical procedure until the day after the ligation. After trying repeatedly to regain custody of her three children, she employed legal assistance from the Council of Three Rivers American Indian Center in Pittsburgh. Through this lawsuit, she regained custody of her children after three years separated. However, she did not receive justice for her loss of reproductive rights. In the 1979 criminal case, the jury acquitted the doctors and one male social worker.¹

¹ <https://bit.ly/2Hivnp5>

1976

In 1976, the Native American population was about 800,000 people. The life expectancy for a Native American in 1977 was 47 years compared to 70.8 years for the general population. Infant mortality was three times the national average and the tuberculosis rate was eight times the national average. For every seven babies born, one Indian woman was sterilized. Given these statistics, sterilization within many tribes could have a devastating impact on a tribe's survival. "There are about only 100,000 [Native American] women of childbearing age left. A 200 million population could support voluntary sterilization and survive, but for Native Americans it cannot be a preferred method of birth control. Where other minorities might have a gene pool in Africa or Asia, Native Americans do not. When we are gone, that's it."¹

¹ <https://bit.ly/34fw1MP>

1977

In 1977, the United Nations released a report prepared in conjunction with the Native American Solidarity Committee detailing the genocidal practices of the federal government, including forced sterilization of Native women. This report concluded that 24 percent of Native women had been sterilized between 1970 and 1976, 19 percent of whom were of child-bearing age. Some scholars place this figure as high as 50 percent. Allegations against the IHS included: failure to provide women with necessary information regarding sterilization, use of coercion to get signatures on the consent forms, improper consent forms, and lack of an appropriate waiting period (at least 72 hours) between the signing of a consent form and the surgical procedure.¹

¹ <https://bit.ly/34eTSfG>; <https://bit.ly/3o8Wvrb>

1977

In 1977, three Northern Cheyenne women from Montana were involved in a class-action suit filed against U.S. Department of Health, Education and Welfare (HEW)—this was the first legal response to the GAO report. Tucson attorney Michael Zavalla represented the three women, whose names were withheld from the media out of their fear of public condemnation within their tribes. Zavalla noted the young women's embarrassment and shame over their loss of reproductive abilities, alleging that they were sterilized without their full consent or knowledge of the surgical procedures and its ramifications. The lawsuit was directed against the hospital physicians, claiming that the doctors failed to comply with federal consent regulations. These physicians allegedly coerced the women into sterilization by implying that they would lose their welfare benefits, that they needed the surgery, or that the surgery could be reversed at a future date. The case never went to trial. Instead, each of the three women was offered a cash settlement by the defendants' lawyers. Zavalla believed the lawsuit ended this way in order to avoid additional publicity that might encourage further litigation by other victims.¹

¹ <https://bit.ly/2HnDSyQ>

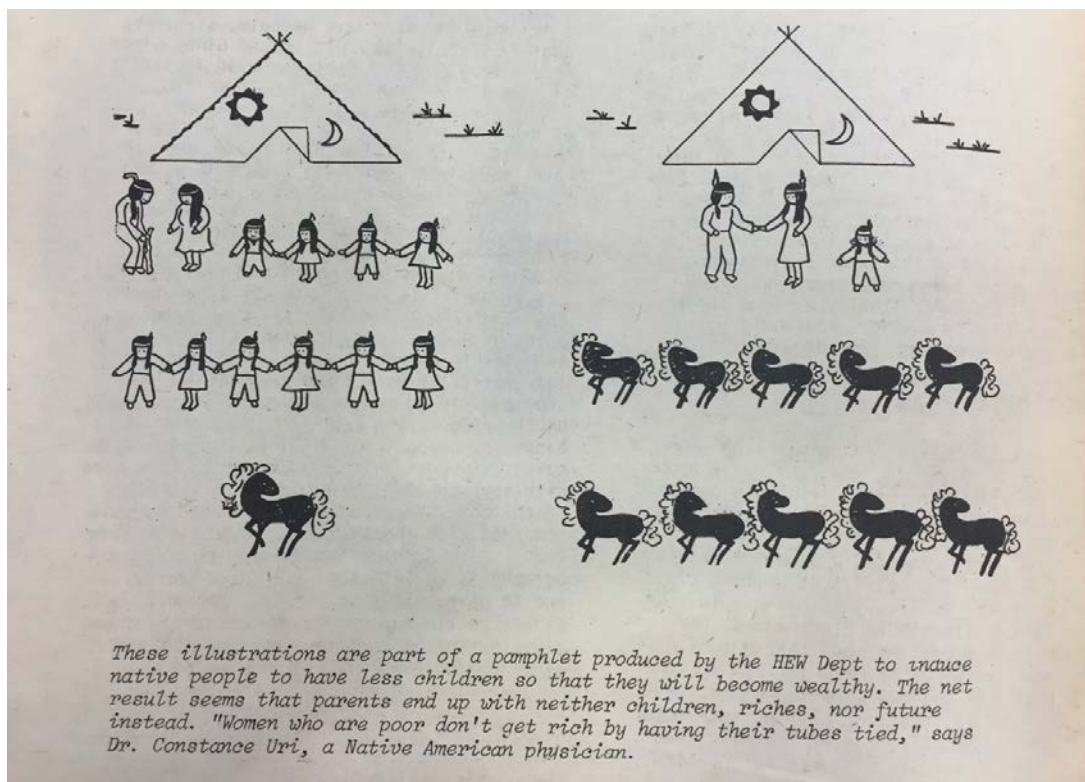
1976

In 1976, a U.S. Government Accountability Office (GAO) investigation of Albuquerque, Phoenix, Oklahoma City, and Aberdeen, South Dakota, found that four IHS clinics sterilized a total of about 3,406 women between 1973 and 1976. Of these women, 3,001 were of childbearing age and 36 were under the age of 21, despite a declared moratorium outlawing this procedure for women under 21. Because this report only investigated four out of twelve IHS areas, these statistics by the GAO represent a minimum.¹

¹ <https://bit.ly/37tiof1>

1976

In 1976, the late Marie Sanchez, a former Chief Judge at the Northern Cheyenne Reservation, worked for many years to expose and advocate for the end of forced genocide of Native women. After interviewing 50 Northern Cheyenne women, she discovered that between 1973 and 1976, IHS doctors had sterilized 26 of them. She believed that the number of women reported as sterilized in a GAO report was too low, and that the actual number was much higher than 25 percent. Two girls under the age of 15 told Sanchez in their interviews that they were told they were having their appendix taken out. Only after the procedure did they find out they had been sterilized. Another interviewee had gone to a physician for migraines. The physician told the woman that her condition was a "female problem" and was advised that a hysterectomy would alleviate the problem. Her headaches continued until she was diagnosed with a brain tumor. Through her investigation, Sanchez hoped to encourage women to file lawsuits against the IHS. However, Sanchez found that the women were often too emotionally traumatized from their sterilizations to come forward.



These illustrations are part of a pamphlet produced by the HEW Dept to induce native people to have less children so that they will become wealthy. The net result seems that parents end up with neither children, riches, nor future instead. "Women who are poor don't get rich by having their tubes tied," says Dr. Constance Uri, a Native American physician.

The figure above depicts a U.S. HEW pamphlet from 1974. Pamphlets such as this were introduced by family planning workers to Native American communities in order to advertise sterilization as a form of birth control throughout the 1960s and 70s. This pamphlet depicts a "before" sterilization picture next to an "after" picture, in which the two parents appear more erect with only one child and many horses, compared with the ten children and one horse before sterilization.

Simpson, Executive Director of NIWRC. "As an organization dedicated to ending violence against Indigenous women, we know all too well the end result of such a federal policy."

The United States' Long History of Past Government Policies of Sterilization

The federal law and policies of forced sterilization were not limited toward Native American women, but targeted other women of color, disabled and poor women. This period of forced sterilization is known as the "eugenics movement." The driving ideology behind the eugenics movement is that of survival of the fittest — America would be stronger if only the physically and financially strong reproduced.³

"The House Resolution indicates forced sterilization remains an issue to be addressed," Simpson said. "As the NIWRC, and further as a movement, we must oppose forced sterilization of women and uphold their reproductive rights."

In 1907, Governor J. Frank Hanly of Indiana approved a eugenics law, making Indiana the first state to approve a compulsory eugenic sterilization law. This law made sterilization "mandatory for certain individuals in state custody" and prohibited marriage licenses for "imbeciles, epileptics and those of unsound minds." This law was passed

³ <https://19thnews.org/2020/09/whistleblower-complaint-hysterectomies-ice/>

for the purpose of decreasing reproduction among these individuals, based on the belief by Indiana authorities that criminality, mental problems, and pauperism were hereditary.

In 1921, the Indiana Supreme Court ruled the 1907 sterilization law unconstitutional in *Williams et al. v. Smith* because it denied due process of the law guaranteed by the Fourteenth Amendment. In 1927, a revised law was implemented reinstating sterilization, adding court appeals. It was not repealed until 1974. Fifteen other states enacted similar laws in the following decades. The Indiana Historical Bureau states, "It is difficult to state the exact number of people sterilized by Indiana law because different institutions around the state used varying methods of recordkeeping. Two academic studies place the total number of people sterilized around 2,500."⁴

In 1927, the U.S. Supreme Court in *Buck v. Bell*, upheld a state's right to forcibly sterilize a person considered "feeble-minded." *Buck v. Bell* defended the involuntary sterilization of 17-year-old Carrie Buck, who was an inmate of the Virginia State Colony for Epileptics and Feebleminded, after Carrie gave birth to an illegitimate daughter. Chief Justice Oliver Wendell Holmes justified the decision by saying, "three generations of imbeciles are enough." Because of this decision, as many as 70,000 Americans were forcibly sterilized during the 20th century. <https://www.in.gov/history/markers/524.htm>; https://www.law.berkeley.edu/php-programs/centers/crrj/zotero/loadfile.php?entity_key=QFDB5MW3

What is a Hysterectomy?

A hysterectomy is a surgical procedure to remove the uterus used for various health reasons, including cancer, uterine fibroids, and chronic pelvic pain, among other conditions. After a hysterectomy, a woman no longer menstruates and cannot become pregnant.

century.⁵ 26 more states passed laws allowing involuntary sterilizations in the decade following *Buck v. Bell*.⁶

Between 1907 and 1939, more than 30,000 people in 29 states were sterilized unknowingly or against their will while incarcerated in prisons or psychiatric institutions. Nearly half of these procedures occurred in California. Following the horrors of the Holocaust, the ideology of the eugenics movement lost popularity. Geneticists realized that the inheritance of traits is much more complex than the simplistic version eugenicists had purported.

However, throughout the 1950s, eugenics did not disappear but instead changed form. Rather than using arguments of heredity and “defective genes”, the argument shifted to concerns about family size and dependency on the government. For example, poor and minority women were framed as “hyperbreeders” who could not sustain themselves and were draining public resources.

Following this reframing of eugenics, sterilization increased in the 1950s and 1960s in many Southern states such as North Carolina and Virginia. “This increase came at precisely the same time that Congress created Medicare and Medicaid and the African Americans gained access to such federal programs after the passage of the Civil Rights Act of 1964. This was no coincidence. Bitter about the demise of segregated Jim Crow America and the expansion of protections for the poor, authorities embraced sterilization to prevent poor and minority communities from advancing socially.”⁷

5 <https://www.npr.org/sections/health-shots/2016/03/07/469478098/the-supreme-court-ruling-that-led-to-70-000-forced-sterilizations>

6 https://www.law.berkeley.edu/php-programs/centers/crrj/zotero/loadfile.php?entity_key=QFDB5MW3

7 <https://www.washingtonpost.com/outlook/2019/09/17/how-dismantling-welfare-continues-legacy-eugenics/>

In 1969, the federal court of appeals Third District, California in *Jessin v. County of Shasta*, ruled that “voluntary sterilization is legal when informed consent has been given, that sterilization is an acceptable method of family planning, and that sterilization may be a fundamental right requiring constitutional protection.” A woman sued her county hospital for performing a sterilization operation on her after she had signed a consent form. This case served to encourage doctors to perform more sterilization operations during the 1970s. Previously, many physicians had assumed that sterilization as a birth control method was illegal.⁸

In 1970, Congress passed the Family Planning Services and Population Research Act. This act allocated \$383 million for contraceptive programs, including grants to hospitals that performed voluntary sterilizations, in an attempt to reduce the number of welfare recipients. Many hospitals, however, used these funds to operate on minority women who were unaware of the procedures they were undergoing.⁹ As a result of this legislation, during the 1970s, the U.S. Health, Education and Welfare (HEW) funded 90 percent of the annual sterilization costs for poor people. Sterilization for women increased 350 percent between 1970 and 1975 and about one million American women were sterilized each year¹⁰. Sterilizations of Native and Puerto Rican women increased following the Family Planning Services and Population Research Act of 1970.

