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“Gone, but Never Forgotten:” Missing and Murdered Indigenous Women and Girls  
in the United States

By

Julianna Kramer

\* \* \* \* \*

Submitted in Partial Fulfillment  
of the Requirements for Honors  
in the Department of History

UNION COLLEGE  
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## ABSTRACT

KRAMER, JULIANNA      “Gone, but Never Forgotten:” Missing and Murdered Indigenous Women and Girls in the United States

To live in the United States as an Indigenous woman is to be faced with unbelievably high rates of violence. Native women and girls are twice as likely to be sexually assaulted compared to white women in America, and murder rates on certain reservations can be tenfold higher than the national average. Violence pervades the lives of many Indigenous women and girls throughout the country today, but its causes trace back to colonialism. Native women have historically been abused, exploited, and neglected by America’s institutions, and lasting prejudice against Native peoples still exists, only exacerbating this crisis.

The United States government over the last 200 years has gradually stripped tribal governments of their ability to seek justice for their women. The Major Crimes Act of 1885, Proclamation 280, and the *Oliphant v. Suquamish Indian Tribe* (1978) Supreme Court decision, among other restrictions, place nearly sole responsibility for investigating and trying perpetrators of violent crimes in Indian Country on the federal government and select state governments. This excludes tribal governments from much of the justice process and often leaves violent crimes against Native women unaddressed.

Stemming from a rich history of Indigenous feminist activism, the Missing and Murdered Indigenous Women and Girls (MMIWG) movement has emerged within the last decade. Spanning the late 1960s through the 1970s, Indigenous women fought alongside men in demanding the fulfillment of treaties, the restoration of tribal lands, and the acknowledgment of tribal sovereignty. Many women participated in the American Indian Movement’s (AIM) watershed moments, including the occupations of Alcatraz Island, the Bureau of Indian Affairs, and Wounded Knee. Indigenous women also founded AIM’s sister organization, Women of All

Red Nations, which not only buttressed much of AIM's agenda, but also included the more specifically tailored concerns of Native women, most notably the sterilization abuse of the 1970s by the Indian Health Service.

The 1980s into the early 2000s saw a marked increase in the activism against heightened rates of domestic violence within Native communities. Analyzing articles and publications by Indigenous newspapers revealed that Native communities adopted much of the grassroots organizing of the previous decades. In addition, numerous organizations and coalitions formed to address this particular type of violence, indicating a more coordinated response on the national level. The 2010s brought another shift in Indigenous feminist activism as the MMIWG movement pressured legislative and policymaking institutions.

Attention to this crisis has skyrocketed within the last several years. Survivors, families of MMIWG, and their greater communities have been instrumental in raising awareness and demanding solutions to this national emergency. Interviews with activists and policymakers identified two main approaches to this crisis, the first through legislation and the second through community support and development. Federal and state governments have passed legislation to clarify and relax jurisdictional restrictions over tribal governments, centralize and streamline the data about the extent of this problem, and support and empower Indigenous communities to improve their law enforcement response to these crimes. But little has been done to address the root causes that have placed Native women in this precarious situation. Looking at alternative approaches to securing justice for Indigenous women and girls outside of Anglo-American carceral solutions offers critical insight on how Indigenous communities have been able to incorporate their traditions in responding to these contemporary concerns.

## Foreword

As I have worked on this project for the last several months, I have struggled over how I want to present this important topic in a mindful, informed, and dignified manner. It is my hope that I have been able to realize these personal aspirations in listening to the communities and individuals who are much more knowledgeable than I about the intricacies and subtleties of this national emergency. For Native communities, the loss of a loved one leaves lasting wounds that can never fully heal. Of course, the Native women and girls who have been lost to this crisis have suffered most of all. Their stories, first and foremost, must be shared. I am proud of this work, yet I am aware of my place as an outsider to this violence. I have tried to contribute to this discourse authentically and consciously, but I know that my work is not done. I encourage all who read my thesis to use it only as a starting place. Native voices are the experts on this, and it is imperative that their tireless activism and efforts are acknowledged and heeded.

The topics covered in this project are hard. At times, I write quite bluntly about sensitive, distressing material. I did not want to temper my writing, for that is a disservice to those who have felt this pain. Nevertheless, I understand that many might be uncomfortable and perhaps triggered by these conversations. It is okay to take breaks, and it is okay to not finish.

I'd like to thank my advisor Andrea Foroughi for her many hours piecing this all together alongside me. Thank you to Representative Tiffany Zulkosky and Senator Mary Kunesch-Podein, who shared with me their legislative initiatives to finally right some of these systemic wrongs. I appreciate Sarah Rourke from the Native Organizers Alliance, who reminded me that this crisis is not particular to the United States, that Canada, too, is confronting its fragmented history. Lastly, to Jonel Beauvais and Pray Thomas John Lazore, thank you for the work you do. Your powerful compassion and insight compel me to remember that hope is a tool for healing.

## **Introduction: How Colonization and Jurisdictional Restrictions Have Devised This Crisis**

Native women in the United States of America are positioned perilously in society. Like their male counterparts, they have felt the repercussions of America's brutal colonial occupation, but Native women endure the brunt of gendered sexual violence. Sometimes, these realities are best shown through numbers. According to a 2013 report from the Indian Law Resources Center, the murder rate for Indigenous women on certain reservations is 10 times the national average.<sup>1</sup> Indigenous women are twice as likely to be sexually assaulted than white women, amounting to roughly 1 in 3 Native women experiencing rape in their lifetimes.<sup>2</sup> A report by the Urban Indian Health Institute states that of the 5,712 Missing and Murdered Indigenous Women and Girls (MMIWG) cases reported in 2016, only 116 were logged in the Department of Justice's database.<sup>3</sup> Evidently, "It is hard being an Indian woman."<sup>4</sup> The violence committed against Native women has reached catastrophic levels, raising quite a few questions about its root causes and lasting effects. There are two questions, however, that are of utmost relevance to this work: how have actions by the United States government led to the proliferation of violence against Indigenous women, and more specifically the Missing and Murdered Indigenous Women and Girls crisis? And, what actions can and should be taken to ensure the safety and well-being of Native women across the country?

It is important to note that the MMIWG crisis is not just a contemporary concern for Native communities and the American people as a whole; rather, this has been a pervasive and

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<sup>1</sup> Colin G. Calloway, *First Peoples: A Documentary Survey of American Indian History*, 5th ed. (Boston and New York: Bedford/St. Martin's, 2016), 612.

<sup>2</sup> Lily Grisafi, "Living in the Blast Zone: Sexual Violence Piped onto Native Land by Extractive Industries," *Columbia Journal of Law and Social Problems* 53, no.4 (2020): 514.; Calloway, *First Peoples*, 5th ed., 612.

<sup>3</sup> Annita Lucchesi and Abigail Echo-Hawk, *Missing and Murdered Indigenous Women & Girls: A Snapshot of Data from 71 Urban Cities in the United States* (Seattle: Urban Indian Health Institute, 2018).

<sup>4</sup> Mary Crow Dog and Richard Erdoes, *Lakota Woman* (New York: Grove Weidenfeld, 1990), 4.

persistent issue of epidemic proportions since the very first contact white settlers made with North America. Professor Sarah Deer at the University of Kansas, a leading expert on sexual violence against Indigenous women, substantiates this when explaining, “the crisis that we’re talking about today has deep roots in the historical mistreatment of Native people throughout the history of the United States. Native women and girls have been disappearing *literally* since 1492 when Europeans kidnapped Native people for shipment back to Europe. Targeted killing of Native women is also not a recent phenomenon.”<sup>5</sup> The history of colonization in America has been a history of greed, brutality, and atrocity. At the 2005 Alaska Native Women’s Conference, Jacqueline Agtuca further encapsulates this sentiment saying, “Sexual assault rates and violence against Native American women did not just drop from the sky. They are a process of history.”<sup>6</sup> European male intruders had long inflicted violence against Indigenous communities through harming Indigenous women. Native men experienced the trauma of colonization as well, sometimes lashing out against Native women as a result of centuries of oppression and disadvantage. As Mary Crow Dog, a Lakota, explains, “In the old days a man made a name for himself by being generous and wise, but now he has nothing to be generous with, no jobs, no money,” so he drinks and turns volatile towards his own loved ones.<sup>7</sup> Native women carry the weight of their communities’ colonial wounds, inextricably attached to male projections of dominance as violence.

