

# When a Loved One Goes Missing

Understanding and  
Responding to the Crisis  
of Missing and Murdered  
Indigenous Women



National Indigenous Women's Resource Center

This pocket guide is a part of our **MMIW Toolkit for Understanding and Responding to Missing and Murdered Indigenous Women for Families and Communities**. The toolkit includes a downloadable PDF of this pocket guide, a customizable missing persons flyer, an MMIW awareness poster for tribal programs, and an online database of local emergency contacts, hotlines and other resources, which can be accessed online at **[niwrc.org/mmiwtoolkit](http://niwrc.org/mmiwtoolkit)**.

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## **A Quick Reference Guide for Families of Missing Indigenous Women: What to Do in the First 72 Hours**

This quick reference guide is designed as a tool for families and advocacy organizations to respond when a Native woman goes missing. It provides specifics about what immediate steps to take in the first 72 hours.

Note: This resource is not designed to address how to respond when someone 17 or younger goes missing, as it involves a unique set of laws, policies and other resources. Please view *When Your Child Is Missing: A Family Survival Guide* online at [bit.ly/3kAclST](http://bit.ly/3kAclST).

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Time is of the essence when someone you love goes missing. Do not delay – take these four important steps in order to make every second count:

- 1. Contact local law enforcement**
- 2. Gather and track additional information**
- 3. Preserve important evidence**
- 4. Enlist the immediate help of your family, community or domestic violence program**

### **Step 1: CONTACT LAW ENFORCEMENT - DO NOT WAIT**

Contact local law enforcement immediately, unless you know that the missing woman voluntarily left to get away from an abusive or dangerous situation. If 911 emergency services are not available in your location, call whatever law enforcement agency you would contact for any other type of life-threatening emergency. In addition, contact the law enforcement agency in a different area if you believe the woman went missing somewhere else. When you contact police, tell them that you need to

file a missing persons report. There is no required amount of time you must wait in order to file a missing persons report. It is important to share with the police as much detail as possible to help identify your loved one, including:

- Full name, any nicknames or aliases they might be using
- Date of birth
- Descriptive physical features (ex. height, weight, hair color, eye color)
- Any identifying marks, such as tattoos, birthmarks, or scars
- What the individual was wearing when they disappeared
- Whether the missing person has a medical condition that requires regular treatment or medication (ex. if she is pregnant)
- If you suspect she was stalked or lured away via Internet (ex. Facebook, Twitter), share with local law enforcement so that they can consider asking the FBI for

assistance with a possible trafficking or Internet-related crime.

Do not wait to gather more information before taking this critical first step. You can fill in any missing details later. When you speak with law enforcement, ask for the officer's name, badge number, telephone number, and police report number and note this information so you can follow up.

A missing woman could be transported across tribal, county, state lines or even international borders via plane, train, car, bus, or boat. Consider contacting and sharing your missing person flyer with the following agencies to be on the lookout for your missing person:

- local department of transportation,
- train and bus stations,
- port authorities,
- airports, and
- border control.

*The Missing Indigenous Sisters Tools Initiative (MISTI) created a free, 45-page search workbook geared toward families of missing Indigenous women. Use the workbook, or even a simple notebook, to keep all of the important information about the missing person in one place for easy reference. Download the workbook at [bit.ly/MISTIworkbook](http://bit.ly/MISTIworkbook).*

## **Step 2: GATHER AND TRACK ADDITIONAL INFORMATION**

After you've notified the police, start thinking about any potential leads and write them in your notebook. You can reconnect with law enforcement when you have additional information, such as:

- Where was your loved one last seen?
- Were they with someone at the time? If it was a stranger, describe the stranger as best you can.
- If the missing person was alone at

the time, who did they last see or speak with? Note that individual's name, phone number, address, and any other important information.

- What tribe is the missing person enrolled or affiliated with?
- Is their vehicle also missing? If so, provide a description of the vehicle, including make, model, color, year, and license plate number, if known.
- Did your loved one leave behind anything important, like their phone, keys, wallet, or ID?
- Do they suffer from any illness or condition that might make them a danger to themselves or others?
- Have they been abused or received any threats of harm? Is the missing person afraid of anyone? Did they witness a crime or are they involved in a new or ongoing dispute?
- Have they been acting outside of their normal pattern of behavior, such as missing work or not picking

up their children from school?

- Make a list of the places they frequent, such as work, school, grocery stores, restaurants/bars, parks, and any other regular stops.
- Make a list of the friends and family members they regularly see or communicate with, including their contact information.

### **Step 3: PRESERVE IMPORTANT EVIDENCE**

Preserving evidence can be critical to ensuring that materials and information can be used in the search for your loved one, and, if necessary, in a criminal prosecution. While waiting for law enforcement to arrive:

#### **DO NOT:**

- Touch or move anything before law enforcement arrives
- Tidy or clean up their home,

vehicle, or the area where they were last seen – dusting, cleaning, or throwing things away may remove fingerprints or discard important evidence

- Delete or alter any call history, text messages, social media accounts, cell phone images, or web browser history. Law enforcement may request bank records, social media account information and cell phone records.