According to a 1973 Health Research Group study and interviews conducted by Doctor Bernard Rosenfeld in 1974 and 1975, “the majority of physicians were white, Euro-American males who believed that they were helping society by limiting the number of births in low-income, minority families. They assumed that they were enabling the government to cut funding for Medicaid and welfare programs while lessening their own personal tax burden to support the programs. Physicians also increased their own personal income by performing hysterectomies and tubal ligations instead of prescribing alternative methods of birth control. Some of them did not believe that American Indian and other minority women had the intelligence to use other methods of birth control effectively and that there were already too many minority individuals causing problems in the nation, including the Black Panthers and the American Indian Movement.”¹¹

Supreme Court Cases, 1974 and 1975

Relf v. Weinberger—In 1974, the Southern Poverty Law Center filed a case on behalf of two Black sisters in

8 <https://www.jstor.org/stable/pdf/1185911.pdf>

9 <https://www.washingtonpost.com/outlook/2019/09/17/how-dismantling-welfare-continues-legacy-eugenics/>

10 https://www.law.berkeley.edu/php-programs/centers/crrj/zotero/loadfile.php?entity_key=QFDB5MW3

11 <https://www.jstor.org/stable/pdf/1185911.pdf>

Montgomery, Alabama, Minnie (12 years old) and Mary Alice (14 years old), who were coerced into federally funded sterilization. Their illiterate and poorly educated mother signed an “X” on a piece of paper under the assumption that her daughters would be given birth control shots. Instead, they were surgically sterilized. The case exposed the reality of federally funded widespread sterilization.

This lawsuit led to the requirement that doctors obtain “informed consent” before performing sterilization procedures. Informed consent means that the doctor must fully impart the nature and purpose of the procedure to the patient along with the possibility of success, the risks involved, and alternative treatments. Judge Gerhart Gesell stated that regulations must be amended to require individuals seeking sterilization to be orally informed at the very outset that no federal benefits can be withdrawn because of a failure to accept sterilization.

In response, the Department of Health, Education, and Welfare (HEW) published revised regulations on April 18, 1974. These regulations defined “informed consent” and dictated that every sterilization consent form prominently state that benefits will not be withheld or withdrawn if the patient decides not to be sterilized.¹²

Madrigal v. Quilligan—In a 1975 class-action lawsuit, 10 plaintiffs accused medical residents at Los Angeles County USC Medical Center of performing tubal ligations on Mexican American women with no or dubious consent. These 10 women alleged that medical personnel at the hospital systematically coerced Mexican American women into submitting to sterilization. The plaintiffs lost the case, but the publicity of the case helped overturn California’s 70-year-old sterilization laws in 1979. As a result, California strengthened regulations for ensuring voluntary consent to sterilization.¹³

California’s prisons authorized the sterilization of nearly 150 female inmates between 2006 and 2010 without the state’s approval, in a practice that wasn’t outlawed until 2014. According to the Center for Investigative Reporting, doctors under contract with the California Department of Corrections and Rehabilitation performed tubal ligation surgeries on at least 148 female inmates at two facilities. Another 100 cases possibly took place between 1997 and 2010.¹⁴ A 2014 report by the California State Auditor stated that nearly one third

12 <https://www.splcenter.org/seeking-justice/case-docket/relf-v-weinberger>. See also <https://www.jstor.org/stable/pdf/1185911.pdf>

13 <https://www.washingtonpost.com/outlook/2019/09/17/how-dismantling-welfare-continues-legacy-eugenics/>. See also <https://law.yale.edu/yls-today/yale-law-school-events/coerced-sterilization-mexican-american-women-story-madrigal-v-quilligan>

14 <https://www.npr.org/sections/thetwo-way/2013/07/09/200444613/californias-prison-sterilizations-reportedly-echoes-eugenics-era>. See also <http://cironline.org/reports/female-inmates-sterilized-california-prisons-without-approval-4917>

of these tubal ligations were done illegally without informed consent.¹⁵ In September 2014, California Governor Jerry Brown (D) signed a bill prohibiting forced sterilizations in prisons.

Current Hysterectomies in Detention Facilities

On September 14, 2020, nurse Dawn Wooten filed a whistleblower complaint with the U.S. Department of Homeland Security’s Office of Inspector General. Wooten reported that a gynecologist performed hysterectomies on detained migrants at the Irwin County Detention Center without their full consent. Wooten worked at the Irwin County Detention Center in Ocilla, Georgia. This complaint was filed by a coalition of organizations, including Project South, Georgia Detention Watch, Georgia Latino Alliance for Human Rights, and South Georgia Immigrant Support Network.

Wooten said that nearly every woman who went to see a doctor was told she had to undergo a hysterectomy. Wooten called the doctor a “uterus collector.” Most women in the detention center spoke predominantly Spanish, and many expressed to Wooten that they did not fully understand what the procedure entailed.¹⁶

Independent doctors that provide treatment for ICE detainees are paid for the procedures they perform with Department of Homeland Security funds. Procedures like those performed by Dr. Amin are normally billed at thousands of dollars each.

Since the filing of this complaint, ICE and the hospital in Irwin County have released data showing that two full hysterectomies have been performed on women detained at Irwin in the past three years. Additional firsthand accounts are now emerging from detainees who have undergone other invasive gynecological procedures that they did not fully understand or may not have been medically necessary.

The New York Times reported that Dr. Mahendra Amin, the detention center’s primary gynecologist, “seemed to consistently recommend surgical intervention, even when it did not seem medically necessary at the time and non-surgical treatment options were available.” It went on to report: “Both the reviewing doctors and all of the women interviewed by The Times raised concerns about whether Dr. Amin had adequately explained the procedures he performed or provided his patients with less invasive alternatives. Spanish-speaking women said a nurse who spoke Spanish was only sporadically present during their exams.”¹⁷

15 <https://www.auditor.ca.gov/pdfs/reports/2013-120.pdf>

16 <https://19thnews.org/2020/09/whistleblower-complaint-hysterectomies-ice/>

17 <https://www.nytimes.com/2020/09/29/us/ice-hysterectomies-surgeries-georgia.html>



*Juana Majel-Dixon,
Co-Chair of the
National Congress
of American
Indians' Task Force
on Violence Against
Women. / Photo
courtesy of NIWRC.*

House Speaker Nancy Pelosi issued a statement in response to the whistleblower complaint. Pelosi described the conditions of the Irwin County Detention Center as “a staggering abuse of human rights.” She called for the DHS Inspector General to immediately investigate the allegations detailed in the complaint.¹⁸

Following the complaint, the House Judiciary Committee and Hispanic Caucus investigated Irwin County Detention Center. Several Congressional Democrats visited the center on September 26. Texas Representative Sylvia R. Garcia said that they heard statements directly from women who were “subjected to unnecessary and unwanted medical procedures without their consent.”

On the House Floor, Representative Garcia read excerpts

¹⁸ <https://www.speaker.gov/newsroom/91520-0>

Forced sterilization was
the means used to
terminate Indigenous
peoples. It failed, our
Nations survive, but we
will never forget.
—Juana Majel-Dixon

from a letter signed by 24 detainees. The excerpts, translated from Spanish to English by Garcia, stated:

- “They do not understand what is happening to their body or what they did to their body.”
- “They told them they were going to perform a study and they deceived them, because a surgery room should not be a school.”
- “Why are we being punished? You send us to a crazy person that mutilates bodies, and they deport us so that we won’t say anything.”¹⁹

On October 2, 2020, the House of Representatives passed a resolution condemning the hysterectomies reported at the center:

- Recognizing that everyone, whether in custody or not, deserves to make their own decisions regarding their bodies.
- More transparency and accountability is needed to protect those in custody of ICE.
- The need for the Department of Homeland Security to pause the removal of any person who underwent a medical procedure at the Irwin County Detention Center and grant them immediate access to medical treatment and a second opinion from a professional outside of the center, and
- Asking the Irwin County Detention Center to immediately comply with investigation requests, ensure those impacted by these procedures be able to share their stories without fear of retaliation, and to hold those involved accountable.

In response to the hysterectomies in ICE detention centers and support of the House Resolution, Juana Majel Dixon, NCAI Task Force Co-Chair on Violence Against Women stated, “I am deeply concerned about the allegations of the whistleblower of hysterectomies on women held at the Georgia ICE detention Center. As one of the thousands of American Indian women sterilized without my informed consent, I know the consequences of such federal policies for women and Indian Nations. Forced sterilization was the means used to terminate Indigenous peoples. It failed, our Nations survive, but we will never forget. As Indigenous peoples, we must stand in support of the House Resolution calling for an investigation of the medical procedures on women being detained without their informed consent.”

¹⁹ <https://twitter.com/RepSylviaGarcia/status/1312034145162465280?s=20>



LEGISLATIVE UPDATES



JUSTICE FOR KAYSERA

**Sovereign Bodies Institute,
NIWRC, and Pipestem Law
unite in call for justice for
Kaysera Stops Pretty Places**

By Elizabeth Carr (*Sault Ste. Marie Tribe of Chippewa Indians*)
Senior Native Affairs Advisor, NIWRC

Kaysera's Story

On August 14, 2019, Kaysera Stops Pretty Places (Crow/Northern Cheyenne) celebrated her 18th birthday. She played basketball and football, ran cross country, and performed in several school theatre productions. She had dreams of becoming an actress and a performer. She had a lot to look forward to.

Ten days later, on August 24, 2019, she went missing in a suburban neighborhood of Hardin, Montana, less than a half mile off of the Crow Reservation. Her body was found in the same neighborhood where she was last seen alive, on the morning of August 29, 2019. Law enforcement,

however, did not inform the family that Kaysera's body had been found until September 11—almost two weeks later.

Since September 11, 2019, the family has worked diligently to collect and share evidence regarding Kaysera's murder and the suspicious circumstances surrounding her tragic death. The family has shared significant evidence and tips with the Federal Bureau of Investigation (FBI), the Big Horn County Sheriff's Office, and the Montana Department of Justice. So far, all three of these agencies have done absolutely nothing.



JUSTICE FOR KAYSERA
NO MORE STOLEN S...

JUSTICE
FOR
MISSING
AND
MURDERED
INDIGENOUS
WOMEN

JUSTICE
FOR
KAYSERA
STOPS
Pretty Places



Community members gather to raise awareness of Kaysera Stops Pretty Places' story. / Photo courtesy of Justice for Kaysera Facebook page.

#JusticeforKaysera

This summer, the family of Kaysera Stops Pretty Places, the Sovereign Bodies Institute, the National Indigenous Women's Resource Center, and attorneys at Pipestem Law launched a three-week campaign—#JusticeForKaysera—in honor of Kaysera's memory and to demand justice for her and her family.

"We have been ignored," said Grace Bulltail, Kaysera's auntie. "We have written letters, requested meetings, made phone calls, provided witness statements—we have done all that we can possibly imagine to convince law enforcement to investigate the murder of my niece."

Each day from August 24—the day Kaysera went missing—through September 11—the day her body was found, fellow survivors, tribal leaders, advocates, and allies joined in events including webinars, Twitter storms, or sending letters to policymakers in honor Kaysera's memory or to call for justice for her and her family. The campaign ended on September 11, the day that the Big Horn County Sheriff's Office finally notified the family they had found Kaysera's body.

"The goal of these events were first and foremost to honor the life and memory of my niece, Kaysera," Bulltail said.

"She would have been 19 this year, and those responsible for ending her life must be brought to justice. On the one year anniversary of her murder, my hope and prayer is that our call for justice for Kaysera will shed a light on the injustices that our Native families face not just in Big Horn County, but all across the United States."