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<sup>5</sup> Sarah Deer, “Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women (MMIW): Exploring Solutions to End the Cycle of Violence: Oversight Hearing Before the Subcommittee on Indigenous Peoples of the United State of the Committee on Natural Resources, U.S. House of Representatives,” 116th Congress, First Session, 2019.

<sup>6</sup> Amnesty International USA, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA* (New York: Amnesty International Publications, 2007), 15.

<sup>7</sup> Crow Dog and Erdoes, *Lakota Woman*, 5.



The historical antecedents of this crisis are varied. Secondary scholarship highlights several developments that have promulgated America's colonizing agenda and ultimately harmed Native communities, placing Native women in increasingly vulnerable positions. Starting in the late nineteenth century, the American government adopted the position of cultural assimilation to address the "Indian Problem," turning to the reservation system as a way to go about this process of detribalization.<sup>8</sup> According to Colin G. Calloway, "Reservations were supposed to be crucibles of change where tribalism would perish and 'civilization' could flourish..."<sup>9</sup> Tribal nations first had to be relegated to their respective reservation systems. To extinguish any resistance to this forced relocation, "many of the Indian 'ringleaders' were rounded up and sent away as prisoners of war, while their people were herded onto reservations."<sup>10</sup> The reservations themselves bred poverty and need, and Native people had to adjust to a newfound sense of "dependence on government rations" that were often appallingly inadequate.<sup>11</sup> Calloway outlines a strategy that the federal government adopted called "intimate colonialism," where field matrons placed on reservations were to supervise and "change family life, child-rearing, and even sexual practices."<sup>12</sup> Assigning American Indian women a subordinate position both economically and politically to men was crucial to the cultural Americanization of Indigenous ways of life. White America's ideal form of "female domesticity" was forced onto Native women in their roles as wives and mothers, stripping them of any agency they may have been previously accustomed to.<sup>13</sup>

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<sup>8</sup> Calloway, *First Peoples*, 5th ed., 381.

<sup>9</sup> Calloway, *First Peoples*, 5th ed., 385.

<sup>10</sup> Calloway, *First Peoples*, 5th ed., 380.

<sup>11</sup> Calloway, *First Peoples*, 5th ed., 381, 384.

<sup>12</sup> Calloway, *First Peoples*, 5th ed., 383.

<sup>13</sup> Calloway, *First Peoples*, 5th ed., 382-383.

The boarding school system of the nineteenth and twentieth centuries inhibited Native communities' ability to preserve not only their culture, but their community members' bodily autonomy. A Civil War General named Richard Henry Pratt was instrumental in introducing American Indian students to the Hampton Institute, which was a school for Black people in Virginia.<sup>14</sup> There, the principal, Samuel Chapman Armstrong, believed that American Indian and African American children, what he termed the "despised races," needed the same type of education.<sup>15</sup> In 1879, Pratt then founded the Carlisle Indian Industrial School in Pennsylvania with the objective to "kill the Indian and save the man."<sup>16</sup> Calloway emphasizes that this was not simply a problem facing Indigenous men, but women and children were also targeted by reformers "in their efforts to save Indians by destroying their Indianness."<sup>17</sup> What ensued was the deterioration of American Indian customs, languages, and traditions at a systematic level, preying on communities through their most vulnerable.

The intent of Carlisle and the various other boarding schools that emerged in the following century was to strip Native children of all things Native about them. That meant many of them had to cut their hair, abandon their Native names and languages, and forfeit their traditional clothing and food while away from home.<sup>18</sup> Boarding schools did not simply practice institutionally-sanctioned cultural genocide, but also the physical and sexual abuse of Native children, which was rampant. Andrew Windy Boy of the Chippewa Cree Nation tearfully recalls the extent of this violence, saying "Every time I'd turn around, they'd ask me a question. At first, I'd grunt. They'd hit me because I grunted, and I wouldn't answer. So, it was pretty hard. I

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<sup>14</sup> *Our Spirits Don't Speak English: Indian Boarding School*, Chip Richie, dir., Gayle Ross, Karl Tipre, and Dan Agent, cont., 2008; USA: Rich-Heape Films, Kanopy, 24:48.

<sup>15</sup> *Our Spirits Don't Speak English*, 25:05.

<sup>16</sup> *Our Spirits Don't Speak English*, 26:30.

<sup>17</sup> Calloway, *First Peoples*, 5th ed., 379.

<sup>18</sup> *Our Spirits Don't Speak English*, 31:00.

couldn't do nothing. Whenever I'd do nothing, they'd hit me. Everywhere, from here all the way down," as he motioned to his whole body.<sup>19</sup>

Another former boarding school student, Jim LaBelle of the Inupiaq Nation remembers that "There was a lot of sexual abuse. There were matrons and administrators and teachers that would frequent the boys' dorm at night and...they would molest them either in their beds or they would take them to the bathrooms and molest them there."<sup>20</sup> This kind of extensive violence instilled such trauma in these students that cycles of abuse even began to occur between the older children and the younger children.<sup>21</sup> Professor Daniel R. Wildcat at Haskell Indian Nations University applied this phenomenon on a broader societal scale, explaining "A lot of the social dysfunctionality we find in Native communities, I would say we could directly trace back to really the pain and the grief, sort of the intergenerational trauma that gets handed down through generations as a result of...this traumatic period of Native people's lives."<sup>22</sup> The boarding school system was an offspring of America's colonial tendency to devastate Native communities by undermining Indigenous peoples' ability to preserve their culture and the health of their communities. These circumstances lay a foundation for Native people's bodily autonomy to be exploited and disregarded both by outsiders and by victims of violence within the communities themselves.

The systemic breach of bodily autonomy of Native women is even more egregiously evident within the sterilization abuse of the 1970s. In 1972, Los Angeles-based Dr. Connie Uri, a Choctaw and Cherokee woman, first discovered this problem when a healthy 26-year-old

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<sup>19</sup> *Our Spirits Don't Speak English*, 39:00.

<sup>20</sup> *Our Spirits Don't Speak English*, 44:14.

<sup>21</sup> *Our Spirits Don't Speak English*, 46:00.

<sup>22</sup> *Our Spirits Don't Speak English*, 39:55.

American Indian woman revealed she had received a complete hysterectomy at the age of 20.<sup>23</sup> Dr. Uri soon heard from several other women that they had been sterilized without their express knowledge of the irreversible nature of their operations.<sup>24</sup> Dr. Connie Uri became a whistleblower about this problem nationally, motivating the United States Government Accountability Office to conduct an investigation from 1973 to 1976. The investigation found that 3,406 Indigenous women had been sterilized by four Indian Health Service locations and its contracted facilities alone.<sup>25</sup> What makes this so concerning is that the majority of these sterilizations had either been forced, coerced, or uninformed. Even when women had “consented” to a sterilization procedure, most of the consent forms failed to meet the ethical standards set by the Department of Health, Education, and Welfare.<sup>26</sup> In some cases, women had signed the forms while under potent anesthetics and could not recall the moment they had consented to a sterilization.<sup>27</sup> To take into account the size and scope of this sterilization abuse, Women of All Red Nations (WARN), an organization founded to voice Native women’s concerns, and Dr. Uri estimated that upwards of 42 percent of all Indigenous women of child-bearing age were sterilized during this period.<sup>28</sup>

The sterilization abuse of Indigenous women represents so much more than malpractice or malintent on the part of individual doctors and hospital staff; according to the academic Myla Vicenti Carpio, “colonialism intersected with patriarchy to directly threaten American Indian

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<sup>23</sup> Gail Mark Jarvis, “The Theft of Life,” *Akwesasne Notes* 9, no. 4 (1977), American Indian Histories and Cultures Database: 30.