**DO:**

- Limit access to the area where they were last seen
- Take photos of the area, if possible
- Jot down notes of everything you can remember from immediately before your loved one went missing

**Step 4: ENLIST HELP**

Contact friends, family, and co-workers to see if they know the missing person's

whereabouts, and log those conversations in your notebook. You can also ask for help with specific tasks such as:

- Calling churches, hospitals, jails, and homeless shelters
- Designing an easy-to-read, attention-grabbing flyer
- Include the word “MISSING” in big, bold text
- Include a recent, clear photo of her
- Add a physical description
- Include any known circumstances of her disappearance, such as date or location
- Don’t forget personal contact information and law enforcement contact information
- Posting copies of the flyer in high-traffic areas
- Managing social media
  - Consider creating a public Facebook page to share information widely or utilizing multiple platforms (ex.

Instagram, Twitter, etc.)

- Using hashtags to raise visibility
- Contacting the local news
  - Note: There are benefits and drawbacks to using both social and news media, so be sure to weigh the increased visibility with the potential intrusion on your family's privacy. Consider designating a spokesperson for the family as an option.
- Organizing a search
  - Coordinate with law enforcement to avoid duplicating efforts
  - Identify local search resources available (ex. volunteers, dog searches, boats, etc.)
  - Solicit and register the names and contact information of all volunteers
  - Communicate with volunteers in advance about suggested items to wear/bring in order to

stay safe and healthy, given the weather, terrain, and time of day

- Separate the search area into “grids” and assign teams (not individuals) to each grid
- Brief the group in advance with helpful tips about preserving evidence, spacing and speed of volunteers, and other expectations for a successful search

This quick reference guide is designed as a starting point for families, communities and advocacy organizations to respond when a Native woman goes missing. Our expanded **MMIW Toolkit for Understanding and Responding to Missing and Murdered Indigenous Women for Families and Communities** can be accessed online at [niwrc.org/mmiwtoolkit](http://niwrc.org/mmiwtoolkit).

# **Understanding and Responding to the Crisis of Missing and Murdered Indigenous Women**

## **A Comprehensive Resource Guide for Families and Native Communities**

This comprehensive resource guide is designed as a tool that can be broadly used by families and advocacy organizations to respond when a Native woman goes missing. It provides:

- Background information on MMIW
- Immediate steps to take in the first 72 hours
- What legal rights exist, and where they come from
- Who has authority to investigate the missing person's case
- Who has jurisdiction to prosecute a murder, abduction, or related MMIW crime
- What other resources are available

to assist the family or Native  
community

Note: This resource is not designed to address how to respond when someone 17 or younger goes missing, as it involves a unique set of laws, policies and other resources. Please view *When Your Child Is Missing: A Family Survival Guide* online at [bit.ly/3kAclST](http://bit.ly/3kAclST).

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## **SECTION ONE: BACKGROUND: FAILED TRUST RESPONSIBILITY**

More than 84 percent of Native women have experienced violence in their lifetimes, much of which has been documented historically in various federal reports and by anthropologists, religious leaders and others who spent time observing Native peoples.<sup>1</sup> The brutal

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<sup>1</sup> Rosay, André B., "Violence Against American Indian and Alaska Native Women and Men," NIJ Journal 277

legacy of European and U.S. colonization, including poor record-keeping, the history of policing and law enforcement of Native communities, underreporting and racial misclassification of cases all contribute to insufficient data on cases of Missing and Murdered Indigenous Women (“MMIW”).<sup>2</sup>

Native women are particularly vulnerable to violence because perpetrators often go unpunished due largely to the failure of federal and state laws and policies. For example, nearly a quarter of Indian country criminal investigations opened by the FBI are not referred for prosecution.<sup>3</sup> Of those that are declined by federal prosecutors, approximately two-thirds

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(2016): 38-45, available at <https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men>

2 Missing and Murdered Indigenous Women and Girls Report, 10, Urban Indian Health institute <https://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>

3 U.S. Department of Justice Indian Country Investigations and Prosecutions Report (2018), available at <https://www.justice.gov/otj/page/file/1231431/download>

relate to physical or sexual assault or exploitation.<sup>4</sup> With 574 federally recognized tribes in the U.S., it can be nearly impossible for families of MMIW to navigate complex jurisdictional issues and determine how and from whom to seek help. That uncertainty, compounded by fear and grief, means it might be too late once they've figured out exactly where to turn.

## **SECTION TWO**

### **ACT FAST – IMMEDIATE STEPS TO TAKE**

Once you have determined that a loved one has gone missing, mobilize quickly by enlisting friends and family members to help with next steps. The first 72 hours after an individual goes missing are crucial. Below are some of the initial, important steps to take. It is essential that you contact police and transportation agencies immediately, gather important

<sup>4</sup> Id.

information, and preserve any evidence, including potentially securing the area. For specific contact information for your jurisdiction, view the online appendix of our expanded **MMIW Toolkit for Understanding and Responding to Missing and Murdered Indigenous Women for Families and Communities** online at [niwrc.org/mmiwtoolkit](http://niwrc.org/mmiwtoolkit).