The campaign events that were held are listed below:

- August 24: A family vigil was organized in Hardin, and NIWRC holds a Twitter Storm for #JusticeForKaysera.
- August 25: The Family held a webinar to provide background and updates on Kaysera's case, featuring Grace Bulltail and Mary Kathryn Nagle.
- August 26: The Family held a webinar on MMIW in Media, featuring journalists Connie Walker & Luella Brien.
- August 27: The Family held a webinar on Extractive Industries & Violence against Indigenous Women, featuring Kandi Mossett White of Indigenous Environmental Network.
- August 28: The Family held a webinar discussing MMIW Policy & Advocacy in Big Horn County, featuring SBI's Annita Lucchesi.
- August 29: Memorial & Closing Prayer with the Family in Hardin.
- August 30: Advocates were invited to send a letter to Big Horn County Sheriff Laurence Big Hair.
- August 31: Advocates were invited to send a letter to Terry Bullis, owner of the Bullis Mortuary.
- September 1: NIWRC held a second Twitter storm.
- September 2: Advocates were invited to send a letter to the FBI.
- September 3: Advocates were invited to send a letter to Operation Lady Justice Task Force.
- September 4: Advocates were invited to send a letter to Attorney General Tim Fox.
- September 5: SBI held a webinar on MMIWG issues featuring Annita Lucchesi, Grace Bulltail and other advocates and survivors.
- September 6: Advocates were invited to send a letter to Senator Jon Tester for Montana.
- September 7: Advocates were invited to send a letter to Senator Steve Daines for Montana.
- September 8: NIWRC held a third Twitter storm.
- September 9: Advocates were invited to send a letter to Governor Bullock.
- September 10: SBI held a final webinar featuring the voices of Big Horn County MMIWP families and sharing their stories.
- September 11: Prayer Ceremony held in Hardin.

More information about Kaysera's story is available at bit.ly/34hAvml.



NIWRC Board Treasurer
Wendy Schlater. / Photo
courtesy of Wendy
Schlater.

MMIW Savanna's Act and Not Invisible Act Become Law

By Elizabeth Carr (*Sault Ste. Marie Tribe of Chippewa Indians*) Senior Native Affairs Advisor, NIWRC

On October 10, 2020, President Donald Trump signed Savanna's Act and Not Invisible Act into law, bills aiming to address the Missing and Murdered Indigenous Women crisis. Savanna's Act and Not Invisible Act are a victory for tribes across the country.

Heightened attention to the issue of MMIW, perhaps as a result of the election of the first two American Indian Women to Congress, helped push these bills across the finish line. Congresswomen Deb Haaland (D-N.M.) and Sharice Davids (D-KS) on the House side and Senators Lisa Murkowski (R-AK) and Catherine Cortez Masto (D-NV) on the Senate side led the charge alongside tribal leaders and grassroots advocates who have been calling for and fighting long and hard to get the MMIW crisis recognized and addressed on the federal level.

According to the National Institute of Justice, more than four in five Native Americans and Alaska Natives have experienced violence in their lifetime. In some states, the murder of Indigenous women is at a rate ten times higher

than the national average. According to the National Crime Information Center, 5,712 American Indian and Alaska Native women and girls were reported missing as of 2016, but only 116 of those cases were logged with the U.S. Department of Justice.

Savanna's Act is named in honor of Savanna LaFontaine-Greywind, a 22-year old pregnant citizen of the Spirit Lake Nation in North Dakota who was viciously murdered in August 2017. The Act aims to improve MMIW data collection, access, and directs the Department of Justice to review, revise, and develop law enforcement and justice protocols to address missing and murdered Indigenous peoples.

The Not Invisible Act of 2019 complements Savanna's Act, with its purpose to identify and combat violent crime against Indians or within Indian lands through the creation of an advisory committee on reducing violent crime against Native people. Comprised of tribal leaders, law enforcement, federal partners, service providers, and survivors, the advisory committee will make recommendations to the U.S. Department of Interior and Department of Justice on combatting violence against Native Americans and Alaska Natives.



It is important to understand the connection between domestic, dating, and sexual violence and the high incidence of missing and murdered Indigenous women in the United States. The high rates of violence against Indigenous peoples, which includes the epidemic of missing and murdered Indigenous women and girls can be attributed to the historical and intergenerational trauma caused by colonization and its ongoing effects in our communities stretching back more than 500 years.

While these two bills are just a small step forward in beginning to address the impacts of centuries of colonization, historical and intergenerational trauma, we are grateful to members of Congress, Native tribal leaders, Native organizations, and the many individuals who supported the Acts from the beginning and tenaciously monitored and advocated for them.

According to the National Crime Information Center, 5,712 American Indian and Alaska Native women and girls were reported missing as of 2016, but only 116 of those cases were logged with the U.S. Department of Justice.

The passage of these Acts are important steps in the right direction for our relatives seeking justice for their missing and murdered loved ones and for all of our relatives who have experienced violence in their lives.

New MMIW Resource Toolkit

NIWRC just released a new, comprehensive Toolkit for Understanding and Responding to Missing and Murdered Indigenous Women for Families and Communities. The toolkit includes a pocket reference guide, customizable missing persons flyer, MMIW awareness poster for tribal programs, and an online database of local emergency contacts, hotlines and other resources.

Explore toolkit: niwrc.org/mmiwtoolkit



Legislation Impacting the Safety of Native Women

Legal reforms and increased resources can remove barriers to safety and justice

By Elizabeth Carr (*Sault Ste. Marie Tribe of Chippewa Indians*), Senior Native Affairs Advisor, NIWRC

Fiscal Year 2021 Continuing Resolution

In an effort to avoid a government shutdown in the midst of a pandemic and during election season, the House and Senate passed a Continuing Resolution (CR) for FY 2021 that will be in effect until December 11, 2020. NIWRC continues to closely track movement on appropriations and all other pending legislation.

Coronavirus (COVID -19) Pandemic Funding

Negotiations on future pandemic related relief funding have stalled and there is currently no indication when they may pick back up. NIWRC will continue to advocate on behalf of Tribes and Tribal programs to ensure that the needs of victims and survivors are considered and included in any COVID-19 related packages moving forward.

Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act

On May 18, 2020 the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act passed the House of Representatives. While this package is not expected to pass the Senate, as written it would include important funding resources to programs serving victims and survivors including:

Office of Victims of Crime:

Deposit issue addressed and match waiver included for duration of the pandemic.

Office on Violence Against Women:

- Sexual Assault Services Program: \$15 million.
- Services, Training, Officers, and Prosecutors (STOP) Formula Grants: \$30 million.

- Transitional Housing Assistance Grants: \$15 million.
- Rural Sexual Assault, Domestic Violence, Dating Violence, and Stalking Assistance Program: \$10 million.
- Legal Assistance for Victims Grant Program: \$10 million.
- Grants to Support Families in the Justice System Program: \$16 million.
- Grants to Tribal Governments: \$4 million to assist Tribes in exercising special criminal domestic violence jurisdiction.

Department of Health and Human Services Programs:

- Family Violence Prevention and Services Act (FVPSA) program: \$50 million including 10% for tribal grantees.

Additional tribal specific provisions include:

- \$20 billion for a Tribal Fiscal Relief Fund that clarifies the funds are to be dispersed to tribal governments;
- \$900 million for the Bureau of Indian Affairs to meet Tribal government needs necessary to prevent, prepare for, and respond to COVID-19; and
- \$2.1 billion to the Indian Health Service to address health care needs related to COVID-19 for American Indian/Alaska Natives.

Pending Legislation Addressing Violence Against Women

While currently paused, NIWRC will continue to advocate for and track the movement of several bills as they relate to addressing violence against Native women. Please see below for the latest update on several bills that will likely resume negotiation and movement once COVID-19 related legislation slows.



Elizabeth Carr is a citizen of the Sault Ste. Marie Tribe of Chippewa Indians and is Senior Native Affairs Policy Advisor for NIWRC. / Photo courtesy of NIWRC.

Violence Against Women Act

Last reauthorized in 2013, the authorization for VAWA expired in 2018. On April 4, 2019, the House of Representatives passed a VAWA Reauthorization bill (H.R. 1585). This bipartisan bill was developed in partnership with the national and tribal advocacy organizations. H.R. 1585 includes critical resources for tribes to implement VAWA and necessary lifesaving amendments to enhance tribal sovereignty and safety for Native women. H.R. 1585 is widely supported across Indian Country.

Bipartisan negotiations in the Senate unfortunately broke down and has resulted in two Senate Bills to reauthorize VAWA.

On November 13, 2019, Senator Dianne Feinstein (D-CA) introduced a companion Senate Bill S.2843 to H.R. 1585 to reauthorize VAWA. This bill closely mirrors the language contained in the bipartisan, advocate supported H.R. 1585 and is inclusive of the important tribal provisions that tribal leaders and advocates strongly support.

On November 20, 2019, Senator Joni Ernst (R-IA) introduced S.2920 to reauthorize VAWA. This legislation, while inclusive of Indian tribes if enacted, would destabilize tribal justice systems by imposing burdens and restrictions on tribal courts far beyond those imposed on federal and state courts, including audits by the Attorney General and leaves Tribes vulnerable to lawsuits by defendants of tribal courts through the stripping of sovereign immunity. Ultimately, this bill would eliminate the gains made in VAWA 2013 and infringes on the inherent tribal authority of tribal nations to prosecute crimes committed against their citizens on tribal lands.

Family Violence Prevention and Service Act

The Family Violence Prevention and Services Act (FVPSA) authorization expired in 2015. The FVPSA provides critical support for shelters, coalitions, training and technical assistance centers, children's services, emergency response hotlines, and prevention initiatives. The FVPSA is the only federal grant program solely dedicated to domestic violence shelter and supportive services. It is the primary source of funding for these services for Indian tribes.

This past year, a coalition of national advocacy organizations worked closely with congressional staffers in both the House and Senate to draft of an enhanced reauthorization of the FVPSA reflecting the diverse needs of domestic violence victims and priorities of Indian tribes and the domestic violence field. In July 2019, Senators Bob Casey (D-PA) and Lisa Murkowski (R-AK) introduced S. 2259. In November, House Representatives Lucy McBath (D-GA), Gwen Moore (D-WI), Tom Cole (R-OK), and John Katko (R-NY) introduced a companion bill H.R. 5041. These bills, S. 2259 and H.R. 5041, expand grant programs and make many needed improvements so that more survivors have access to support and safety including:

- Increasing the overall funding authorization level to address very low per-program funding levels and provide access to FVPSA funds for more tribes and programs not currently funded.
- Strengthening the capacity of Indian Tribes to exercise their sovereign authority to more fully respond to domestic violence in their communities by increasing the current 10% tribal allocation to 12.5% off the top of appropriations.
- Authorizing recognition and meaningful funding for tribal coalitions to provide Indian tribes and tribal organizations with technical assistance and training on developing responses to domestic violence.
- Authorizing recognition and permanent funding for the currently funded Alaska Native Women's Resource Center.
- Authorizing recognition and permanent funding for the currently funded StrongHearts Native Helpline to serve as the national Indian domestic violence hotline.

On December 12, 2019, the Senate Health, Education, Labor, and Pensions (HELP) Committee passed S.2971 a package of legislation inclusive of a bill to reauthorize FVPSA. Unfortunately, S.2971 falls short on the tribal enhancements included in S.2259 and H.R. 5041.

NIWRC and the coalition looks forward to continued conversations when Congress returns to regular business to ensure that the FVPSA bill moving forward is inclusive of more robust enhancements for Tribes and tribal programs.

Bridging Agency Data Gaps and Ensuring Safety Act

Introduced in both the Senate (S.1853) and the House (H.R. 4289), the Bridging Agency Data Gaps and Ensuring Safety Act (BADGES) aims to improve law enforcement recruitment, Tribal access to federal criminal databases, and coordination between federal, state, Tribal, and local law enforcement agencies by:

- Addressing inefficiencies in federal criminal databases;
- Increasing Tribal access to federal criminal databases; and
- Improving public data on missing and murdered

Indigenous women cases and Indian Country law enforcement staffing levels;

- Promoting more efficient recruitment and retention of BIA law enforcement;
- Providing Tribes with resources to improve public safety coordination between their governments, states, and federal agencies; and
- Mitigating against federal law enforcement personnel mishandling evidence crucial to securing conviction of violent offenders.