<sup>24</sup> Mark Jarvis, “The Theft of Life,” 30.

<sup>25</sup> Myla Vicenti Carpio, “The Lost Generation: American Indian Women and Sterilization Abuse,” *Social Justice* 31, no. 4 (2004), EBSCOhost: 42; Mark Jarvis, “The Theft of Life,” 30.

<sup>26</sup> Vicenti Carpio, “The Lost Generation,” 43.

<sup>27</sup> Vicenti Carpio, “The Lost Generation,” 46.

<sup>28</sup> Vicenti Carpio, “The Lost Generation,” 50.

women.”<sup>29</sup> She points directly to America’s colonizing, heterosexist history as the impetus for this abuse. Vicenti Carpio also discusses the institutionalized targeting of Indigenous women, citing how other scholars in the field have “contextualized the sterilizations as a further campaign of the eugenics movement.”<sup>30</sup> This was most notably rationalized as an attack on poverty and the belief that “Native women, with their low socioeconomic status, could not possibly provide their children with a decent life.”<sup>31</sup> It was the confluence of colonialism and capitalism that further endorsed this extensive deprivation of Native women’s agency and discretion.

Similarly, Gregory W. Rutecki explicitly relates the forced sterilization of Native American women to the eugenics movements from earlier in the century. He explains that “The early to mid-twentieth century not only witnessed the cruel enforcement of eugenic philosophy throughout America, but also was followed by genocide writ-large on an international stage,” to which doctors would prove instrumental.<sup>32</sup> He conjectures that eugenic “‘birth control’ had been resuscitated, or simply continued” with the sterilization of Native women in the 1970s “with voluntary physician complicity.”<sup>33</sup> Eugenics is merely a symptom of colonized thought that places value on certain types of people and demonizes those that fall outside of the ideal category of white, able-bodied affluence. Myla Vicenti Carpio argues that the most profound impact of the rampant sterilization abuse against American Indian women was “a missing generation of children who may have learned and passed down tribal traditions, ceremonies, and language and

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<sup>29</sup> Vicenti Carpio, “The Lost Generation,” 40.

<sup>30</sup> Vicenti Carpio, “The Lost Generation,” 50.

<sup>31</sup> Vicenti Carpio, “The Lost Generation,” 50.

<sup>32</sup> Gregory W. Rutecki, “Forced Sterilization of Native Americans: Later Twentieth Century Physician Cooperation with National Eugenic Policies?” *Ethics & Medicine* 27, no. 1 (2011), ProQuest Health & Medical Collection: 35.

<sup>33</sup> Rutecki, “Forced Sterilization of Native Americans,” 33.

continued the fight for cultural and political self-determination.”<sup>34</sup> Again, it is the far-reaching implications of America’s colonial past that create the conditions for the violation of Native women’s bodies on a massive scale.

The MMIWG crisis in America is much more than alarming; it is indicative of centuries-old initiatives by the US government and white America to strip autonomy away from tribal communities. Despite its historical roots, however, the MMIWG crisis is a relatively new area of study as secondary scholarship begins to respond to Native communities’ calls for justice.

Scholarly literature has named a similar array of federal actions as the most consequential restrictions on tribal sovereignty and jurisdiction in the last 200 years, the first of which being the Major Crimes Act of 1885. As Deer points out, the law was passed in response to an 1883 Supreme Court case supporting the defendant Crow Dog’s claim that crimes within Indian territory are not subject to federal jurisdiction.<sup>35</sup> As a result, Congress set out to legislate the powers the judicial branch said it lacked. With the Major Crimes Act, cases of violent crime like assault, murder, abduction, robbery, and rape, among others, that take place in Indian Country were now to be handled by federal courts.<sup>36</sup> While the terms of a tribal government’s claim to concurrent jurisdiction over these crimes remains unclear, this piece of legislation is still the “primary law by which criminal jurisdiction is delineated on most Indian reservations in the lower forty-eight states.”<sup>37</sup>

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<sup>34</sup> Vicenti Carpio, “The Lost Generation,” 51.

<sup>35</sup> Sarah Deer, “Native People and Violent Crime: Gendered Violence and Tribal Jurisdiction,” *Du Bois Review* 15, no. 1 (2018), ProQuest: 93.

<sup>36</sup> Jasmine Owens, “‘Historic’ in a Bad Way: How the Tribal Law and Order Act Continues the American Tradition of Providing Inadequate Protection to American Indian and Alaska Native Rape Victims,” *The Journal of Criminal Law and Criminology* 102, no. 2 (2012), Gale Academic OneFile: 504.

<sup>37</sup> Deer, “Native People and Violent Crime,” 93.

Just over a half century later, Public Law 280 was signed into law as just one of several measures the United States government took to further assimilate Native peoples to mainstream American ways of life. To first clear the consciences of American legislators for past grievances and “wipe the slate clean,” the Indian Claims Commission was established in 1942.<sup>38</sup> Tribal nations were then allowed to file claims against the government for treaty infringements or the management of resources, but the process was riddled with bureaucratic obstacles and inconclusive decisions.<sup>39</sup> In 1978, the ICC “ended its operations... [and] In its thirty-two years, the ICC had dismissed 204 cases, made 274 awards, and paid out more than \$800 million in settlements.”<sup>40</sup> Now that the American government had seemingly freed itself from culpability for past wrongdoings against Native peoples, it could then pursue its strategy of termination.

In 1953, Congress sought to end federal relations with certain tribal nations. This was expressed in the House Concurrent Resolution 108, in which its goal was ““to make the Indians within territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States...”<sup>41</sup> What immediately followed was Proclamation 280. The legislation transferred jurisdiction over major crimes on American Indian land from the federal government to that of several state governments, including Wisconsin, Minnesota, Alaska, and Nebraska.<sup>42</sup> This was in an effort to preserve the United States government’s authority over Indigenous communities and subject Native communities to state interference within their justice processes.

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<sup>38</sup> Calloway, *First Peoples*, 5th ed., 455-456.

<sup>39</sup> Calloway, *First Peoples*, 5th ed., 456.

<sup>40</sup> Calloway, *First Peoples*, 5th ed., 456.

<sup>41</sup> Calloway, *First Peoples*, 5th ed., 457.

<sup>42</sup> Owens, “‘Historic’ in a Bad Way,” 507.