### **Contact law enforcement now**

The first step is to call the police. As a general rule, you should contact local law enforcement immediately — unless you know that the missing individual voluntarily left for some reason (e.g. to leave a violent relationship). If 911 emergency services are not available in your location, call whatever law enforcement agency you would contact for any other type of life-threatening emergency. When reporting to the local police and/or another law enforcement agency, it is important to share as much

detail as possible to help identify your loved one, including:

- Full name
- Any nicknames or other names they might be using
- Date of birth
- Descriptive physical features like height, weight, hair and eye color
- Any identifying marks, such as tattoos, birthmarks, or scars
- What the individual was wearing when they disappeared
- If the individual's vehicle is missing, a description of the vehicle, including make, model, color, year, and license plate number, if known
- Whether the missing person has a medical condition that requires regular treatment or medication (ex. if she is pregnant)

**Do not wait to gather more information before taking this critical first step.** You can fill in any missing details later.

When you speak with law enforcement, ask for the officer's name, badge number, telephone number, and police report number and make sure to write this information down in a notebook so you can follow up.

A missing woman could be transported across tribal, county, state lines or even international borders via plane, train, car, bus, or boat. Consider contacting and sharing your missing person flyer with the following agencies to be on the lookout for your missing person:

- local department of transportation,
- train and bus stations,
- port authorities,
- airports, and
- border control.

*The Missing Indigenous Sisters Tools Initiative (MISTI) created a free, 45-page search workbook geared toward families of missing indigenous women. Use the*

*workbook, or even a simple notebook, to keep all of the important information about the missing person in one place for easy reference. Download the workbook at [bit.ly/MISTIworkbook](http://bit.ly/MISTIworkbook).*

### **Request an alert**

Alerts broadcast information about the missing person across various channels of communication. Some common alerts include:

**BOLO Bulletin:** Always ask law enforcement to use the details you provide to issue a Be On the Look Out (BOLO) bulletin. A BOLO is a broadcast issued from a law enforcement agency to all of its personnel, and to any other relevant law enforcement agencies, that contains identifying information about the missing person. This is a quick and easy way to share details about MMIW cases across a wide geographic area.

**AMBER Alert:** If the missing person is a minor, ask police to issue an AMBER Alert and to enter a child abduction into the National Crime Information Center (NCIC) system.<sup>5</sup> AMBER Alerts are distributed broadly, via radio, television, electronic traffic signs and billboards, and text messages. Implore police to begin searching for the minor immediately.

**ASHANTI Alert:** If the missing person is between the ages of 18 and 64, these Alerts provide for rapid dissemination of information to law enforcement, media and the public about adults who have been reported missing along with suspect information in cases of suspected abduction.

**Other alerts:** Some jurisdictions use additional notification systems (e.g. Silver Alert, Golden Alert) if the missing individual is vulnerable due to a medical

<sup>5</sup> The NCIC is an electronic clearinghouse of crime data. used by criminal justice agencies nationwide including cases of missing persons.

condition or cognitive disability. Be certain to ask if any such notification is available in your location if your loved one meets one of these criteria.

## **CONTINUE TO GATHER INFORMATION**

It is critical to contact police immediately, even when you are still in the process of gathering the details you need. You can always supplement the information you provided to law enforcement at a later date. Additional details will be useful to include in flyers or in social media postings, and to share with media outlets. Do not delay in gathering as much relevant detail as possible, and ask friends and family members to help.

### **Keep a detailed notebook**

Keep track of all of the people you contact and steps you take throughout the course of the search. You can use the MISTI workbook or a plain notebook.

You will want to note the date, the person you spoke with, his or her agency and position in that agency, and any other important information such as whether they said they would add the person to a missing persons' database. Track any contact you make with friends, family, community organizations, and news outlets as well.

### **Questions to consider**

Start thinking about any potential leads and write them in your notebook. Reconnect with law enforcement when you have additional information, such as:

- Where was the missing person last seen?
- Were they with someone at the time? If it was a stranger, describe the stranger as best you can.
- If the missing person was alone at the time, who did they last see or speak with? Note that individual's name, phone number, address, and

any other important information.

- What tribe is the missing person enrolled or affiliated with?
- Is her vehicle also missing? If so, provide a description of the vehicle, including make, model, color, year, and license plate number, if known
- Did they leave behind anything important, like her phone, keys, wallet, or ID?
- Do they suffer from any illness or condition that might make them a danger to themselves or others?
- Have they been abused or received any threats of harm? Are they afraid of anyone?
- Have they been acting outside of their normal pattern of behavior, such as missing work or not picking up their children from school?
- Make a list of the places they frequent, such as work, school, grocery stores, restaurants/bars, parks, and any other regular stops.

- Make a list of the friends and family members they regularly see or communicate with, including their contact information.

### **Who to contact**

One of the most complicated factors in the search for a missing Indigenous woman is jurisdiction – that is, who has the authority to make decisions and control the investigation. In SECTION THREE of this guide, you can learn more about tribal, state, and federal jurisdiction. In SECTION FOUR, you will find a comprehensive, state-by-state list of contacts to aid you in your search, along with resources for crime victims and their families.