Finding and Investigating Native Disappearance Act

Introduced in the Senate, the Finding and Investigation Native Disappearance Act (FIND Act) (S.1893) aims to require the Comptroller General of the United States to conduct a study on ways to increase reporting of missing Indians and the effects of the use of methamphetamine and other illegal drugs on violent crime in Tribal communities, and for other purposes.

Tribal Reporting and Accountability to Congress Act

Introduced in the Senate, the Tribal Reporting and Accountability to Congress Act (TRAC Act) (S.1892) aims to amend the Indian Law Enforcement Reform Act to require each tribal liaison within the U.S. Attorneys' Offices to submit to Congress an annual report on missing and murdered Indians.

Native Youth & Tribal Officer Protection Act

Introduced in both the Senate (S.290) and the House (H.R. 958), the Native Youth and Tribal Officer Protection Act (NYTOPA) aims to reaffirm tribal criminal jurisdiction over some crimes committed by non-Indians including: child abuse and crimes that are committed against certain public safety & justice officials.

Justice for Native Survivors Act

Introduced in the Senate (S.288) aims to reaffirm tribal criminal jurisdiction over some crimes committed by non-Indians including sexual assault, stalking, and trafficking.

SURVIVE Act

Introduced and passed out of the Senate Committee on Indian Affairs, the bipartisan SURVIVE Act (S.211) would direct that five percent of the total annual outlays from the Crime Victims Fund (CVF) be provided to Indian tribes to provide crime victim services. Since Fiscal Year 2018, Congress has appropriated 5% of the CVF for a tribal set aside, S.211 would make the appropriation permanent.

Alaska Tribal Public Safety Empowerment Act

Introduced in the Senate, the Alaska Tribal Public Safety Empowerment Act (S.2616) aims to expand the jurisdiction provided in the Violence Against Women Act of 2013 (VAWA) to apply to Alaska Native villages on a pilot basis. This bill would also expand covered crimes to include crimes of

sexual violence, sex trafficking, stalking, and assault of law enforcement or corrections officers.

Receive Monthly Legislative Updates

Each month when Congress is in session, NIWRC issues a Monthly Legislative Update to help keep tribal leaders and advocates informed of legislation focused on violence against Native women. This update also includes a link to a summary of current state and federal legislation aimed at addressing missing and murdered Indigenous women. To receive these emails, sign up for NIWRC's Mailing List, then select from the "Preferences" list.

Join mailing list: bit.ly/35m2Rul





Reflecting on the VAWA Sovereignty Initiative and a Call for Support

By Lucy Rain Simpson (*Diné*), Executive Director, NIWRC

NIWRC joins the celebrations for Muscogee (Creek) Nation's victory before the United States Supreme Court affirming their traditional boundaries as a reservation. In reflecting on this historic victory, we also find affirmation of NIWRC's decision five years ago to create the VAWA Sovereignty Initiative. Then and now, we recognize that while past reauthorizations of the Violence Against Women Act established many lifesaving provisions for Native women, these reforms must be defended to remain permanent.

In the fall of 2015, NIWRC launched the VAWA Sovereignty Initiative, a project focusing on the defense of the constitutionality and functionality of all VAWA tribal provisions. NIWRC and Pipestem Law joined efforts in monitoring VAWA-related litigation nationally, particularly cases before the U.S. Supreme Court. This initiative is the NIWRC's national campaign to defend the victories won under VAWA 1995, 2000, 2005, and 2013.

Now five years later, the VAWA Sovereignty Initiative is well underway with the filing of seven amicus briefs in cases significant to the safety of Native women reviewed before the United States Supreme Court. Through the generous support of Indian Nations and individual donors, the VAWA Sovereignty Initiative is fulfilling its goals.

We thank Mary Kathryn Nagle (Cherokee) for her ongoing leadership and dedication to increasing safety for Native women in authoring the NIWRC amicus briefs. We also extend our heartfelt thanks to Wilson Pipestem and all of the attorneys and staff at Pipestem Law for their efforts to inform the Supreme Court of the intersection of violence against Native women and the authority of Indian tribes to protect women. NIWRC also extends our appreciation to Professor Sarah Deer (Muscogee (Creek) Nation) for her co-authorship of NIWRC's amicus briefs and scholarship to advance the safety of Native women.

The amicus briefs filed by NIWRC and the hundreds of organizations that have joined with us uplift the voices of Native women and Indian Nations. They tell our story and speak our truth to the United States' highest court and serve as permanent statements of our support for restoring the safety of Indigenous women by strengthening tribal sovereignty.

Looking toward 2021, we must continue to raise our voices within the judiciary and the U.S. to increase protections for Native women and defend the sovereignty of Indian nations.

Please join our effort and support the VAWA Sovereignty Initiative by donating at niwrc.org/donate.

“An essential mission of NIWRC is to restore safety to Native women by upholding the sovereignty of Indian tribes and Alaska Native villages. We hope that by monitoring VAWA-related cases, we inform the movement and the government of the importance of maintaining the gains made under VAWA.”—Cherrah Giles, Board Chair, NIWRC



United States Supreme Court. / NIWRC.

Five Years of NIWRC Amicus Briefs

- Oct. 2015, *Dollar General v. Mississippi Band of Choctaw Indians*, No. 13-1496, brief supporting the authority of Indian tribes to exercise civil jurisdiction over non-Indians who sexually assault and abuse Native women and children on tribal lands: bit.ly/2TkqmyJ

- Jan. 2016, *Voisine v. United States*, No. 14-10154, brief supporting the application of the federal firearms prohibition to individuals who have been convicted of domestic violence crimes against Native women: bit.ly/2IPR5RO
- Feb. 2016, *United States v. Bryant*, No. 15-420, brief supporting the VAWA tribal title habitual offender provision: bit.ly/2Hh7Y7L
- Feb. 2017, *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, brief explaining why permitting the pipeline without any consideration of the public interest impacts on the health and welfare of Native women and children living in the Bakken region would likely result in greater rates of domestic violence, murder, and sexual assault: bit.ly/35pR7Yf
- Sept. 2018, *Carpenter v. Murphy*, No. 17-1107, brief supporting the Muscogee (Creek) Nation’s territorial boundaries as a reservation and continued status as “Indian country,” to implement VAWA 2013 restored criminal jurisdiction over specific non-Indians domestic violence abusers: bit.ly/31y2v33
- Nov. 2018, *Gamble v. United States*, No. 17-646, brief supporting the separate sovereign doctrine, which has allows both tribal and the federal governments to prosecute for violations of their respective criminal laws, specifically in cases of domestic and sexual assault: bit.ly/2IMRzrR
- Feb. 2020, *McGirt v. Oklahoma*, No. 18-9526, supporting the Muscogee (Creek) Nation tribal reservation and continued status as Indian country to fully implementing restored tribal criminal jurisdiction under the Violence Against Women Act. A case similar to the *Murphy v. Royal* case but different in facts: bit.ly/35to1Hq



National Indigenous Women’s Resource Center

Make an Annual Gift to the VAWA Sovereignty Initiative

Help us increase protections for Native women and defend tribal sovereignty.

Donate to the VAWA Sovereignty Initiative at niwrc.org/donate.



HISTORIC VICTORY

FOR MUSCOGEE

(CREEK) NATION

By Mary Kathryn Nagle
(Cherokee Nation),
Pipestem Law, Counsel
to NIWRC



Hear the latest
on the impact of
McGirt on Speaking
Our Truth, Ep. 13.

Since the Court announced its decision on July 9, tribal leaders, celebrities, domestic violence advocates, senators, and even presidential candidate Vice-President Biden have praised the Court's decision in *McGirt v. Oklahoma* as "historic." One day after *McGirt* was released, former Vice President Joe Biden, one of the authors of the original 1994 Violence Against Women Act ("VAWA") stated, "I am proud to stand with the Muscogee (Creek) Nation and all of Indian Country in celebrating tribal sovereignty and self-determination, which has been denied to them far too long and far too often." It has been an incredible time for a (long overdue) general.

In *McGirt*, the State of Oklahoma asked the United States Supreme Court to judicially disestablish the Muscogee (Creek) Nation's (MCN) Reservation. To Indian law practitioners, Oklahoma's request was shocking. For more than one hundred years, under the Supreme Court's decision in *Celestine*, and later in *Solem v. Bartlett* as well as many

other decisions to follow, the Court continuously ruled that once a reservation was created by treaty, only Congress could disestablish it. It would have been unprecedented for the Supreme Court to disestablish the MCN's Reservation, since Congress had clearly not. This, however, did not stop Oklahoma from requesting this relief.

Furthermore, because the MCN's Reservation remained in existence, the land where Defendant *McGirt* committed his crime—since it is situated within the MCN's Reservation boundary—continued to constitute "Indian country" under 18 U.S.C. § 1151. This means Oklahoma had illegally prosecuted *McGirt*. Because *McGirt* is a tribal citizen, and because his crime was committed in § 1151 jurisdiction, only the United States and the MCN had jurisdiction to prosecute him for his crime, on account of the fact that he is an enrolled tribal citizen, and states do not have jurisdiction to prosecute crimes committed by tribal citizens within "Indian country" under § 1151.

But the Supreme Court’s decision in *McGirt* affirmed far more than the boundaries of a reservation. For many of us in Indian Country, Justice Gorsuch’s monumental ruling confirmed what we have always known to be true: Tribal Nations are sovereign governments with the inherent right to exercise sovereignty to ensure the public safety, health, and prosperity of everyone on our lands.

After many years of briefing and debating, and after an argument in the Supreme Court in 2018, in *Murphy v. Carpenter* (another case raising similar issues, but for which a formal decision was never issued), the Court reached its decision on July 9, 2020. Justice Gorsuch, opened the opinion with these two paragraphs:

On the far end of the Trail of Tears was a promise. Forced to leave their ancestral lands in Georgia and Alabama, the Creek Nation received assurances that their new lands in the West would be secure forever. In exchange for ceding “all their land, East of the Mississippi river,” the U. S. government agreed by treaty that “[t]he Creek country west of the Mississippi shall be solemnly guaranteed to the Creek Indians.” Treaty With the Creeks, Arts. I, XIV, Mar. 24, 1832, 7 Stat. 366, 368 (1832 Treaty). Both parties settled on boundary lines for a new and “permanent home to the whole Creek nation,” located in what is now Oklahoma. Treaty With the Creeks, preamble, Feb. 14, 1833, 7 Stat. 418 (1833 Treaty). The government further promised that “[no] State or Territory [shall] ever have a right to pass laws for the government of such Indians, but they shall be allowed to govern themselves.” 1832 Treaty, Art. XIV, 7 Stat. 368.

Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word.

While this may seem like a simple concept, it is a concept that, for Tribal Nations, has constantly been under attack. For instance in 1978, the Supreme Court declared that Tribal Nations cannot exercise criminal jurisdiction over non-Indians who come onto tribal lands and commit crimes (*Oliphant*). Today, Tribal Nations are the only governments in America whose authority to protect their communities from domestic and sexual violence, child abuse, stalking, and trafficking is limited by the race/political identity of the individual committing the crime.

Today, Native women face the highest rates of domestic violence, sexual assault and murder in the United States—rates that are fueled, in large part, by the fact that in 1978, the Supreme Court eliminated tribal jurisdiction over non-Indian-perpetrated crimes on tribal lands. As the Department of Justice has reported, the majority of violent crimes committed

against Natives are committed by non-Natives. However, because of the Supreme Court’s decision in *Oliphant*, Tribal Nations lack the recognition of their authority to prosecute the majority of violent crimes committed against their citizens.”

In 2013, Congress sought to address the incredibly high rates of violence against Native women and, in re-authorizing the Violence Against Women Act (VAWA), Congress legislatively restored a portion of the tribal jurisdiction the Court had previously eliminated. VAWA 2013 restored tribal criminal jurisdiction over non-Indian perpetrated crimes of domestic violence, dating violence, and violations of protective orders. In doing so, Congress tethered its restoration of tribal criminal jurisdiction to lands that constitute “Indian country” as defined by 18 U.S.C. § 1151.