Colin G. Calloway enumerates a multitude of federal legislation that was passed during this time to “liberate Indian people from the stifling atmosphere of reservation life and dependence on government support.”<sup>43</sup> Between 1953 and 1966, Congress terminated 109 tribes, which meant withdrawing federal resources and services from the communities; forcing these tribes to forfeit community property; and subjecting tribal members to state laws and taxes.<sup>44</sup> The last prong to this systematic attempt by the federal government to interrupt Native ways of life and sovereignty was the relocation of American Indians to cities and urban areas. Capitalizing off of existing migration patterns of American Indians in the post-war years to pursue more economic opportunity in cities, the government established the Voluntary Relocation Program under the Bureau of Indian Affairs (BIA) in 1952.<sup>45</sup> In just eight years, the BIA incentivized and provided assistance to move more than 30,000 American Indians to urban areas.<sup>46</sup> Relocation was effective, for by 1980, 50 percent of Native peoples lived in cities compared to that of just 13.5 percent in 1950.<sup>47</sup> But moving to the cities introduced several new problems to American Indians; most notably they had to grapple with the culture shock from America’s individualistic form of capitalism that was so very different from what many Natives knew. And as Calloway frames it, “For many Indians, urban life meant poverty, poor housing, and unemployment.”<sup>48</sup>

Passed in the midst of all these federal initiatives to disrupt tribal unity and security, Proclamation 280 only further complicated tribal governments’ navigation of jurisdictional authority over crimes happening on their land and against their people. A decade later, Congress passed the Indian Civil Rights Act of 1968. While its name seems promising, the ICRA actually

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<sup>43</sup> Calloway, *First Peoples*, 5th ed., 457.

<sup>44</sup> Calloway, *First Peoples*, 5th ed., 457.

<sup>45</sup> Calloway, *First Peoples*, 5th ed., 460.

<sup>46</sup> Calloway, *First Peoples*, 5th ed., 460.

<sup>47</sup> Calloway, *First Peoples*, 5th ed., 462.

<sup>48</sup> Calloway, *First Peoples*, 5th ed., 461-462.



imposed sentencing restrictions on tribal law enforcement agencies and courts for criminal defendants. Initially, the law imposed a maximum of “six months of incarceration or a fine of \$500,” regardless of the crime committed.<sup>49</sup> In 1986, these restrictions were adjusted for tribal courts to now implement one year of incarceration and/or a \$5,000 fine.<sup>50</sup>

Perhaps the most impactful step the federal government has taken to limit tribal authority over criminal activity in their communities came with the 1978 decision by the Supreme Court in *Oliphant v. Suquamish Indian Tribe*. The ambiguous nature of the Major Crimes Act allowed room for potential concurrent jurisdiction by tribal governments, but the *Oliphant* decision wiped virtually all of that away. Tribal governments now had no legal authority over non-Native perpetrators of crimes, which Lily Grisafi describes as “the largest barrier between Native women and access to justice.”<sup>51</sup> This is especially true when one considers that in cases of sexual assault or rape against American Indian and Alaska Native women, more than 86 percent of survivors report that their perpetrators were non-Native men.<sup>52</sup> This phenomenon is actually quite abnormal, because most cases of sexual violence against women occur intra-rationally.<sup>53</sup>

America’s colonial legacy has, since its genesis, viewed Native people as “less valuable and a barrier to land and resource development, and American Indian and Alaska Native women are objectified and considered of little importance.”<sup>54</sup> Lily Grisafi encapsulates how this sentiment is emboldened by jurisdictional limitations over tribal lands in her article, “Living in the Blast Zone: Sexual Violence Piped onto Native Land by Extractive Industries.” Grisafi

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<sup>49</sup> Owens, “‘Historic’ in a Bad Way,” 507.

<sup>50</sup> Owens, “‘Historic’ in a Bad Way,” 507.

<sup>51</sup> Grisafi, “Living in the Blast Zone,” 517.

<sup>52</sup> Amnesty International USA, *Maze of Injustice*, 4.

<sup>53</sup> Amnesty International USA, *Maze of Injustice*, 4.

<sup>54</sup> Tamra Jerue, “Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women (MMIW).” See footnote 5.

explicitly blames the *Oliphant* decision for heightened levels of sexual violence against Indigenous women on and around sites of extractive industries.<sup>55</sup> In her words, extractive industries “bring with them thousands of transient, single men — who at times outnumber the women twenty to one — with stressful, high-paying jobs and no connection to the community.”<sup>56</sup> The danger posed by this influx of non-Native men is unmistakable. For the area in North Dakota surrounding the Bakken Formation, for example, violent crime and rape against Native women tripled when non-Natives arrived to work on the extraction of raw materials.<sup>57</sup> It is clear that violence against Native women will increase when accountability cannot be guaranteed, as is the case for outside workers within Indian Country. But *Oliphant v. Suquamish* isn’t solely at fault for this phenomenon because Native women are also “at heightened risk of sexual violence due to systematic racism and misogyny, inherited cultural trauma, and resulting poverty.”<sup>58</sup> The notion that the United States government has a right to natural resources within tribal lands is the impetus for which sexual violence is “piped” onto Native land by extractive and energy industries. America’s colonizing, capitalistic tendencies and its disregard for Native communities’ claims to environmental justice have culminated into this reprehensible pattern of violence against Indigenous women.

The roadblocks for Native women to achieve justice are not solely isolated to jurisdictional restrictions imposed by the federal government. According to Colin G. Calloway, emergency response times in some rural areas of Native land can be several hours after the first call.<sup>59</sup> Tribal law enforcement agencies are severely understaffed; “The average tribal police

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<sup>55</sup> Grisafi, “Living in the Blast Zone,” 510.

<sup>56</sup> Grisafi, “Living in the Blast Zone,” 511.

<sup>57</sup> Grisafi, “Living in the Blast Zone,” 512-513.

<sup>58</sup> Grisafi, “Living in the Blast Zone,” 511-512.

<sup>59</sup> Colin G. Calloway, *First Peoples: A Documentary Survey of American Indian History*, 6th ed. (Boston and New York: Bedford/St. Martin’s, 2019), 594.

department had fewer than three police officers to serve up to ten thousand residents and patrol up to 500,000 acres.”<sup>60</sup> When Native women go to receive medical attention after an assault, the quality of care and provision they are offered varies greatly depending on the location, and often, basic services like forensic examinations are unable to be conducted adequately.<sup>61</sup> When cases of violence against Native women do get pursued, US attorneys decline such cases at rates of upwards of 65 percent.<sup>62</sup> There is evidence that sexual violence against Native women and cases of MMIWG are severely under-reported, and it’s no wonder, considering how the factors enumerated above “contribute to a climate where sexual violence is seen as normal and inescapable rather than criminal, and where women do not seek justice because they know they will be met with inaction.”<sup>63</sup> The executive director of the Spirits of Hope Coalition, Pauline Musgrove, explains this succinctly when she says, “Women don’t report because it doesn’t make a difference. Why report when you are just going to be revictimized?”<sup>64</sup>

As previously mentioned, scholarly research into MMIWG is a recent phenomenon, evidenced by the publication dates of several articles discussing violence against American Indian women within the last decade. Jasmine Owens discusses the gains and faults of the Tribal Law and Order Act of 2010 (TLOA) in her 2012 article “‘Historic’ in a Bad Way: How the Tribal Law and Order Act Continues the American Tradition of Providing Inadequate Protection to American Indian and Alaska Native Rape Victims.” Within her title alone, modern legislation’s failing to sufficiently respond to violent crime and sexual assault in Indian Country is of paramount concern. Owens traces the United States’ attempts to disenfranchise and exclude

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<sup>60</sup> Calloway, *First Peoples*, 6th ed., 594.

<sup>61</sup> Amnesty International USA, *Maze of Injustice*, 9.

<sup>62</sup> Owens, “‘Historic’ in a Bad Way” 512.

<sup>63</sup> Amnesty International USA, *Maze of Injustice*, 9.

<sup>64</sup> Amnesty International USA, *Maze of Injustice*, 4.

tribal governments from formal justice processes chronologically, starting with the Major Crimes Act of 1885 and ending with TLOA. Her argument rests on the assertion that TLOA is further example of American paternalistic policy-making over tribal self-government. She criticizes the legislation for further complicating the jurisdictional maze tribal governments must navigate in order to seek justice for Native women. The act minimally expands sentencing capabilities for tribal governments, but mostly reaffirms state and federal jurisdiction over these crimes.