*The StrongHearts Native Helpline (1-844-762-8483, or [strongheartshelpline.org](http://strongheartshelpline.org)) may be able to provide local contact information for victim services programs. More information about*

*StrongHearts can be found on their website at [strongheartshelpline.org](http://strongheartshelpline.org).*

## **PRESERVE IMPORTANT EVIDENCE**

Preserving evidence can be critical to ensuring that materials and information can be used in the search for your loved one, and, if necessary, in a criminal prosecution. While waiting for law enforcement to arrive:

### **DO NOT:**

- Touch or move anything before law enforcement arrive
- Tidy or clean up their home, vehicle, or the area where they were last seen – dusting, cleaning, or throwing things away may remove fingerprints or discard important evidence
- Delete or alter any call history, text messages, social media accounts, cell phone images, or web browser

history

**DO:**

- Limit access to the area where they were last seen
- Take photos of the area, if possible
- Jot down notes of everything you can remember from immediately before the person went missing
- Keep in mind that law enforcement may request bank records, social media account information and cell phone records.

**ENLIST HELP FROM FRIENDS  
AND FAMILY**

Once you have reported the missing person to law enforcement, contact friends and family to see if they know anything about your loved one's whereabouts. Be sure to record the information that you receive in your notebook or workbook and pass it along to the police. Include the full name of the person you spoke with, their phone number and email

address, the date and time that you spoke with that person, and the information they provided. Remember to provide your phone number and email address in case they need to get back in touch with you. Also, remember to keep your phone charged and within reach in case the missing person or one of their friends or family members tries to contact you.

Frequently, friends and family may ask if there is anything they can do to help. Assign specific tasks to those individuals in order to cover more ground as quickly as possible. Such tasks may include:

### **Making calls**

Enlist help to call local department of transportation, train and bus stations, port authorities, churches, hospitals, jails, homeless shelters, and other possible leads. Think about all local and out-of-town locations that the missing woman frequents.

## **Designing a flyer**

When someone is missing or suspected to be missing, it is important to begin communicating that information effectively and efficiently throughout the community. A missing person flyer is a common and effective method to convey this information. Flyers should be easy to read, attention-grabbing, and communicate the necessary information. Here are some tips:

- The flyer must clearly convey that the individual is missing. It should include the word “MISSING” in large, stand-out text to capture the attention of those passing by.
- It should include a recent, clear photo of the missing person.
- The flyer should list their full name and any nicknames or aliases.
- It should provide a physical description, including age, date of birth, height and weight, sex, race, build and complexion, hair color,

length and style, eye color and any distinguishing marks or physical features.

- Add other details such as the date and location they were last seen and any known circumstances regarding their disappearance.
- Be sure to include your contact information and law enforcement contact information. Families may want to consider using a free Google voice number or other non-personal number.

A customizable missing person flyer template is included in our expanded **MMIW Toolkit for Understanding and Responding to Missing and Murdered Indigenous Women for Families and Communities**, which can be accessed online at [niwrc.org/mmiwtoolkit](http://niwrc.org/mmiwtoolkit).

## **Posting flyers**

Here are some locations to consider when posting flyers around the community:

- Telephone poles and street signs
- Tribal government buildings and tribal agencies
- Restaurants
- Post offices
- Libraries
- Community Centers
- Indian Health Service/Doctors offices/clinic offices
- Hospitals
- Schools and school districts
- Grocery stores/laundromats
- Banks
- Shopping centers
- Service stations and truck stops
- Hotels
- Morgues
- Apartment complexes
- Airports
- Parks
- Homeless shelters and community

kitchens

- Public transportation stops
- Universities
- City government buildings
- Churches

Ask as many individuals and organizations to help distribute the flyers as possible. Be creative: spread the word to community-based groups like parent-teacher organizations. Ask religious institutions to hand out flyers at their services or events. Ask truck drivers (or pilots flying between Alaska Native villages) to drop off flyers at the various stops they make. Request your tribal or local newspaper to insert flyers into their publication or share on their social media pages.

Some other creative options include asking local restaurants to include the flyer with the food they deliver, and, if community events are coming up, ask

friends and family to include the flyer when tabling.

### **Using social media**

Social media can be critical in your effort to spread the word. Common platforms include Instagram, Facebook, and Twitter, and sites like Craigslist and YouTube may also be helpful. These sites can reach a wide range of users and can be easily circulated because you can:

- Post updates and relevant articles or alerts
- Share links to sign up volunteers for searches
- Post pictures and videos
- Share missing persons flyers
- Share information and anecdotes about your loved one

Leveraging social media can help spread the message on a wider scale, which is useful when (as is often the case) there are concerns that the missing woman is in

or has been taken to another jurisdiction. Post the photo on a variety of social media platforms, and use hashtags to increase visibility. You may want to create a Facebook page for your missing loved one so that people can share the page and post any leads or updates.

However, it is important to note that social media may generate unwanted publicity for related or unrelated matters. Make sure you think through certain caveats *before* starting a social media campaign. Be aware that social media posts can lead to inappropriate and/or insensitive comments by online “trolls.” Also, posts on social media could lead to an influx of false tips, including ransom demands, all of which must be shared with law enforcement.

### **Contacting news media**

You may decide that you want to engage with the news media. Online, print, and

broadcast media can be effective ways to get the message out and spur on search efforts. Media publicity is one of the best ways to generate leads and should be used early on in the search process, if you choose to include this approach.