A “reservation” constitutes “Indian country” under federal law, and thus the judicial disestablishment of an entire reservation would render a Tribal Nation unable to fully exercise the criminal jurisdiction that Congress restored. Here, if the Supreme Court had judicially disestablished the Creek Nation’s Reservation, Native women victims calling the Creek Nation’s law enforcement, the Lighthouse Police, would be met with questions concerning the legal status of the individual parcel of land where she is being beaten or abused (is the land in trust? is it non-Indian fee land?), before the Nation’s law enforcement could determine whether it had jurisdiction to even respond to her call for help.

This led the National Indigenous Women’s Resource Center (NIWRC) to file an amicus brief co-authored by myself and Sarah Deer informing the Supreme Court that:

The judicial disestablishment that Oklahoma seeks in this case (and sought in *Carpenter v. Murphy*, No. 17-1107) directly threatens the ability of Tribal Nations to effectively implement the restored tribal criminal jurisdiction in VAWA. Judicial disestablishment of reservations will place both Native women and children at greater risk, since, as this Court has previously noted, “[e]ven when capable of exercising jurisdiction, [] States have not devoted their limited criminal justice resources to crimes committed in Indian country.” *United States v. Bryant*, 136 S. Ct. 1954, 1960 (2016), as rev’d (July 7, 2016).

NIWRC Amicus Br., 8. NIWRC further emphasized that “Congress has repeatedly recognized the connection between tribal sovereignty and safety for Native women as the foundation for the federal government’s “trust responsibility to assist tribal governments in safeguarding the lives of Indian women.” NIWRC Br., 9 (VAWA 2005, Pub. L. No. 109-162, § 901(6), 119 Stat. 3078).

The Court’s decision on July 9, therefore, is a victory for Native women and children. The Court’s affirmation that the

Congress has repeatedly recognized the connection between tribal sovereignty and safety for Native women as the foundation for the federal government's "trust responsibility to assist tribal governments in safeguarding the lives of Indian women."
—NIWRC Amicus Brief

MCN Reservation remains in existence ensures that Native women victims living within the MCN's Reservation borders will not have to explain the legal status of the plot of land where they are abused just so tribal law enforcement can answer their call.

Nationwide, *McGirt* is a huge victory for Tribal Nations across the United States, as it confirms that federal courts are without the authority to judicially disestablish reservations. For the Tribal Nations that have implemented VAWA 2013's restored tribal criminal jurisdiction, the confirmation of this legal precedent is critical—as it would be very disruptive to their enforcement of VAWA's restored criminal jurisdiction if suddenly, one day, their reservation was disestablished by a federal court and their VAWA jurisdiction was limited to crimes committed on land still in trust.

That said, NIWRC, tribal coalitions, and other victims' rights organizations that signed onto the NIWRC amicus brief understand the extraordinary challenge that comes with celebrating a victory named after a perpetrator. McGirt sexually molested a Native child, and for that, he should face the consequences for his harmful, abusive actions.

No sovereign, however, has a greater interest in protecting Native children than his or her Tribal Nation. The Supreme Court's decision in *McGirt* affirms and acknowledges this, as the result of the decision is that the State will be without criminal jurisdiction—but, the Tribal Nation's criminal jurisdiction over crimes committed by tribal citizens within a Tribal Nation's Reservation borders are preserved.

And contrary to the misinformation Oklahoma spread, McGirt will not walk free. Since the Supreme Court's decision on July 9, McGirt has been charged for his crimes in federal court, and the MCN is looking into pressing charges as well (note, as the Supreme Court held in *Gamble*, another case in which the NIWRC filed an amicus brief, the U.S. Constitution does not prohibit prosecutions for the same crime from two separate sovereigns, in this case a Tribal Nation and the United States). To be sure, Oklahoma's assertion that confirmation of the continued existence of Creek Nation's Reservation will result in the release of an undocumented number (apparently in the thousands according to Oklahoma) of violent criminals has been thoroughly dispelled in a thoroughly researched article published in *The Atlantic*.

However, the fact that Supreme Court's decision in McGirt will increase safety for Native women and children does not change the fact that the Supreme Court's decision itself is traumatizing and triggering for McGirt's (and Murphy's) victims—who have to witness all of Indian Country celebrating a victory named after their abuser. It is a shame that the Supreme Court's epic decision affirming tribal sovereignty will forever be named after an abusive man, instead of his victims.

It is critical that in celebrating the victory in *McGirt*—and in working with our federal, state, and tribal partners moving forward—we center the voices of victims. This can, all too often, be difficult—even within our own Tribal Nations. The National Congress of American Indians Task Force on Violence Against Women was created, by and for women, because all too often, our elected male tribal leaders become

disconnected from their own cultures and they overlook the fact that safety for Native women and sovereignty are interwoven. You cannot have one without the other.

We are at a turning point. We have won an epic victory in the Supreme Court. This is an incredible opportunity to embrace the sovereignty of our Nations that the Supreme Court has affirmed. But we cannot do that if we do not take seriously the task of protecting our Native women and children. Some tribal leaders, following the Court's decision in *McGirt*, have made clear this is their priority. Others have not.

Protecting Native women and children—in today's world—is hard work. It is not something we do by accident. It requires planning and prioritization. It requires funding—which means we have to both seek the appropriate funding, as well as be sure to allocate that funding, once we receive it, to victim services and justice programs. And, we cannot merely lock people behind bars. In addition to incarceration, we need to implement programs that restore and heal our broken brothers and sisters who commit crimes, so that when offenders are released from prison they can actually return to living and working in our tribal communities in a way that is positive and healing for all, as opposed to destructive.

We have a lot of work to do. But we know how to do it. We have done it before, and we can do it now. As Natives, we come from Nations that pre-date the United States. For the first time in a very, very long time, the United States has upheld its promise to a Tribal Nation. Now, it is time for us to uphold our promises to one another.

Recommended Readings



'Going to fail': Using *McGirt* to disestablish tribal nations, Indian Country Today

View: bit.ly/34jlgcE



***McGirt v. Oklahoma: A Victory for Native Women*, The George Washington Law Review**

View: bit.ly/37tY9xW

NIWRC Files Amicus Brief to Safeguard Tribal Sovereignty and Native Victims in Supreme Court Case, press release

View: bit.ly/31r4INF

National Indigenous Women's Resource Center Stands With Muscogee (Creek) Nation in Affirming the Continued Existence of Tribe's Reservation, press release

View: bit.ly/2HfZT3c

NIWRC Applauds SCOTUS Decision to Affirm the Continued Existence of Muscogee (Creek) Nation's Reservation, press release

View: bit.ly/2Hsxpmd

NIWRC Supports Tribal Chiefs Hill and Chilcoat in Their Stand for Sovereignty Following *McGirt*, press release

View: bit.ly/2TIDnrL





SCOTUS UPDATE

Justice Ginsburg and Safety for Native Women

By Mary Kathryn Nagle (*Cherokee Nation*),
Pipestem Law, Counsel to NIWRC

For many in Indian Country, the passing of Justice Ginsburg this fall was bittersweet. Although she had become an iconic superpower of justice and righteous dissent for American women and other disenfranchised populations, her jurisprudence in Indian law was, at times, quite problematic. It is a bit ironic, then, that the final opinion bearing her name was *McGirt v. Oklahoma*, issued on the last day of the last term in which she sat as a Justice. It is only ironic, however, if you do not consider the entire arc of her Indian law jurisprudence.

As Native women advocates working to restore sovereignty and eradicate violence against Native women, I think we must look back on Justice Ginsburg's legacy with the lens of reality, but also respect. It is true that, earlier on, she authored some decisions, based on flawed interpretations of Indian law, that caused great damage to tribal sovereignty and arguably left Native women less safe. But by the end of her tenure, she had educated herself on the sovereignty of Tribal Nations and the need for safety for Native women. She had gone out of her way to visit our Nations, our citizens, our leaders, and our artists. In a country where very few law schools teach their students anything about Indian law, in a country where our Nations have been erased from the textbooks, she went out of her way to educate herself.

It is true that, in 1997, Justice Ginsburg authored *Strate v. A-I*. Sixteen years after the Court issued *Montana*, Ginsburg considered whether tribal courts had jurisdiction to adjudicate a personal injury tort claim arising from an accident that occurred between non-Indian parties within the border of a reservation. Unfortunately, she relied on the Court's flawed

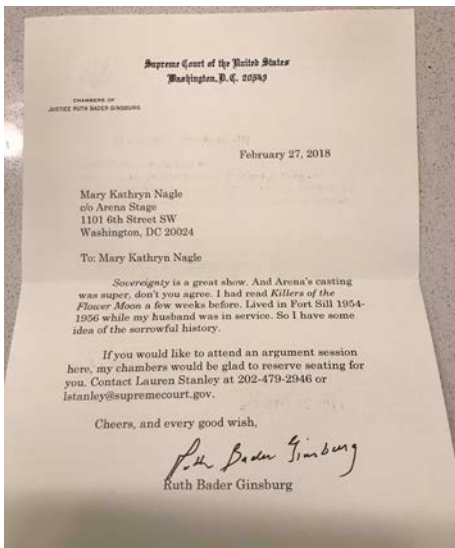
reasoning in *Montana* to conclude that the tribal court could not exercise this jurisdiction. Based on the rationale "identified in *Montana*," Justice Ginsburg concluded that "the civil authority of Indian tribes and their courts with respect to non-Indian fee lands generally does not extend to the activities of nonmembers of the tribe."

Justice Ginsburg's opinion in *Strate* has caused great harm to Tribal Nations seeking to regulate the conduct of non-Indian individuals and corporations doing business on tribal lands, as non-Indians began to cite Justice Ginsburg's opinion in a number of tort lawsuits where non-Indians engaged in harmful behavior, but hoped to escape the consequences, on tribal lands. Time and time again, bad actors relied on *Strate* to argue against tribal jurisdiction. Time and time again, lower federal courts applied Justice Ginsburg's decision in *Strate*, thereby allowing non-Indians to engage in tortious conduct on tribal lands with no consequence.

Until 2015. In 2015, the Dollar General Corporation relied on Justice Ginsburg's decision in *Strate* to argue that the Mississippi Band of Choctaw Indians ("MBCI") Tribal Court did not have jurisdiction over the corporation—whose non-Indian store manager had repeatedly sexually assaulted a thirteen year old Choctaw boy on the reservation while working at Dollar General's store—because, under *Strate*, tribal courts do not have jurisdiction over non-Indians who commit torts on tribal lands. Specifically, Dollar General told the Supreme Court that, according to *Strate*, "from the earliest days of incorporation, tribes have been expected to turn to the states and the Federal Government to remedy the harmful conduct of nonmembers." According to Dollar General, citizens of Tribal Nations are the only Americans who do not have a right to seek justice in the courts of their own government, but must instead turn to a foreign government in the quest for justice. This argument, of course, has been repeatedly used against Native women and children victims of domestic violence and sexual assault with great success—causing serious harm. Imagine if citizens of Kansas had to go to Colorado to seek justice when they have been raped? Very few could afford the time or economic costs to seek justice. That is the outcome—but of course, that is also the desired result of those who seek this discriminatory rule of law.

Dollar General v. Mississippi Band of Choctaw Indians was argued in December 2015, and by all counts, many expected the Court to follow Justice Ginsburg's decision in *Strate* and strike down the MBCI's exercise of jurisdiction over a non-Indian sexually assaulting a Choctaw child on tribal lands. NIWRC, and many other Native women advocates and organizations, came to the steps of the Supreme Court to pray for justice. I think I speak for all of us when I say our prayers were heard.

At the end of the 2015 Term, the Court issued a one-line opinion, stating that the judgment of the Fifth Circuit Court



(Top to bottom) Justice Ginsburg poses with cast of *Sovereignty* at Arena Stage performance in 2018. Letter to Mary Kathryn Nagle from Ruth Bader Ginsburg. / Photos courtesy of Mary Kathryn Nagle.

repeat abusers fell through the cracks and escaped sentences of any real consequence prior to the enactment of VAWA § 117(a) in 2005.

Section 117 creates federal criminal jurisdiction over individuals who have at least two prior, valid domestic violence convictions. In *Bryant*, the Supreme Court rejected the defendant’s assertion that prior, valid tribal court convictions could not give rise to federal criminal jurisdiction when the previously convicted individual commits a third offense if and when the prior convictions were obtained in a tribal court without the provision of counsel. Justice Ginsburg, however, upheld the inherent sovereign right to make their own criminal laws and enforce them, with regards to their own citizens, regardless or any interpretation of the U.S. Constitution. Notably, she wrote that as “separate sovereigns pre-existing the Constitution,” the Sixth Amendment does not apply to tribal courts, and moreover, the Indian Civil Rights Act (“ICRA”) provides the equivalent of the rights in the United States Constitution’s Bill of Rights.