Sarah Deer's article "Native People and Violent Crime: Gendered Violence and Tribal Jurisdiction," published in 2018, echoes much of Owens's concerns. Similarly outlining America's history with restricting tribal jurisdiction, she differs from Owens in also discussing the implications of the Reauthorization of the Violence Against Women Act in 2013. She celebrates VAWA's expanded domestic violence jurisdiction allotted to tribal governments, yet criticizes that the imposed due process requirements of both TLOA and VAWA are much too costly for most tribal governments to accommodate.<sup>65</sup> This is similar to Lily Grisafi's argument in her 2020 article, "Living in the Blast Zone," noting that "The majority of tribes are ineligible to enact these laws because they cannot afford the costs of guaranteeing the requisite due process rights through their criminal justice systems."<sup>66</sup> Deer does, however, indicate that the passage of both TLOA and VAWA "signals an important sea change in the approach to tribal sovereignty."<sup>67</sup> Correspondingly, in an article published in 2013, Indigenous author Louise Erdrich explains that VAWA is critical to the protection of Native women because with each reauthorization, it becomes more "effective, inclusive, and powerful."<sup>68</sup>

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<sup>65</sup> Deer, "Native People and Violent Crime," 101.

<sup>66</sup> Grisafi, "Living in the Blast Zone," 524.

<sup>67</sup> Deer, "Native People and Violent Crime," 103.

<sup>68</sup> Louise Erdrich, "Rape on the Reservation," *New York Times*, Feb. 27, 2013, ProQuest Historical Newspapers: The New York Times with Index, A25.

Secondary literature has been relatively uniform in calling for the restoration of tribal authority over cases of violence against Indigenous women in order to “solve” this heinous problem. Jasmine Owens concludes her article by claiming “The only way to achieve justice, fairness, and consistent outcomes is to put more trust in tribal governments, and to allow those with an interest to make headway against the dire situation of American Indian and Alaska Native women.”<sup>69</sup> Echoing this position, Dartmouth Professor N. Bruce Duthu in a *New York Times* article from 2008 asserts that it makes “sense for tribal governments to have jurisdiction over all reservation-based crimes...tribal governments are in the best position to create appropriate law enforcement and health care responses” for victims of sexual violence in particular.<sup>70</sup>

Although scholars’ advocacy for more autonomous self-governing by tribal communities is essential, there is a tendency to adopt punitive approaches for crime control as a solution. Owens views “returning the power to punish” to tribal governments as the means for “building partnership and trust” with the United States government.<sup>71</sup> Key recommendations by Amnesty International to mitigate violence against Native women include that “Federal authorities must take urgent steps to make available adequate resources to police forces in Indian Country and Alaska Native villages.”<sup>72</sup> In addition, Amnesty International insists that “Prosecutors should vigorously prosecute cases of sexual violence against Indigenous women...”<sup>73</sup> But these practices cannot be the sole changes made for Native women’s sake. They are deserving of

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<sup>69</sup> Owens, “‘Historic’ in a Bad Way,” 524.

<sup>70</sup> N. Bruce Duthu, “Broken Justice in Indian Country,” *New York Times*, Aug. 11, 2008, ProQuest Historical Newspapers: The New York Times with Index, A17. For more information about the restoration of tribal jurisdiction as a way to curb this violence, see also the works of Louise Erdrich, Sarah Deer, and Amnesty International.

<sup>71</sup> Owens, “‘Historic’ in a Bad Way,” 524.

<sup>72</sup> Amnesty International USA, *Maze of Injustice*, 12.

<sup>73</sup> Amnesty International USA, *Maze of Injustice*, 13.

healing and of never having been harmed in the first place. Prosecuting perpetrators to the fullest extent of the law will never be enough to extinguish the lasting trauma of historical injustice that has manifested in this intimate, and so very personal, form of violence and erasure.

Native communities have been skeptical of what they interpret as the Trump Administration's cursory establishment of seven cold case centers for Murdered and Missing Indigenous People throughout the country. People doubt the intentions of the Administration, considering its history of approving pipelines through Indian land that will bring with their construction heightened levels of violence against Native women and girls.<sup>74</sup> Two pieces of legislation addressing the prevalence of MMIWG have recently been signed into law. The legislation, the Savanna's Act and the Not Invisible Act, is aimed to streamline the process of reporting and responding to crimes of Missing and Murdered Indigenous People; facilitate data reporting; increase communication between tribal, state, and federal governments; and establish a joint commission about violent crime within Indian Country and against American Indians.<sup>75</sup> Once again, however, these legislative efforts are focused on improving the punitive capacity of tribal governments and ensuring state and federal governments hold perpetrators legally accountable. Little attention is given to the physical and emotional well-beings of Native women and their communities both before and after a crime has taken place or to the rehabilitation of those who commit these violent crimes.

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<sup>74</sup> Acee Agoyo, "Native Women Confront Missing and Murdered Task Force over Trump's Role in Crisis," *Indianz.com*, June 3, 2020. <https://www.indianz.com/News/2020/06/03/native-women-confront-trump-administrati.asp>

<sup>75</sup> U.S. Congress, Senate, *To Direct the Attorney General to Review, Revise, and Develop Law Enforcement and Justice Protocols Appropriate to Address Missing and Murdered Indians, and for Other Purposes (Savanna's Act)*, S.227, 116th Cong., 2nd Sess., introduced in Senate January 3, 2020.; U.S. Congress, Senate, *To Increase Intergovernmental Coordination to Identify and Combat Violent Crime within Indian Lands and of Indians (Not Invisible Act of 2019)*, S.982, 116th Cong., 2nd Sess., introduced in Senate January 3, 2020.

There is room for a wide variety of approaches to curbing this violence. Potentially the most meaningful changes would be that of augmenting social consciousness about this issue plaguing Native women and girls, which is already underway. Grassroots organizations and individuals have worked tirelessly to call attention to this issue, whether it be through public hearings in front of Congress, scholarly research, social media campaigns, or community runs and fundraisers. Moreover, the universal symbol of violence against Native women and girls, a red handprint over the mouth, is beginning to appear in small towns and big cities across the country.<sup>76</sup> The efforts all aim to command public attention to this great threat to Native women and girls. Consciousness raising alone is not a fix to the devastation Native communities feel when one of their own is taken. While increasing the legal capacity of tribal governments to hold these crimes and their transgressors answerable is vital, UCLA Law Professor Angela Riley does have justification when asserting that “tribes are right to be wary of encroaching laws that seek to turn tribes only into mini models of state or federal tribunals.”<sup>77</sup> Some tribal communities have worked to interrupt the cycle of violence that has come to be ubiquitous across Native communities, rural and urban alike, by honing in on cutting the violence off at its root. At the Cangleska shelter of Pine Ridge, South Dakota, for example, people like Heath Ducheneaux take their previous experience of being the victim and later the perpetrator of domestic abuse to connect with current abusers, educating them in spiritual values of respect and decency towards

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<sup>76</sup> Rhiannon Johnson, “Widespread Use of Red Handprints to Represent MMIWG Sparks Debate Among Advocates,” *CBC News*, March 9, 2020. <https://www.cbc.ca/news/indigenous/red-handprints-mmiwg-1.5483955>

<sup>77</sup> Deer, “Native People and Violent Crime,” 102.

women.<sup>78</sup> The transformation of offenders and the healing of victims is paramount to halting this chronic pattern of abuse.