There are benefits and drawbacks to engaging the news media. The main benefit is that it can greatly increase visibility and raise awareness among a broader audience. However, media coverage may also feel overwhelming and intrusive. Consider designating a spokesperson for the family as an option. You may want to discuss with the authorities whether contacting the news media will help with their investigation.

### **Organizing a search**

For various reasons, police may not conduct a search, so you may wish to organize a search on your own. If you are able to work with a community

organization, it can provide you with an established chain of command, search protocols, resources and a larger number of volunteers. Be sure to inform police of any private search party to avoid a duplication of efforts or possible crime-scene contamination.

Finally, consider assigning any minor-aged volunteers to non-search duties at your centrally located “headquarters,” since it is possible that searchers could come across a traumatizing or disturbing scene. Teens can help to organize transportation to different search quadrants or stock volunteer supplies, along with other important tasks at the command center.

Here are some tips for a successful search:

- Make a list of the names and contact information of all volunteers, and have them sign in and out at the

command center when joining and leaving the search party.

- Split volunteers into teams, divide the search area into sections, and assign each team to a specific area.
- Bring flyers to hand out to people that you encounter in the search area.
- Where necessary, obtain permission from landowners to search on private property.
- Walk slowly and look at all surroundings.
- Walk at an arm's length from group members so there are no gaps in coverage.
- Do not touch anything that might be evidence. Instead, take a photo and tag its location with brightly colored tape or ribbon before sharing the finding with police.
- Mark the quadrants that have already been searched with brightly colored tape or ribbon.

- Keep detailed notes of areas searched, who was present, and what was found.

Here are some items that you may want to have with you during your search:

- Water and snacks
- Cell phone/walkie talkie
- Maps
- First aid kit
- Flashlight
- Flyers of missing person
- Brightly colored tape or ribbon
- Sturdy shoes or boots
- Outdoor necessities depending on the season and terrain (sunscreen, bug spray, long pants/long sleeves, walking stick, protective eyewear, rain poncho, warm outdoor wear, etc.)
- Facemasks
- Hand sanitizer

## **DON'T LOSE HOPE**

Most missing persons' cases are solved

within a few days or weeks. Still, some cases can drag on for months or even years. As time goes on, it's important not to lose hope. Continue to organize and conduct searches as described above, and continue to post on social media. Engage volunteers with specific tasks to increase the odds that people remain involved. Consider holding public awareness events like press conferences, rallies, marches, vigils, and benefit events.

In some cases, it may be helpful to hire a private investigator (PI) if a family or community has the means to do so and believes that the PI can do something better or different than law enforcement has been doing. If you choose to hire a PI, be certain to ask for references and conduct research to make sure that you are paying a fair rate. Ask the investigator to itemize expenses. And continue to make sure that there is coordination between police and the private investigator.

## SECTION THREE

# JURISDICTION AND VICTIMS' RIGHTS

### How jurisdiction works

Jurisdiction refers to the authority of a government to regulate conduct and enforce those regulations through a court system (i.e. enacting rules, making legal decisions, issuing judgments, and administering justice). Jurisdiction is generally tied to territory and the power of a government over its territory. Criminal jurisdiction is a subset of jurisdiction that refers to the power of a governmental authority to investigate a crime, bring criminal charges, and impose punishment.

As sovereign nations, Indian tribes have historically had inherent, exclusive jurisdiction over everything occurring within their territory. However, jurisdiction in Indian country<sup>6</sup> does not

<sup>6</sup> "Indian country" is the legal term for the area over which the

follow a strictly territorial approach. Through a series of statutes and court decisions, four types of jurisdiction have developed for criminal acts occurring in Indian country:

- exclusive tribal jurisdiction
- concurrent (i.e., shared) tribal and federal jurisdiction
- concurrent tribal and state jurisdiction, and
- exclusive state jurisdiction

Whether authority is exclusive to the tribal authority, exclusive to the state, or shared between the tribe and federal or state authorities is determined by the type of crime, the status of the perpetrator and victim, and the location where the crime took place. Importantly, in cases where authority is shared, a perpetrator may be charged by both a tribal court

federal government and tribes exercise primary jurisdiction. “Indian Country” (both words capitalized) is more broadly used to refer to tribal governments, Native communities, cultures, and peoples. National Congress of American Indians (2020). Tribal Nations and the United States: An Introduction. Washington, D.C., February 2020.

and the federal or state government. The laws against double jeopardy do not apply because a tribe is considered an independent sovereign.

### **Tribal jurisdiction**

Tribes maintain jurisdiction over their own member-citizens, but have degrees of jurisdiction over non-Indians and non-member Indians (persons who meet the legal definition of “Indian” but are not a registered member of the tribe seeking prosecution). For example, tribes have criminal jurisdiction over non-member Indians, but generally do not have criminal jurisdiction to prosecute non-Indians unless the tribe has chosen to exercise Special Domestic Violence Criminal Jurisdiction (SDVCJ) and related requirements under the Violence Against Women Act Reauthorization of 2013 (VAWA). If the tribe does choose to exercise SDVCJ, it may prosecute non-Indians who commit domestic violence,

and dating violence, or violate protective orders.