Justice Ginsburg’s decision in *Bryant* acknowledged the incredibly high rates of violence against Native women, and, most importantly, upheld the inherent authority of Tribal Nations to exercise criminal authority and address this crisis. *Bryant* is a very far cry from *Strate*.

What had changed? What took Justice Ginsburg from the Justice that authored *Strate* to the Justice that authored *Bryant*? By the end of her time on the Court, she had taken the initiative to visit Indian Country. She had, in her own free time, gone to see plays written by Native playwrights—including one specifically that focused on the impact of the restored tribal criminal jurisdiction in the 2013 re-authorization of VAWA (Justice Ginsburg went to see *Sovereignty* at Arena Stage in February 2018). She visited Indian Art Market in Santa Fe where she visited with tribal leaders and witnessed the incredible work on Native artists.

And I truly believe she educated herself on the connection between sovereignty and safety for Native women. As advocates for sovereignty, Justice Ginsburg teaches us to never give up. Justice, for Tribal Nations and our citizens, is not a liberal issue. It is not a conservative issue. It is an ignorance issue. We have been erased and lawyers are not taught that our Nations pre-date the United States and its Constitution.

The fact that Justice Ginsburg, in her final days, understood sovereignty and safety for Native women is not the result of an excellent legal education. It is the result of our advocacy, our perseverance, and the power of our true stories. If anything, the revolution of her jurisprudence demonstrates our resilience.

Rest In Power, Justice Ginsburg.

of Appeals was upheld by a vote of four to four. The Court was at a standstill, since with the passing of Justice Scalia in February 2016, there was not a ninth Justice to break the tie. This tie upheld the lower court’s judgment, which had been in favor of the MBCI and of tribal jurisdiction.

Which way did Justice Ginsburg vote? We will never know for sure. But everyone who was at the Supreme Court that day and heard the argument, and listened to the questions, is pretty sure she was one of the four who voted in favor of tribal jurisdiction—and against the application of her own decision in *Strate*.

Dollar General was a significant turning point. And then, nearly twenty years after *Strate*, in 2016, Justice Ginsburg wrote the majority opinion in *United States v. Bryant*, where the Court upheld the constitutionality of the Habitual Offender Provision (§ 117(a)) of the Violence Against Women Act (“VAWA”). In writing the majority opinion in *Bryant*, Justice Ginsburg acknowledged the extraordinarily high rates of domestic violence Native women experience, and that due to the tribal, state, and federal jurisdictional patchwork created by legislation and prior Supreme Court precedent, many



Efforts to Undo the Historic Victory in *McGirt*

By Mary Kathryn Nagle (*Cherokee Nation*),
Pipestem Law, Counsel to NIWRC

The ink had not yet dried on Justice Gorsuch’s epic *McGirt* masterpiece when opponents of tribal sovereignty began to attack it. The attacks on *McGirt* have been numerous, but the good news is that, so far, tribal leaders and sovereignty advocates (or, as Attorney General Hunter refers to us, “Sovereignty Hobbyists”) have succeeded in preserving the victory in *McGirt* for the generations to come. This success to date, however, should not subdue us into submission. It is critical that we remain vigilant and poised, ready to pounce, on any and all attacks on *McGirt* as well as all future efforts to pass anti-sovereignty legislation to “fix” *McGirt*.

One week after the Supreme Court announced that Muscogee (Creek) Nation won *McGirt*—and Oklahoma lost—the Oklahoma Attorney General Mike Hunter announced he had reached an “agreement” with the Five Tribes (Muscogee (Creek) Nation, Seminole Nation, Chickasaw Nation, Choctaw Nation, and Cherokee Nation) that would effectively nullify Oklahoma’s loss before the Supreme Court.

Under Hunter’s agreement (known as the “Agreement in Principle” or the “AIP”), the State of Oklahoma stated that Oklahoma and the Five Tribes would ask Congress to pass a law limiting tribal civil jurisdiction over non-Indians to only those situations where the non-Indian has a “consensual relationship, such as contracts” with the Tribe, mirroring the Supreme Court’s 1981 decision in *Montana v. United States* which limited the civil jurisdiction of Tribal Nations over non-Indians on tribal lands. Such a limitation would also conflict with Section 905 of VAWA 2013 Title IX, which clarified that tribal courts have full civil jurisdiction to issue and enforce protection orders involving any person to protect victims of

domestic and sexual violence.

The AIP sought to achieve many legal realities that would, if passed into law, render the Supreme Court’s decision in *McGirt*, a nullity. For instance, the AIP would also effectively render Oklahoma a PL-280 State, as the AIP requests that Oklahoma be granted criminal jurisdiction over Indian perpetrated crimes committed in “Indian country” that are, in non PL-280 jurisdictions, reserved for Tribal Nations and the federal government. Many tribal sovereignty advocates quickly criticized this aspect of the AIP, as Tribal Nations in PL 280 States have consistently, across the board, stated that PL 280 created a legal framework that decreases safety in tribal communities and has, since its passage by Congress in 1954, created significant problems for Tribal Nations in PL-280 States.

The AIP also asked for new legislation stating that the Five Tribes may exercise criminal jurisdiction over non-Indian “domestic abusers covered by the Violence Against Women Reauthorization Act of 2013.” This would not restore any new category of criminal jurisdiction that Tribal Nations cannot already exercise. In addition to accomplishing nothing positive for Tribal Nations and the women they seek to protect, such new legislation in the aftermath of *McGirt* will only create confusion going forward. For instance, if Oklahoma succeeded in getting its desired *McGirt* “fix” passed, what would happen when Congress re-authorizes VAWA in 2021 and restores additional categories of criminal jurisdiction that Tribes may exercise over non-Indians? Would such a subsequent re-authorization of VAWA include the Five Tribes in Oklahoma who, out of all the Tribal Nations in the United States, will be the only Tribes with their own unique legislation limiting their jurisdiction over non-Indian “domestic abusers [to the categories] covered by the Violence Against Women Reauthorization Act of 2013”? Would language be necessary to ensure that additional categories of jurisdiction restored in future VAWA re-authorizations would automatically override the language in the *McGirt* “fix” legislation Oklahoma now seeks? Why is the AIP necessary?

The answer it is not. It was drafted by the party that lost in the Supreme Court, and although Attorney General Hunter claimed he had reached an agreement with the Five Tribes, it became clear rather quickly that he had not. On July 17, 2020, Seminole Nation Chief Chilcoat responded to AG Hunter’s proposed agreement, stating that: “To be clear, the Seminole Nation has not been involved with discussions regarding proposed legislation between the other four tribes and the State of Oklahoma. Furthermore, the Seminole Nation has not engaged in any such discussions with the State of Oklahoma, including with the Attorney General, to develop a framework for clarifying respective jurisdictions and to ensure collaboration among tribal, state and federal authorities regarding the administration of justice across Seminole Nation lands.”

Soon after Chief Chilcoat's statement, Muscogee (Creek) Nation Chief David Hill echoed these sentiments, stating, "Muscogee (Creek) Nation is not in agreement with the proposed Agreement-in-Principle released by the State of Oklahoma yesterday." Chief Hill acknowledged that collaboration and intergovernmental agreements among the State of Oklahoma, the Tribes, and the federal government would be critical following *McGirt*, but also noted that such collaboration "does not require congressional legislation."

Attorney General Hunter seems to have abandoned his AIP, and has since moved onto other legislative "proposals." No doubt the abandonment of the AIP was the result of the advocacy of many Native women advocates who quickly spoke out and expressed their concerns that the AIP, if enacted into law, would bring harm to Native women and impede ability of Tribal Nations to keep us safe. The advocacy of Native women advocates was so strong, and so swift, that on July 29, Attorney General Hunter referred to us as "Sovereignty Hobbyists." We know this is a title we earned with distinction!

On July 20, Oklahoma Governor Kevin Stitt created The Oklahoma Commission on Cooperative Sovereignty, a commission that does not include a single leader from any one of Oklahoma's 39 federally recognized tribes. Instead, the commission is comprised entirely of oil and business executives, many of whom have fought the Indian Child Welfare Act and supported the Dakota Access Pipeline, which destroyed the sacred sites and burial grounds and imperiled the drinking water supply of the Standing Rock Sioux Tribe. While the Commission contains multiple billionaires and millionaires, it does not contain a single Native person, or anyone who understands the connection between tribal sovereignty and the safety of Native women.

Almost immediately after Governor Stitt announced his Commission on Cooperative Sovereignty (that apparently does not want to cooperate with, or involve, Tribal Nations), Senator Inhofe said the Court's historic decision affirming the Muscogee (Creek) Nation's continued sovereign existence is problematic for oil and gas companies. In response, he's insisting he must introduce a solution. But rather than requesting input from tribal leaders or the Native women who are most impacted by *McGirt*, Inhofe formally solicited comments from private corporations — ranging from oil and gas giants to Amazon, American Airlines, and even Wal-Mart. Senator Inhofe gave these private corporate interests until August 21 to comment on how the Court's historic decision might impact them so he can ascertain how best to craft his solution, which he stated he would introduce soon thereafter.

On August 13, nearly every Native and tribal advocacy organization (including the National Congress of the American Indians) sent a letter to Senator Inhofe, copying all

members of the Oklahoma Congressional Delegation, stating:

It has come to our attention that staff members of the Oklahoma congressional delegation have formed a working group with the ostensible purpose of establishing, in a matter of weeks, proposed legislation to abrogate the tribal sovereignty upheld by the Supreme Court in its July 9, 2020 decision in *McGirt v. Oklahoma*. We fear that any such bill could irreparably undermine the sovereignty of tribal nations across the country.

The letter further stated:

From coast to coast, tribal governments routinely govern reservations within urban areas with high non-Indian populations. They have done so in a manner that promotes economic development to bring about prosperity for all. Just like all sovereign governments, tribal governments work to promote business and economic growth, while ensuring economic growth does not significantly undermine the health, safety, or welfare of those living within the sovereign's borders. Any working group tasked with discussing the realities of *McGirt* must and should include voices from both urban and rural reservations across the United States, where tribal leaders have succeeded in collaborating with local state governments to ensure the safety and welfare of all.

The national Native organizations pledged to oppose "any rushed process that limits discussion, limits participants, and drives towards a calculated goal of passing destructive federal legislation."

It is now late October (as of the writing of this article), and neither Inhofe's proposed legislation—nor Attorney General Hunter's AIP—have come to fruition. What is clear, however, is that the anti-sovereignty interests who seek post-*McGirt* legislation have not ceased their efforts in achieving their desired legislation. Their initial and immediate efforts to shove harmful legislation through Congress failed, and now they are attempting to repackage (or dress in sheep's clothing) their anti-sovereignty "fix" to *McGirt*.

Having abandoned his failed AIP, Attorney General Hunter most recently, on October 21, announced his latest sovereignty-sacrificing proposal, outlining a three page plan for Congress that once again invites Congress to limit tribal sovereignty by making Oklahoma essentially a PL-280 State, thereby restoring the jurisdiction the Supreme Court just determined Oklahoma had been illegally exercising. Because of the tremendous failings of Public Law 280, Congress amended the statute in 1968 to require tribal consent before a state may assume jurisdiction over a Tribal Nation's land. Unsurprisingly, no Tribe has consented to state jurisdiction under this 1968 amendment. Many tribal leaders from Tribes

**Now is the time to continue to stand.
Stand for sovereignty.
Stand for and with Muscogee
(Creek) Nation.
Stand for safety for Native women.**

in States that are subject to Public Law 280 have expressed surprise that any Tribe in Oklahoma would ask, in effect, to be a PL-280 State, given how harmful this jurisdictional transfer has been to the Tribes located in the six PL-280 States.