Analyzing the intricacies of the Missing and Murdered Indigenous Women and Girls crisis in America requires versatility and flexibility within the research process. Since this is not merely an issue of the past, it is necessary to incorporate sociological and contemporary perspectives as an accompaniment to a historical analysis of the gendered implications of colonization and paternalistic policies. With this in mind, this thesis considers academic research alongside the individual experiences of those affected by the MMIWG crisis. Interviews with Indigenous state legislators and activists inform how this problem is being felt within Native communities today as well as what legislation and programs have been enacted to minimize this violence. Conversations with activists on the ground level who seek to heal their communities through restorative justice practices offer alternative solutions that do not rely solely on the carceral state.

Personal memoirs and documentaries, like *Lakota Woman*, *Warrior Women*, and *MANKILLER*, reveal which social issues Indigenous female activists were most involved during the latter part of the twentieth century. Typically, this activism focused on community welfare, tribal sovereignty, reproductive justice, and land rights. A wide array of Indigenous newspapers, most notably *Akwesasne Notes* and *The Navajo Times*, illustrate how Indigenous feminist organizing has developed and evolved within the last fifty years. Anti-domestic violence campaigns of the 1980s, 1990s, and early 2000s adopted much of the same grassroots strategies of Indigenous organizing in the preceding decades. Yet they introduced a new framework on the

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<sup>78</sup> Alison Owings, "Tales From Pine Ridge: Karen Artichoker, with Heath Ducheneaux and Dwanna Oldson (Lakota)," in *Indian Voices: Listening to Native Americans* (New Brunswick and London: Rutgers University Press, 2011), 160.



national level to respond to the violence that Native women disproportionately experience. White mainstream newspapers, such as *The New York Times* and *The Seattle Times*, are more useful for analyzing what the national dialogue has been within the last ten years. Articles most often discuss national legislation to reduce violence against American Indian women as well as individual cases of MMIWG. This diverse array of primary sources in conjunction with secondary scholarship provides information on governmental infringements of tribal sovereignty, individual stories of this violence, and suggestions for remedies to this ongoing problem.

Further research into the contemporary issues of Native communities is needed before solutions to this crisis can be fully determined.<sup>79</sup> When American Indian and Alaska Native women do in fact go missing, it is common for their perpetrators to vanish alongside them, leaving few avenues for tribal authorities to pursue justice. There is a considerable lack of information on the extent of the MMIWG epidemic. Publicly available data cataloging these cases is grossly insufficient, for even the Department of Justice acknowledges there is more to uncover about just how pervasive this issue is. Organizations like the Sovereign Bodies Institute seek to remedy this data gap by independently collecting and maintaining information on cases of MMIWG throughout the country and continent. Understandably, the sensitive nature of this topic makes families and communities reluctant to share deeply painful experiences of their loved ones for fear of stigma and further trauma. Great care must be taken to do this subject

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<sup>79</sup> Most sociological and psychological scholarly work about Native American women is about issues tangential to MMIWG. For example, one study by Rutman et al. takes a closer look at sexual practices of urban American Indian women. While it touches on issues of sexual health and experiences of sexual violence, it does not directly discuss these topics in relation to broader trends of violence against Native women and socio-political efforts to further marginalize them. Shira Rutman, Maile Taualii, Dena Ned, and Crystal Tetrick, "Reproductive Health and Sexual Violence Among Urban American Indian and Alaska Native Young Women: Select Findings from the National Survey of Family Growth (2002)," *Maternal and Child Health Journal* 16 (2012). Gale Academic OneFile.

matter justice, for the plight of Native women and girls has too long been overlooked, invalidated, and forgotten by the United States government and the American public.

## **“They Won’t Let Indians Like Me Live:” Indigenous Feminist Activism of the 1970s and 1980s**

Activism and anti-racist campaigns defined the 1960s and 1970s as varying civil rights organizations energized people of color, workers, and women to demand change and social consciousness from white mainstream Americans. The American Indian Movement (AIM) was one such coalition that led the way for Native civil rights organizing in the latter half of the twentieth century. Founded in 1968, AIM sought to confront a domineering federal government, high rates of poverty, and police brutality that were all affecting Native communities both urban and rural alike. Led by several charismatic male leaders including Dennis Banks and Russell Means, AIM’s powerful rhetoric reached Native communities across the country, accruing significant support and even some disdain.<sup>80</sup> Though it was the men who garnered the most media attention, Native women mobilized in astonishing numbers in support of AIM’s initiatives. Native women in this period also established their own organizations to fight for sovereignty and to confront the reproductive injustice many of them experienced. In addition, other Indigenous women became political and intellectual leaders for causes that strengthened their communities.

In her memoir *Lakota Woman*, Mary Crow Dog reveals what conditions prompted her decision as a young woman to join AIM and participate in some of its most landmark demonstrations in the 1970s. Growing up on the Rosebud Sioux Reservation in South Dakota, Mary Crow Dog, also known as Mary Brave Bird, was raised predominantly by her grandparents.<sup>81</sup> She details an upbringing marked by scarcity of resources, but abundance of familial love and support. Describing her childhood living in a small shack with no electricity,

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<sup>80</sup> Eric Konigsberg, “Who Killed Anna Mae?” *New York Times*, April 27, 2014, ProQuest Historical Newspapers: The New York Times with Index, 36.

<sup>81</sup> Mary Crow Dog and Richard Erdoes, *Lakota Woman*, New York: Grove Weidenfeld, 1990, 16.

she says “We kids did not suffer from being poor because we were not aware of it...To be angry, poverty has to rub shoulders with wealth...”<sup>82</sup> Her positive experiences being raised by her grandparents were in stark contrast to her trying experiences attending the St. Francis missionary school. Among the efforts by the nuns, priests, and school staff to erase the traditional ways of the Native children that attended St. Francis, Crow Dog recalls that what was particularly upsetting was the sexual harassment and advances of the adults towards these children.<sup>83</sup> Eventually, Mary Crow Dog grew tired of the injustices taking place at the boarding school, beginning an underground newspaper entitled *Red Panther*, and in it writing about “how bad the school was, what kind of slop we had to eat—slimy, rotten, blackened potatoes for two weeks—the way we were beaten.”<sup>84</sup> In characterizing the purpose this writing served, Crow Dog explains, “It was the kind of writing which foamed at the mouth, but which also lifted a great deal of weight from one’s soul.”<sup>85</sup> After running away from the school, Mary Crow Dog found herself in “reservation towns without hope,” partaking in drunken brawls with anyone who was looking for conflict.<sup>86</sup> She writes how pervasive alcoholism was in many Native communities; “I started drinking because it was the natural way of life. My father drank, my stepfather drank, my mother drank...I think I grew up with the idea that everybody was doing it.”<sup>87</sup> Crow Dog ultimately recovered, but she was still surrounded by drunken violence in large part because she was an Indigenous woman.

Mary Crow Dog argues that violence, though often overused, is a useful tool for oppressed peoples to stand up and push back against their transgressors. She contests the belief

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<sup>82</sup> Crow Dog, *Lakota Woman*, 26.

<sup>83</sup> Crow Dog, *Lakota Woman*, 39.

<sup>84</sup> Crow Dog, *Lakota Woman*, 36.

<sup>85</sup> Crow Dog, *Lakota Woman*, 36.

<sup>86</sup> Crow Dog, *Lakota Woman*, 43, 49.

<sup>87</sup> Crow Dog, *Lakota Woman*, 45.

that oppressed peoples must resist mainstream power through peaceful means alone. This kind of physical resistance is visible in the everyday scuffles she describes between American Indians and white agitators in these downtrodden reservation towns; she writes, “If somebody in that fighting mood yells at you, ‘Go, get ‘em!’ you can’t tell that person, who has been fucked over for so many years, that he is wrong, that he should be a pacifist.”<sup>88</sup> Violence to Mary Crow Dog is not something to exclusively demonize; it can be particularly effective when used by the right people to demand positive change, as seen with AIM. As she explains in response to the inconsistent media attention received during the Bureau of Indian Affairs (BIA) occupation, “I learned that as long as we ‘behaved nicely’ nobody gave a damn about us, but as soon as we became rowdy we got all the support and media coverage we could wish for.”<sup>89</sup> Physical violence and rabble-rousing by American Indians of this time was to many a natural, even expected, reaction to the years of maltreatment and subjugation they had endured by the white man.