### **Federal jurisdiction**

Congress has plenary authority over Indian Affairs under the U.S. Constitution and has granted limited jurisdictional authority to the federal courts under the General Crimes Act<sup>7</sup> and the Major Crimes Act.<sup>8</sup>

The General Crimes Act provides that the federal courts have jurisdiction over crimes by non-Indians against Indians and of non-major crimes by Indians against non-Indians through the application of federal law.<sup>9</sup> There are three exceptions to the GCA: crimes by Indians against Indians; crimes by Indians that received punishment through the tribe; and crimes in which a treaty gives exclusive jurisdiction to the tribe.<sup>10</sup>

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7 18 U.S.C. § 1152.

8 18 U.S.C. § 1153.

9 18 U.S.C. § 1152.

10 Id.

The Major Crimes Act<sup>11</sup> establishes federal jurisdiction in the prosecution of the following serious crimes committed by Indians in Indian country:

- Murder
- Manslaughter
- Kidnapping
- Maiming
- Felonies under Chapter 109A (includes sex crimes)
- Incest
- Assault with intent to commit murder
- Assault with a dangerous weapon
- Assault resulting in serious bodily injury
- Assault of a person under the age of 16
- Felony child abuse or neglect
- Arson
- Burglary
- Robbery
- Felonies under §661 (stealing property worth more than \$1,000)

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<sup>11</sup> 18 U.S.C. § 1153.

## **State jurisdiction**

States have no authority over tribal governments unless expressly authorized by Congress. Congress has granted limited jurisdictional authority to state courts under Public Law 83-280 (PL 280). PL 280 transferred federal jurisdiction over crimes occurring in Indian country to certain states, specifically California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska.<sup>12</sup>

Dissatisfaction with PL 280 has led to the full or partial return of jurisdiction from the state to the federal government on 31 reservations once covered by PL 280. Additionally, an amendment to PL 280 allows tribal governments covered by PL 280 to request that the federal government exercise concurrent jurisdiction with the state over reservation crimes.<sup>13</sup> These requests require approval by the U.S. **Attorney General**.<sup>14</sup>

<sup>12</sup> 18 U.S.C. § 1162; 28 U.S.C. § 1360; 25 U.S.C. § 1321-26.

<sup>13</sup> 25 U.S.C. § 1321(a)(2).

<sup>14</sup> Id.

## **Shared jurisdiction**

As a result of these measures and others, both federal and state authorities frequently share jurisdiction with tribal authorities. This fractured jurisdiction creates a great deal of confusion and requires extensive coordination between law enforcement agencies, prosecutors' offices, court systems, probation/parole officers, and victim service providers.

The charts on the next few pages, adapted from the Tribal Institute, provide some guidance on whom to contact.

## **Criminal jurisdiction in PL 280 states**<sup>15</sup>

If you are on a reservation in which the state still exercises full criminal jurisdiction under PL 280 or similar acts, refer to the chart on the following page to determine who has jurisdiction:

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<sup>15</sup> As noted above, PL 280 states are California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska.

<b>Indian Status</b>	<b>Major crime (under MCA)</b>	<b>All other crimes</b>
Indian perpetrator, Indian victim <sup>16</sup>	Tribal and state jurisdiction	State and Tribal jurisdiction
Indian perpetrator, non-Indian victim <sup>17</sup>	State and Tribal jurisdiction	State and Tribal jurisdiction
Non-Indian perpetrator, Indian victim <sup>18</sup>	State jurisdiction <sup>19</sup>	State jurisdiction <sup>20</sup>

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16 Under the Tribal Law and Order Act (TLOA) Section 221, a tribal government may request federal concurrent jurisdiction over crimes in PL 280 states, subject to approval of the U.S. Attorney General.

17 Id.

18 Id.

19 Tribal jurisdiction exists for crimes under VAWA Title IX, when a tribe has chosen to exercise Title IX, Sec. 904, SDVCJ.

20 Id.

Non-Indian perpetrator, non-Indian victim	State jurisdiction	State jurisdiction
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*Note: There is federal jurisdiction in Indian country for crimes of general applicability.*

### **Criminal jurisdiction outside of PL 280 states**

If you are NOT in one of the six PL 280 states, refer to the chart below and on the next page to determine who has jurisdiction.

<b>Indian Status</b>	<b>Major crime (under MCA)</b>	<b>All other crimes</b>
Indian perpetrator, Indian victim <sup>21</sup>	Tribal and Federal (under MCA) jurisdiction	Tribal jurisdiction

<sup>21</sup> If the offense is listed in the MCA, there is federal jurisdiction, exclusive of the state, but not the tribe. If the listed offense is not otherwise defined and punished by federal law applicable in the special maritime and territorial jurisdiction of the United

Indian perpetrator, non-Indian victim <sup>22</sup>	Tribal and Federal (under MCA) jurisdiction	Tribal and Federal (under GCA) jurisdiction
Non-Indian perpetrator, Indian victim	Federal jurisdiction (under GCA) <sup>23</sup>	Federal (under GCA) jurisdiction <sup>24</sup>
Non-Indian perpetrator, non-Indian victim	State jurisdiction	State jurisdiction

*Note: There is federal jurisdiction in Indian country for crimes of general applicability.*

States, state law is used in federal courts. See Section 1153(b).

If not listed in MCA, the tribal jurisdiction is exclusive.