Almost immediately after Attorney General Hunter issued his statement, Chief Batton of the Choctaw Nation stated:

We oppose Oklahoma Attorney General Mike Hunter's proposal for congressional action following the Supreme Court's ruling in *McGirt v. Oklahoma*, because it is premature and may prove to be unneeded. We welcome, however, his proposal for additional dialogue. Before we discuss legislation at the national level, we must first lay the foundation for a future framework. The Five Tribes are already doing this through our individual sovereignty commissions, dialogue with elected officials and state agencies, and in partnership with the federal government. We are making substantial progress. We should take the necessary time to reason together through these issues and avoid repeating past mistakes in federal legislation regarding Indian Country.

Seminole Nation echoed the Choctaw Nation's sentiments, stating:

While the Seminole Nation appreciates the sentiment of consensus building and intergovernmental cooperation upon which we believe Attorney General Mike Hunter's proposal was premised, we oppose the recommendation for Congressional authorization of state-tribal criminal jurisdiction compacts. By way of example, the Seminole Nation, like all the Five Tribes, already has a state-tribal agreement on criminal justice in the area of policing through cross-deputization. These intergovernmental agreements demonstrate the effectiveness of existing state-tribal government-to-government cooperation and coordination, absent Congressional action. Further,

any legislation enacted by Congress will deeply erode tribal sovereignty. There is simply no basis to request Congressional action because the law is clear under *McGirt*. It is the responsibility of the federal government to handle certain crimes committed in Indian country by Indians. Any legislation providing the State with rights to exercise criminal jurisdiction on-reservation will come at the expense of other important attributes of sovereignty. For these reasons, the Seminole Nation opposes federal legislation relating to state-tribal criminal jurisdiction compacts.

And, of course, Muscogee (Creek) Nation held its ground, stating:

We have yet to examine the details of Attorney General Mike Hunter's latest request for federal legislation responding to the *McGirt* decision, but we have still not found any compelling evidence demonstrating such a federal response is necessary. At first look, it appears that what AG Hunter is proposing already exists under federal law. P.L. 280, allows for the transfer of subject matter jurisdiction to the state. But the historical record shows that tribes that have voluntarily relinquished their authority have found themselves trapped and unable to ever recover their sovereignty.

Senator Inhofe and Attorney General Hunter have not given up. They will continue to push for legislation designed to either serve the private corporate interests of oil and gas companies—or seeks to restore the jurisdiction that Oklahoma illegally exercised for over a hundred years.

Now is the time to continue to stand. Stand for sovereignty. Stand for and with Muscogee (Creek) Nation. Stand for safety for Native women.



ALASKA UPDATE

MMIW Cold Case Office Opens in Anchorage

By Tami Truett Jerue, Executive Director,
and Debra O'Gara, Policy Specialist,
Alaska Native Women's Resource Center

AKNWRC Executive Director Tami Truett Jerue speaks during the opening of the Cold Case Office at the Alaska Native Heritage Center in Anchorage on August 26, 2020. / Photo courtesy of AKNWRC.

On August 26, 2020, the Department of Justice held an official opening of a Cold Case office in Anchorage, Alaska. This is one of seven offices, spread throughout the United States, dedicated to working on long standing cold cases involving the homicide of Indigenous women over the last several decades. Tami Truett Jerue, Executive Director of the Alaska Native Women's Resource Center (AKNWRC), was in attendance to both applaud the efforts of the federal government and send the message that the effort was long overdue.

Truett Jerue, an enrolled citizen of the Anvik Tribe, Deg it' tan Athabascan from interior Alaska is the mother to four children, the grandmother of five. In her opening remarks she stated, "We have waited a very long time for this."

Sadly, Alaska is a violent state. While violence against Native women occurs at higher rates than any other population in the United States, it is at its worst in Alaska. A full 50 percent of Alaska Native women will experience physical or sexual violence in their lifetime. As for missing persons, Alaska has the highest number of any state in the union and these are not per capita numbers.

Violence is nothing new for Indigenous people. Violence,

rape, murder and trafficking have been a significant part of the Native experience since first contact with the European and Russian explorers and traders.

There are far too many Alaska Native women and girls that have experienced victimization just because they are Indigenous women. Too many relatives have suffered abuse and death because the government has failed in their legal trust and moral responsibility to assist Indigenous nations in safeguarding the lives of our women and children. Alaska Tribes and Tribal communities have few options when seeking help such as safe shelter, sexual assault services, law enforcement, medical and mental health services, or any type of help dealing with the aftermath of victimization. The result of this lack of fundamental services is far too often death or missing.

"Our families have no closure when our mothers, daughters and aunties die unexpectedly and unnaturally. The manner of death, while sometimes considered "suspicious," often with visible injuries, results with the death classified as accidental, suicidal, or undetermined," said Truett Jerue. "Because these causes are not criminal, there is no investigation and there is no justice. No one is held accountable, and there is no closure for the families left behind."



(Top) Senator Lisa Murkowski and traditional drummers (bottom) present at the Cold Case Office at the Alaska Native Heritage Center in Anchorage on August 26, 2020. / Photo courtesy of AKNWRC.

Occasionally, there is a resolution, but it often takes years. The case of Sophie Sergie is an example of one such case that took 25 years to solve when DNA was used to identify the killer. Currently, there is a missing Alaska Native woman named Florence Okpealuk from Nome who has been missing since August 31, 2020. The search continues with no new updates.

Unfortunately, Florence's case is an exception, not the rule. Here in Alaska there are hundreds of unsolved murder and missing cases involving Alaska Native women and girls. Each day the numbers continue to grow and escalated in 2020 due to COVID-19 effects on transportation, safety and law enforcement response were put into place.

It is our hope with the opening of the Anchorage Cold Case Office that more attention and resources will be given to the many missing and murdered Alaska Native women. This is one more step in the right direction in addressing this long-standing problem. We want to thank the Department of Justice for taking this big step forward in this battle for our lives. At the same time, we will continue to sound the alarm. Investigations into all of the murder and missing cases in Alaska requires more than simply reassigning one FBI agent to the task.

There must be a full cross jurisdiction effort with collaboration and uniformed protocols for all of the law enforcement agencies currently operating in Alaska, from the FBI to the Alaska State Troopers to the various local and Tribal officers. The fact that there are no protocols that assist first responders with communication and coordination only leads to failure in the investigation of missing and murdered women.

The AKNWRC urges the Cold Case Office to coordinate with the newly formed Missing and Murdered Indigenous People Task Force. What is needed is reliable and consistent information about how and when to report that someone has gone missing so that search and investigation can begin immediately. There must be a reliable and consistent way to get information to and from the family and community. The lack of information only increases the stress, anxiety and grief during a very traumatic situation. It is family and friends that hold the most information that can assist with any investigation. It is their loved ones that have gone missing or have been murdered yet they are often the last to be interviewed or sought for information.

The law enforcement agencies across the state should find or develop ways to work together, rather than to pass the buck to one another. Nearly 40 percent of the rural Alaska Native communities' lack any law enforcement or Western style court systems. This makes the need for cooperation the greatest and collaboration should be the first course of action, not the last.

Today we are at a historic crossroads with a unique opportunity to stop the devastation of violence. In Deg it' tan Athabascan, as with other language groups in Alaska, we had no words or description for violence within a family home. We had traditional forms of justice that kept our community in check and women valued as the life giver of the family. We had community justice, which we are now returning to. We ask the Department of Justice and the new Cold Case Office to recognize and respect our experience, culture, and our efforts to make our homes safe again. We ask that all of the law enforcement agencies become involved with the solution to this crisis of violence.

To learn more about the Alaska Native Women's Resource Center, access Alaska Native-specific resources and join their mailing list, visit aknwrc.org.





INTERNATIONAL UPDATES



*United Nations
Headquarters,
New York. /
Photo courtesy
of Indian Law
Resource Center.*

Fulfilling Human Rights Obligations to Indigenous Women and Indigenous Peoples During the COVID-19 Pandemic

By Jana L. Walker and Christopher Foley, Attorneys, Indian Law Resource Center

Even before the World Health Organization's March 11, 2020 declaration of a global pandemic, the United Nations (UN) and Organization of American States (OAS) began curtailing international human rights meetings as the coronavirus spread throughout the world. Many meetings that usually serve as critical opportunities for indigenous peoples and indigenous women to raise rights violations were suspended or postponed, including but not limited to the 43rd and 44th Sessions of the UN Human Rights Council, the 64th Session of the UN Commission on the Status of Women, the 19th Session of the Permanent Forum on Indigenous Issues, and the 13th Session of the Expert Mechanism on the Rights of Indigenous Peoples.

At the same time, both the UN and OAS recognized that indigenous peoples are particularly vulnerable to the global pandemic. The UN Department of Economic and Social Affairs issued a statement recognizing that indigenous peoples, especially indigenous women and girls, often are disproportionately affected by epidemics and that the UN Declaration on the Rights of Indigenous Peoples "establishes the minimum standards for the survival, dignity and well-being of indigenous peoples."

The statement reports that "There are more than 476 million indigenous peoples in the world, found in all regions of the world, from the Arctic to the tropical forests. Indigenous



Meeting of the United Nations Human Rights Council. / Photo courtesy of Indian Law Resource Center.

peoples are more than 6 per cent of the global population. Indigenous peoples, in particular indigenous women and girls are often disproportionately affected by epidemics and other crises. Indigenous peoples are nearly three times as likely to be living in extreme poverty as their non-indigenous counterparts. They account for almost 19 per cent of the extreme poor, irrespective of the region and residence in rural or urban areas and even across international borders. They are custodians of a wealth of traditional knowledge and practices, languages and culture, which includes time tested responses to crises. In addition to poverty and underlying health status, many indigenous peoples live in isolated or remote communities, where health-care services are difficult to reach and have limited capacity, or do not exist. The role of elders in indigenous communities is particularly significant as they play a key role in keeping and transmitting indigenous traditional knowledge and culture and practices that can contribute to the health, well-being and recovery of their own and wider communities.” [Footnotes omitted]

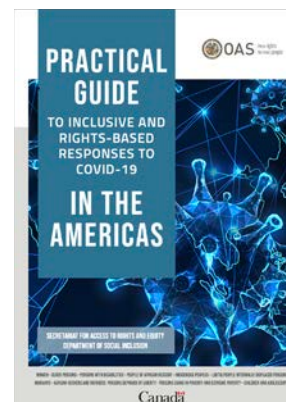
The statement also provides a list of considerations for governments in responding to the COVID-19 pandemic including ensuring “indigenous women are effectively engaged in decision making related to COVID-19 and in dealing with the socio-economic effects of lockdowns, physical distancing and other mitigation efforts, recognizing that indigenous women and girls will be disproportionately affected by these efforts;” ensuring that disaggregated data of indigenous peoples is available including rates of infection, mortality, and incidence of violence; and respecting indigenous peoples rights to self-determination.¹

¹ https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2020/04/COVID19_IP_considerations.pdf

The UN has developed a webpage of COVID-19 resources for indigenous peoples, which is available at bit.ly/3obQx9i.

The OAS has issued a “Practical Guide to Inclusive Rights-Focused Responses to COVID-19 in the Americas,” which is now available in English, as well as Spanish. The guide supports member states in responding to the global pandemic and offers tools to use in responding to the circumstances of vulnerable groups. Chapter 1 of the guide specifically speaks to “Women, Gender Equality, and COVID.” OAS

Indigenous Rights Resource



Practical Guide to Inclusive Rights-Focused Responses to COVID-19 in the Americas, available in English and Spanish

View guide: bit.ly/3o4YsoC



Chris Foley is an attorney for the Indian Law Resource Center. / Photo courtesy of Indian Law Resource Center.

Secretary General Luis Almagro cautioned that the ability to survive the pandemic is less likely for those in situations of poverty and extreme poverty and for groups historically discriminated against, including indigenous peoples and women. Accordingly, the guide states “that the member states must place emphasis on guaranteeing the right to health of these groups, using objective and reasonable criteria of distinction, based on the equalization of opportunities to bridge the inequality gap, and avoid arbitrary differences in treatment.”²

The guide also acknowledges the pervasiveness of violence against women and how the virus impacts the safety and security of women. “According to the United Nations, 87,000 women were intentionally killed worldwide in 2017, and of that number, more than 50,000 were murdered by their partners, former partners, or a member of their family. The WHO notes that 30% of women in the Americas have suffered physical or sexual violence from their partner, and that 38% of women are killed by their partner or a former partner. Prolonged coexistence exacerbates situations of violence, especially in combination with stress and fear of loss of income or adverse economic situations, and the home can become the most insecure place when women and children are in confinement along with their attackers.”³

Human Rights Advocacy Moving Forward Virtually

13th Session of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

The EMRIP provides expertise and advice to the Human Rights Council on the rights of indigenous peoples. It

² https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-032/20

³ *Id.*

also helps member states with their implementation of the Declaration on the Rights of Indigenous Peoples.