Having participated in some of the most influential moments of the American Indian Movement, Mary Crow Dog enumerates how Native women were able to take leading roles in the Trail of Broken Treaties, the occupation of the BIA, and at the Wounded Knee Occupation. The Sun Dance in the summer of 1972 was one of the precipitating events to the Trail of Broken Treaties as AIM leaders were able to convene and have serious conversations about how to move forward with the movement.<sup>90</sup> Mary Crow Dog witnessed that many women took an active role in these discussions, recounting how one man happily exclaimed, “‘For years we couldn’t get the women to speak up, and now we can’t get them to shut up.’”<sup>91</sup> In November, when the

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<sup>88</sup> Crow Dog, *Lakota Woman*, 50.

<sup>89</sup> Crow Dog, *Lakota Woman*, 88.

<sup>90</sup> Crow Dog, *Lakota Woman*, 83.

<sup>91</sup> Crow Dog, *Lakota Woman*, 83.

occupation of the BIA was underway, Crow Dog found herself impressed by the vocality of some of the women present. In one notable instance, Martha Grass, a middle-aged Cherokee woman, gave Interior Secretary Morton “a piece of her mind, speaking from the heart, speaking for all of us. She talked about everyday things, women’s things, children’s problems, getting down to the nitty-gritty.”<sup>92</sup> To Crow Dog, “It was good to see an Indian mother stand up to one of Washington’s highest officials.”<sup>93</sup> The movement wasn’t only emboldened by the women comfortable enough to speak out and demand attention, many women were happy enough, at least at first, to solemnly stand alongside the men, braving the fire of the public’s disdain and the government’s abuse.

Crow Dog speaks fondly of the role of Indian grandmothers in perpetuating deep traditions of intentional defiance and heroism in the face of seemingly insurmountable obstacles. Lizzy Fast Horse was one woman who made a lasting impression on Crow Dog for her demonstration on the top of Mount Rushmore to reclaim “the Black Hills for their rightful owners.”<sup>94</sup> She was inspired by “Lizzy who was dragged down the mountain by the troopers, handcuffed to her nine-year-old great-granddaughter until their wrists were cut, their blood falling in drops on the snow.”<sup>95</sup> This powerful image evokes a deep sense of reverence for Fast Horse’s stoic valor even when she may have been feeble physically. On multiple occasions throughout her memoir, Crow Dog recites an old Cheyenne proverb stating that ““A nation is not dead until the hearts of its women are on the ground.””<sup>96</sup> In recounting the story of Lizzy Fast Horse’s encounter with the police, Crow Dog exclaims that rather than on the ground, the hearts

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<sup>92</sup> Crow Dog, *Lakota Woman*, 90.

<sup>93</sup> Crow Dog, *Lakota Woman*, 91.

<sup>94</sup> Crow Dog, *Lakota Woman*, 80.

<sup>95</sup> Crow Dog, *Lakota Woman*, 80.

<sup>96</sup> Crow Dog, *Lakota Woman*, 3, 80.

of “our old full-blood women...were way up high and they could still encourage us with their thrilling, spine-tingling brave-heart cry...”<sup>97</sup> Not only were female elders on the frontlines of many efforts to reclaim Native land and embrace their traditions, demonstrating and confronting arms of the state, they were also crucial to the planning of what may have been the most significant moment in AIM’s history: the 1973 occupation at Wounded Knee.

For several months leading up to the first days of the occupation, AIM leaders had considered what their next major demand for change would look like, originally setting their sights on confronting the corrupt authority of Dicky Wilson’s tribal government in Pine Ridge.<sup>98</sup> Tribal leaders expressed that they hoped AIM would be able to defy Wilson’s government and “let some sunshine in.”<sup>99</sup> According to Crow Dog, “We had always thought that the fate of the Oglalas would be settled” in Pine Ridge, but after careful consideration of the risks with an already established federal marshal presence in Custer, South Dakota, it was the older women present that “first pronounced the magic words ‘Wounded Knee.’”<sup>100</sup> Women like Ellen Moves Camp and Gladys Bissonnette commanded, ““If you men won’t [make your stand at Wounded Knee], you can stay here and talk for all eternity and we women will do it.””<sup>101</sup> It was the initial prodding of these female tribal members that catalyzed the momentous events to come, for “Wounded Knee was not the brainchild of wild, foaming-at-the-mouth militants, but of patient and totally unpolitical, traditional Sioux, mostly old Sioux ladies.”<sup>102</sup>

There were, however, limitations on the ability for American Indian and Alaska Native women to assert themselves in the movement at this time. As previously mentioned, AIM was

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<sup>97</sup> Crow Dog, *Lakota Woman*, 80.

<sup>98</sup> Crow Dog, *Lakota Woman*, 123.

<sup>99</sup> Crow Dog, *Lakota Woman*, 123.

<sup>100</sup> Crow Dog, *Lakota Woman*, 124.

<sup>101</sup> Crow Dog, *Lakota Woman*, 124.

<sup>102</sup> Crow Dog, *Lakota Woman*, 113.

largely led by several charismatic spokesmen who engaged with the media almost entirely. Therefore, Native women for the most part played a supporting role in AIM's organizing, which was not unlike other civil rights movements of the time. Historian Annelise Orleck describes how female civil rights and labor activists of the 1950s and '60s contrasted their male counterparts, explaining that these "Bridge leaders and center women did not need titles or clerical collars. They were not spokespeople who stood in front of a crowd. Rather they were sufficiently respected by, and enmeshed in, their communities that other women willingly marched alongside them."<sup>103</sup> The words of notable activist Madonna Thunderhawk epitomizes this idea. She says, "The press, they just automatically gravitated to the men, and who really knew what was going on and who was really running the show were the women."<sup>104</sup> While Indigenous women, in general, were eager to engage their communities, leaving the limelight to the men, there were moments in which Mary Crow Dog admits the flaws of this system. She elaborated on the slow nature of AIM leadership granting public speaking roles to its female members. In the midst of the confrontation before the courthouse in Custer, Crow Dog recalls that "A delegation of four or five of our spokesmen...entered the courthouse."<sup>105</sup> As she used the term "spokesmen," a sort of internal dialogue emerges: "(or should I say 'spokespersons'? But they were all men; we were not in the spokesperson stage yet)..."<sup>106</sup> Although women were eventually granted the liberty to engage directly with the public and media, the early days of AIM centered male voices.

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<sup>103</sup> Annelise Orleck, *Rethinking American Women's Activism* (New York and London: Routledge, 2015), The Civil Rights Movement as a Women's Movement.

<sup>104</sup> *Warrior Women*, dir. Elizabeth Castle and Christina D. King, 2019; Lincoln, NE: Vision Maker Media; Mansfield, OH: Castle King, LLC., 2:06.

<sup>105</sup> Crow Dog, *Lakota Woman*, 119.

<sup>106</sup> Crow Dog, *Lakota Woman*, 119.