22 If listed in the MCA, there is federal jurisdiction, exclusive of the state, but probably not of the tribe. If the listed offense is not otherwise defined and punished by federal law applicable in the special maritime and territorial jurisdiction of the United States, state law is used in federal courts. If not listed in the MCA, there is federal jurisdiction, exclusive of the state, but not of the tribe, under the GCA. If the offense is not defined and punished by a statute applicable within the special maritime and territorial jurisdiction of the United States, state law is used in federal courts under 18 U.S.C. § 13. The United States can prosecute an Indian for a non-MCA crime, provided the tribe has not prosecuted.

23 Tribal jurisdiction exists for crimes under VAWA of 2013, when a tribe has chosen to exercise Title IX, Sec. 904, SDVCJ.

24 Id.

## **Responding and investigative authorities**

We refer broadly to “the authorities” as any federal, state, local, or tribal agencies that have the power to investigate and charge crimes. Because the interplay among different law enforcement and criminal justice authorities is so complex in the case of an MMIW, we offer an overview of various authorities on the next few pages.

**Remember, the moment you realize that a loved one is missing, contact local law enforcement.** If 911 emergency services are not available in your location, call whatever law enforcement agency you would contact for any other type of life-threatening emergency.

## **Federal Law Enforcement Agencies and Their Role in Responding to MMIW Cases**

Law enforcement responsibility on tribal

lands is often shared between tribal law enforcement, the Bureau of Indian Affairs Office of Justice Services, the FBI, and state and local law enforcement.

**The Bureau of Indian Affairs Office of Justice Services (BIA-OJS)** is responsible for the overall management of the BIA's law enforcement program. OJS provides training to Indian Country law enforcement personnel, including through the BIA Indian Police Academy (IPA) and specific missing persons training programs.

**The Office of Justice Services Division of Law Enforcement** provides law enforcement on some tribal lands, investigates crime on tribal lands and refers criminal investigations to U.S. Attorneys' Offices for prosecution. OJS Officers conduct investigations of missing persons, prepare necessary reports and request appropriate state and

NCIC database entries. Investigating officers should collect and evaluate information provided by the family or community members such as pictures and descriptions and immediately investigate all possible leads provided by the reporting person. According to BIA OJS Guidelines, officers should obtain the following information (if available) and include it in their report.

1. Physical description including; race, age, height, weight, build, hair length and color, scars/marks/tattoo;
2. Time and location last seen;
3. Vehicle description;
4. Clothing description;
5. Known medical problems and medications;
6. Verification that the missing person is not in a local hospital or jail;
7. Name of dispatcher and date and time the missing person's information was entered into the appropriate local, state or NCIC database;

8. Any specialized units at the scene  
e.g. canine, helicopter;

9. Assistance from other law  
enforcement divisions or departments  
at the scene.

Officers should immediately notify surrounding jurisdictions by radio, telephone, email or broadcast media based on the totality of circumstances.

**The Office of Justice Services Division of Tribal Justice Support for Courts** provides funding, training, and technical assistance for tribal courts. The Division helps to assess tribal courts' functions and capabilities for some tribes. This division will not come directly into play with a MMIW investigation, but it supports the tribal courts that may prosecute the perpetrator if charges are brought under tribal law.

**The Federal Bureau of Investigation (FBI)** supports MMIW response by

providing special agent and victim specialists to partner with tribal communities. FBI agents are usually involved when foul play is believed to have occurred, but work with the tribal and local police throughout the investigation. The FBI can issue a BOLO Bulletin and can deploy specialized assistance such as a Child Abduction Rapid Deployment team. At the request of state or local law enforcement, the FBI will make available the resources and facilities of the FBI Identification Division and the FBI Laboratory.

**US Attorney's Offices (USAO)** is responsible for prosecuting all federal crimes, which includes crime that occurs in Indian country where federal jurisdiction is applicable. After an investigation is concluded and a suspect has been named, request that your local law enforcement work with the USAO to prosecute the suspect.

**The Department of Justice Office of Tribal Justice** serves as the primary point of contact for federally recognized tribes and coordinates the DOJ's policy and legislative agenda regarding tribal lands.

### **Federal Law Enforcement Databases**

The federal law enforcement agencies listed described use a variety of databases to record and track missing persons. You should work with law enforcement to make sure your loved one is entered into these databases, as described on the next page:

<b>Agency</b>	<b>Corresponding databases</b>	<b>How to get your loved one entered into the database</b>
Federal Bureau of Investigation (FBI)	National Crime Information Center (NCIC) <a href="http://www.fbi.gov/services/cjis/ncic">www.fbi.gov/services/cjis/ncic</a>	Request that an FBI agent or other law enforcement agent enter case information into the database.
	Violent Criminal Apprehension Program (ViCAP) Missing Persons <a href="http://www.fbi.gov/wanted/vicap/missing-persons">www.fbi.gov/wanted/vicap/missing-persons</a>	Request that an FBI agent or other law enforcement agent enter case information into the database.

SECTION FOUR of this toolkit provides specific points of contact and resources by state and tribe.

## CRIME VICTIMS' RIGHTS

Crime victims have certain legal rights depending on which jurisdiction they are in. The term “crime victim” is defined by federal statute and state laws and may include family members of MMIW.