As a result of the pandemic, the UN postponed the 13th Session of the EMRIP until November 30 to December 4, 2020. However, in order to ensure that EMRIP’s reports and suggestions were available for the Human Rights Council 45th Session in September 2020, the Expert Mechanism called on stakeholders including indigenous peoples to comment on proposals for the Council. In response the Indian Law Resource Center, Alaska Native Women’s Resource Center, and National Indigenous Women’s Resource Center submitted comments to EMRIP concerning violence against indigenous women in the United States, particularly Alaska Native women, in the context of the COVID-19 pandemic.

The UN recognizes that indigenous peoples are particularly vulnerable to the global pandemic, and that violence against women is growing as a shadow pandemic. It has noted that measures like curfews, quarantines, and travel restrictions and checkpoints being used to limit outbreaks of the virus also restrict survivors of abuse from getting help, reaching shelters, and distancing themselves from abusers. In the case of indigenous women in the United States, we emphasized to EMRIP that the COVID-19 pandemic also has magnified pervasive human rights abuses, shining a floodlight on dangerous gaps in U.S. law and significant disparities already facing indigenous peoples. We further noted that the Declaration on the Rights of Indigenous Peoples and the Outcome Document of the World Conference on Indigenous Peoples must be implemented by states and the UN to address this violence.

Based on the foregoing and the COVID-19 pandemic, we urged that the Human Rights Council:

- Regularly address the elimination of all forms of violence against indigenous women and girls during its annual discussions on women’s human rights and on indigenous peoples;
- Direct the Expert Mechanism on the Rights of Indigenous Peoples to pay particular attention to the rights and special needs of indigenous women and children in the context of the COVID-19 pandemic and monitor states’ measures to ensure they enjoy protection against all forms of violence and discrimination;
- Enhance the ability of relevant special procedures to respond to this issue and address the multiple and intersecting forms of discrimination experienced by indigenous women in the context of COVID-19 by requesting special, and perhaps joint, reports on the topic; and
- Request that the UN Secretary-General:
 - a. Issue a report on violence against indigenous women in the context of the COVID-19 pandemic with recommendations for future actions, and



The United Nations Office at Geneva in Geneva, Switzerland. / Photo courtesy of Indian Law Resource Center.

b. Convene a high-level panel in 2021 on intensifying efforts, in collaboration with indigenous peoples, to prevent and eliminate violence and discrimination against indigenous women in the context of the COVID-19 pandemic.

We were pleased that the Expert Mechanism did suggest that the Human Rights Council hold a panel discussion in 2021 (48th Session) on the human rights of indigenous peoples during the pandemic.

Special Rapporteur on the Rights of Indigenous Peoples

In response to a request by Francisco Cali-Tzay, the UN Special Rapporteur on the rights of indigenous peoples, the Indian Law Resource Center, Alaska Native Women's Resource Center, and National Indigenous Women's Resource Center submitted written information to inform his report on the impact of COVID-19 on the rights of indigenous peoples. Our statement, "Violence Against Indigenous Women in the United States, Particularly Alaska Native Women, in the Context of the COVID-19 Pandemic," describes how indigenous women, including those in the United States, often are battered, raped, murdered, and disappearing at extraordinary rates because of their gender and because they are indigenous.

In Alaska, the situation is particularly dire. Our statement again discusses how the COVID-19 pandemic has magnified pre-existing human rights abuses, dangerous gaps in U.S. law, and the significant disparities faced by indigenous peoples before COVID-19. These include, but are not limited to disparities in the availability of critical resources and services such as law enforcement, safe housing, indigenous women's

shelters, health care, victim services, internet, cellular, and equitable federal funding. Our full statement, as well as those by other indigenous nations and organizations throughout the world, including the National Congress of American Indians and Navajo Nation, are available at bit.ly/2TnSbGF. The Special Rapporteur's report, A/75/185, will be presented to the 75th Session of the UN General Assembly on October 12, 2020.⁴

45th Session of the Human Rights Council

The Human Rights Council, an intergovernmental body within the UN system that promotes and protects human rights worldwide, held its 45th Session in Geneva on September 14 - October 2, 2020, which included the annual half-day panel on the rights of indigenous peoples and an interactive dialogue with the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of indigenous peoples.

The Indian Law Resource Center submitted a written statement (A/HRC/45/NGO/23) concerning violence against indigenous women in the United States, particularly Alaska Native women, in the context of COVID-19. The statement highlighted the extreme levels of violence and murder against indigenous women in the United States, with Alaska Native women experiencing the highest rate of forcible sexual assault in our country. The statement explained that the "Covid-19 pandemic has magnified historic, pervasive human rights abuses such as the extreme levels of violence experienced by American Indian and Alaska Native women and the crisis of and missing and murdered indigenous women, shining a floodlight on dangerous gaps in U.S. law and significant

⁴ <https://undocs.org/en/A/75/185>

disparities facing indigenous peoples related to the United States' failure to adequately address their wellbeing for more than 200 years." In other words, "the pandemic is making an already bad situation even worse."

The statement further noted the coronavirus is also impacting the safety of indigenous women in the United States by preventing lawmakers from giving attention to critically-needed, life-saving legislation such as the overdue reauthorization of the Violence Against Women Act, bills to address the epidemic of missing and murdered indigenous women, ensuring more equitable funding to Indian tribes to provide crime victim services, and improving the access of indigenous governments to the United States federal criminal information databases.

The Alaska Native Women's Resource Center and National Indigenous Women's Resource Center supported the statement, which also reiterates our proposed actions for the Human Rights Council, previously submitted to EMRIP, that would focus attention on efforts to end violence against indigenous women, pay particular attention to the rights and needs of indigenous women and children during the pandemic, and help provide lasting improvements in the lives of indigenous peoples.⁵

AKNWRC and NIWRC supported a statement by the Indian Law Resource Center, which reiterates proposed actions for the United Nations Human Rights Council to focus attention on efforts to end violence against indigenous women and pay particular attention to the rights and needs of indigenous women and children during the pandemic.

Significantly, the Human Rights Council adopted resolution A/HRC/45/L.34 deciding that "the theme of the annual half-day panel discussion on the rights of indigenous peoples, to be held during the forty-eighth session of the Human Rights Council, will be the situation of human rights of indigenous peoples facing the COVID-19 pandemic and have a special focus on the right to participation, and requests the Office of the High Commissioner to encourage and facilitate the

⁵ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/225/10/PDF/G2022510.pdf?OpenElement>

participation of indigenous women and to make the discussion fully accessible to persons with disabilities, and to prepare a summary report on the discussion and to submit it to the Council prior to its fiftieth session."⁶ The designation of a theme related to the pandemic's impact on indigenous peoples for the September 2021 session of the Council, coupled with an explicit request for participation by indigenous women, provides an important opportunity for future advocacy.

Upcoming Advocacy Opportunities

65th Session of the UN Commission on the Status of Women (CSW65)

The Commission on the Status of Women (CSW) is the UN's principal intergovernmental body that focuses exclusively on the promotion of gender equality and the empowerment of women globally. CSW65 is scheduled to take place on March 15-26, 2021 in New York. The priority theme of the 65th session is women's "full and effective participation and decision-making in public life, as well as the elimination of violence, for achieving gender equality and the empowerment of all women and girls." The session's review theme is women's empowerment and its link to sustainable development. The outcome of the session will be agreed conclusions and recommendations relevant to these themes.

A critical element of the CSW work is the active participation of non-governmental organizations (NGOs). Due to the COVID-19 pandemic, the NGO CSW65 Forum and its parallel events planned by NGOs and member states will be virtual. For additional information, visit the CSW65 webpage at bit.ly/37snCaL

More information about the 65th Commission on the Status of Women can be found online at bit.ly/34hAvml.

⁶ <http://undocs.org/A/HRC/45/L.34>



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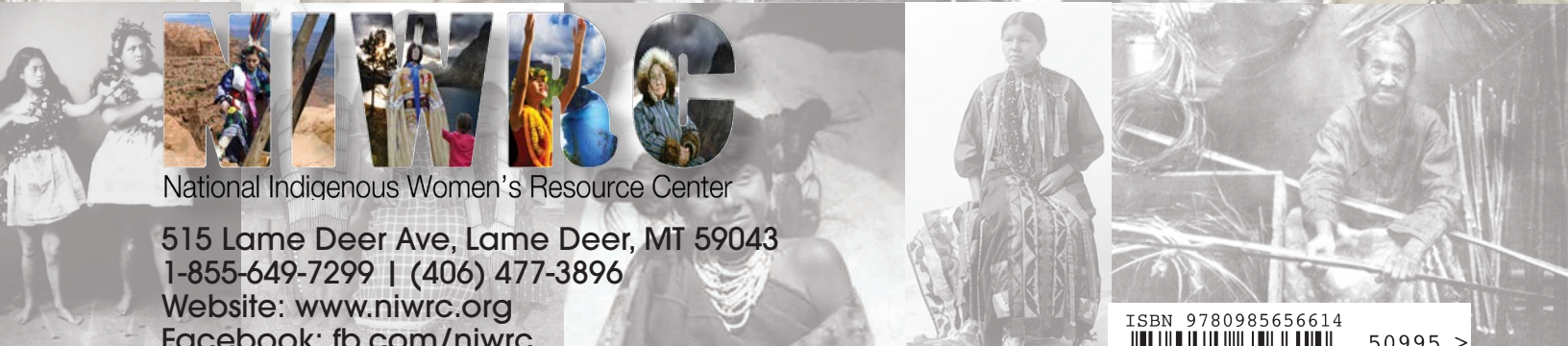
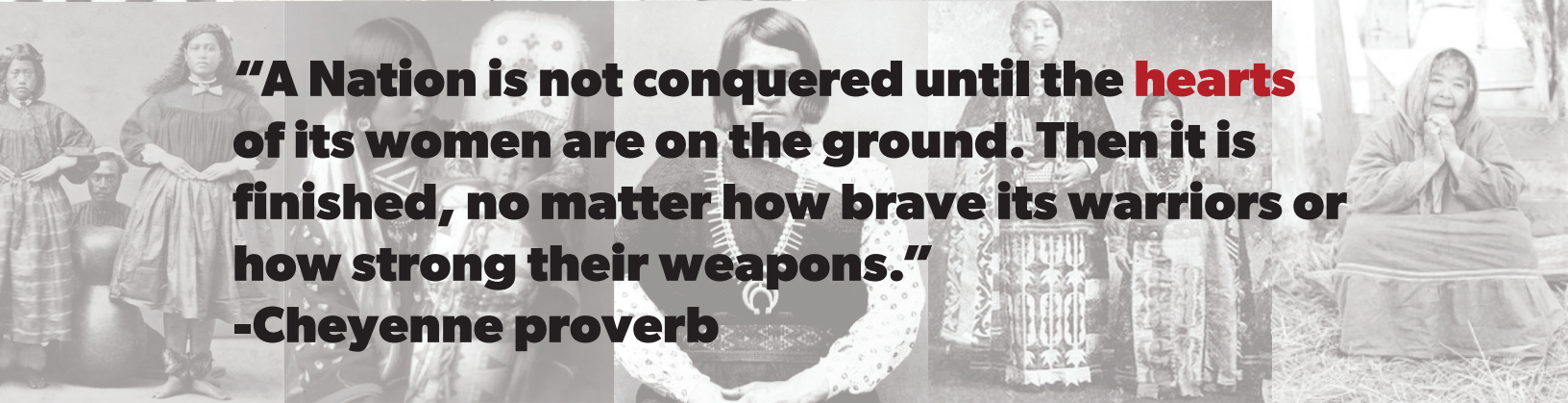


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SOVEREIGNTY AND
SAFETY FOR NATIVE
WOMEN**

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**“A Nation is not conquered until the hearts
of its women are on the ground. Then it is
finished, no matter how brave its warriors or
how strong their weapons.”
-Cheyenne proverb**



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