### **Federal protections**

Under the federal definition, which applies to federal cases and cases in Washington, D.C., a “crime victim” is a person “directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.” If the victim is deceased, family members qualify as “crime victims” under the law.<sup>25</sup> Likewise, a missing person falls under the “incapacitated or deceased” section

<sup>25</sup> 18 U.S.C. § 3771(e).

of the definition, which allows family members or another person designated by court to be covered by the relevant law.<sup>26</sup>

The Crime Victims' Rights Act of 2004 (CVRA) applies to victims in federal cases and in Washington, D.C. It provides nine basic rights:

- 1. Reasonable protection:** This includes protection from threats, intimidation, or retaliation during criminal proceedings. Some examples of ways to enforce this right include police escorts, witness protection, relocation, and restraining orders.
- 2. Notice:** Victims have the right to reasonable, accurate, and timely notice of any public court proceeding,

<sup>26</sup> See Attorney General Guidelines for Victim and Witness Assistance (Article III (B)(3)): "... An incapacitated victim is any victim who is unable to interact with Department personnel for the purpose of receiving services as a result of a cognitive impairment or other physical limitation, or because of physical restraint or disappearance."

or any parole proceeding, involving the crime or any release or escape of the accused.” Victims generally have the right to receive information about their rights; available compensation, services, and resources; how to contact criminal justice officials; and what to expect in the criminal justice system. Victims also usually have the right to receive notification of important events in their cases.

- 3. Right to not be excluded:** Victims have the “right not to be excluded from any such public court proceedings, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.” Some jurisdictions provide a victim advocate to help you through proceedings.
- 4. To be reasonably heard:** Victims have the “right to be reasonably

heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.” This may include delivering a victim impact statement during sentencing or parole hearings to describe the impact of the crime on their lives.

5. **To confer with the attorney for the government**
6. **Full and timely restitution:** Crime victims can seek reimbursement for some of the out-of-pocket expenses that resulted from the crime, such as:  
(i) medical and counseling expenses,  
(ii) lost wages, and (iii) funeral and burial expenses.
7. **Proceedings free from unreasonable delay**
8. **Fairness and respect for their dignity and privacy**
9. **To be informed of any plea agreement**
10. **To be informed of all of their rights**

## under the CVRA<sup>27</sup>

### State protections

All states have passed some form of legislation that protects the rights of victims of crime, with most states adopting constitutional amendments that afford protection to crime victims. The scope of many mirrors the rights provided under the CVRA. See SECTION FOUR of this toolkit for state-specific victim assistance resources.

Specific points of contact and resources by state are included in the online appendix of our expanded **MMIW Toolkit for Understanding and Responding to Missing and Murdered Indigenous Women for Families and Communities**, which can be accessed at [niwrc.org/mmiwtoolkit](http://niwrc.org/mmiwtoolkit).

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<sup>27</sup> 18 U.S.C. § 3771(a).

## **SECTION FOUR**

### **RESOURCES**

Careful attention to location and tribal affiliation will prevent your loved one's case from falling through the cracks. Location and tribal affiliation will determine who to call and how to get help. This section lists contact information for federal and state authorities, as well as victims' services programs and other family resources.

#### **Federal Government Contacts:**

- Bureau of Indian Affairs – Families should contact their regional office: ([www.bia.gov/regional-offices](http://www.bia.gov/regional-offices))
- Alaska Region – (907) 271-4085 or Toll Free (800) 645-8465
- Eastern Region (East coast to Missouri, Arkansas, and Louisiana but does not include Michigan or Illinois) – (651) 564-6500
- Eastern Oklahoma Region (Eastern

portion of Oklahoma) – (918) 781-4600

- Great Plains Region (North Dakota, South Dakota, Nebraska) – (605) 226-7343
- Midwest Region (Minnesota, Wisconsin, Michigan, Iowa) – (612) 725-4500
- Navajo Region – (505) 863-8314
- Northwest Region (Washington, Oregon, Idaho, Montana, Southeastern Alaska)– (503) 231-6702
- Pacific Region (California) – (916) 978-6000
- Rocky Mountain Region (Montana) – (406) 247-7976
- Southern Plains Region (Oklahoma, Kansas) – (405) 247-6673
- Southwest Region (New Mexico, Colorado, Texas) – (505) 563-3103
- Western Region (Utah, Arizona, Nevada) – (602) 379-6600

## **National Hotlines & Other Resources:**

- StrongHearts Native Helpline – 1 (844) 762-8483, [strongheartshelpline.org](http://strongheartshelpline.org)
- MMIW Database by the Sovereign Bodies Institute – (707) 335-6263
- Coalition to Stop Violence Against Native Women- Domestic Violence Hotline – (800) 799-7233
- National Indigenous Women’s Resource Center – (406) 477-3896, [niwrc.org](http://niwrc.org)
- Alaska Native Women’s Resource Center (907) 328-3990, [aknwrc.org](http://aknwrc.org)
- Urban Indian Health Institute – (206) 812-3030
- Missing and Murdered Indigenous Women (“MMIW”) USA – (503) 891-0040
- National Center for Missing & Exploited Children – (800) THE – LOST ((800) 843-5678)