AIM's political presence in the 1970s applied pressure on the federal government to achieve better housing conditions, combat police brutality, and resist discrimination. However, it did little to raise awareness about gender-specific issues, such as violence against Native women, despite it being a consistent threat to the livelihoods of Native women and girls across the country. The incredibly influential, female Native activist, Madonna Thunderhawk, has been instrumental in advocating for the preservation of Indigenous land, traditions, and language for the better part of a century. She got her start as a founding member of AIM, playing a pivotal role in the 19-month long occupation of Alcatraz Island.<sup>107</sup> Coming of age in the 1940s and '50s, Thunderhawk experienced a significant amount of harassment, with the threat of physical violence always looming overhead. In the documentary about her life, *Warrior Women*, Thunderhawk recalls the feeling of needing to be hyper-vigilant of her presence around men; "you didn't do anything that might bring attention to yourself. There was all these bars on Main Street and you had to pick your route because all these older white guys, you know, they just propositioned you right on the street."<sup>108</sup> She explained that this kind of harassment was constant, it didn't matter if you were with children, "If you were Native, you were fair game."<sup>109</sup> And it wasn't just harassment that young Native women faced, sexual violence and assault were commonplace. Mary Lee, one of Madonna's cousins, recounts how "All of these white ranchers, these white cowboys, would take these different [girls] and they would gang rape them."<sup>110</sup> This actually happened to one of Madonna's closest friends, yet nothing could legally be done because white men experienced a sort of immunity from tribal police.<sup>111</sup> The only recourse that

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<sup>107</sup> Orleck, *Rethinking American Women's Activism*, The Native-American Movement and Its Women Leaders.

<sup>108</sup> *Warrior Women*, 19:00.

<sup>109</sup> *Warrior Women*, 19:24.

<sup>110</sup> *Warrior Women*, 19:56.

<sup>111</sup> *Warrior Women*, 20:00.

took place was when Madonna, Mary Lee, and several other friends of theirs took it upon themselves to attack one of the rapists, threatening that the “next time an Indian girl gets raped, we’re gonna get you..”<sup>112</sup> Madonna Thunderhawk’s experiences were not unique.

Mary Crow Dog is also candid in describing the precarious circumstances of Native women’s safety, both inside and outside of the movement. She explains, “If you are an Indian woman, especially in a ghetto, you have to fight all the time against brutalization and sexual advances. After a while, you yourself begin to strike out blindly...”<sup>113</sup> It is evident that Native women and girls have long been targeted by predatory men *because* of their status as Indigenous. What may surprise some, however, is the persistence of violence within the ranks of the American Indian Movement. No case is more apparent than in the disappearance and murder of Anna Mae Aquash, this thesis’s first instance of a Missing and Murdered Indigenous Woman. Anna Mae Aquash, of the Micmac Nation in Nova Scotia, first got involved in the workings of AIM when living in Boston in the early 1970s.<sup>114</sup> In the 1970 Thanksgiving Day march to protest the Mayflower celebration, she took part in seizing and occupying the ship.<sup>115</sup> She then helped found the Boston Indian Council, later participating in the Trail of Broken Treaties as well as the occupation of both the BIA and Wounded Knee.<sup>116</sup> Annie Mae, as Mary Crow Dog would call her, helped in the birth of Pedro, Crow Dog’s first child, during the siege at Wounded Knee.<sup>117</sup> She continued to move up the ranks of AIM, becoming affiliated with top men such as Leonard Peltier and Dennis Banks for her expertise in martial arts, allowing her to participate in nightly

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<sup>112</sup> *Warrior Women*, 21:00.

<sup>113</sup> Crow Dog, *Lakota Woman*, 51.

<sup>114</sup> KB Schaller, “Anna Mae Pictou-Aquash (1945-1976), Native Rights Activist,” *Indian Life Newspaper*, January-February, 2018, Gale Academic OneFile.

<sup>115</sup> Schaller, “Anna Mae Pictou-Aquash (1945-1976), Native Rights Activist.”

<sup>116</sup> Schaller, “Anna Mae Pictou-Aquash (1945-1976), Native Rights Activist.”

<sup>117</sup> Crow Dog, *Lakota Woman*, 162.

patrols and the manual labor required for digging bunkers.<sup>118</sup> Crow Dog describes Annie Mae's rise in influence, saying "She got very high up in the councils of AIM, to the extent of helping set movement policies."<sup>119</sup> Annie Mae had set herself apart from the majority of female AIM members, playing a leading, public role in its demonstrations. Annie Mae's militant tendencies and willingness to put herself in harm's way to promote the causes touted by AIM—equal rights, treaty fulfillments, and cultural recognition—was the likely motive behind her untimely death.<sup>120</sup>

On February 24, 1976, a body was found at the bottom of a 30-foot embankment on the outskirts of the Pine Ridge Reservation; it was of then 30-year-old Anna Mae Aquash.<sup>121</sup> Almost immediately, the FBI surrounded the crime scene, shipping Aquash's body to Scotts Bluff for an autopsy. Among one of the unnecessary cruelties inflicted against her body, officials ordered her hands to be cut off so as to identify her.<sup>122</sup> Despite having been found with blood matting the back of her head and evidence of a sexual assault, "an official report was issued that said she had died of exposure."<sup>123</sup> Mary Crow Dog viewed that report as another attempt to delegitimize the very real dangers facing the American Indian men and women involved in the movement. She condemned the implication "that here was just another drunken Indian passing out and freezing to death."<sup>124</sup> Annie Mae had been missing since late November of 1975, with several rumors speculating what may have happened to her.<sup>125</sup> After pressure from her late family, her body was exhumed and found to have a "single bullet wound at the base of her skull. She had been shot at

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<sup>118</sup> Maythee Rojas, *Women of Color and Feminism* (Berkeley, CA: Seal Press, 2009), 25.

<sup>119</sup> Crow Dog, *Lakota Woman*, 191.

<sup>120</sup> Crow Dog, *Lakota Woman*, 192; Schaller, "Anna Mae Pictou-Aquash (1945-1976), Native Rights Activist."

<sup>121</sup> Konigsberg, "Who Killed Anna Mae?" 36.

<sup>122</sup> Crow Dog, *Lakota Woman*, 197.

<sup>123</sup> Crow Dog, *Lakota Woman*, 197.

<sup>124</sup> Crow Dog, *Lakota Woman*, 197.

<sup>125</sup> Crow Dog, *Lakota Woman*, 197.

close range.”<sup>126</sup> AIM leadership was quick to point fingers at the FBI, who had been hunting Aquash down for several months in relation to a shoot-out that occurred with Leonard Peltier present.<sup>127</sup> It was clear, however, that as the FBI had been pursuing and sporadically arresting Aquash in relation to crimes she did not personally commit, several members of AIM had begun to suspect that Aquash was an informant.<sup>128</sup> After roughly 30 years with no conclusive suspects and convictions, two AIM members, Arlo Looking Cloud and John Graham, were found responsible for Aquash’s murder.<sup>129</sup>

Annie Mae Aquash’s disappearance and murder garnered both shock and attention, yet it was indicative of a much more commonplace experience for Native women involved in the activism of the 1970s. She had been in several relationships that turned violent. Her first husband, the father of her two daughters, had beat her.<sup>130</sup> Her second husband, whom she married at Wounded Knee in 1973, would barhop and take out his drunken moodiness on her.<sup>131</sup> Even after finding her true calling in advocating for the rights of her people and rising in the ranks of the movement for which she committed so much, she was still thought to be an outsider. She refused to “remain in the background performing traditional, domestic duties.”<sup>132</sup> There were also rumors of her being involved with AIM leader Dennis Banks, which unfortunately led many to believe she was merely a piece of arm candy to this leading man, referred to by some as just “Dennis Banks’s girlfriend.”<sup>133</sup>

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<sup>126</sup> Konigsberg, “Who Killed Anna Mae?” 36.

<sup>127</sup> Rojas, *Women of Color and Feminism*, 25.

<sup>128</sup> Konigsberg, “Who Killed Anna Mae?” 36.

<sup>129</sup> Konigsberg, “Who Killed Anna Mae?” 39.

<sup>130</sup> Crow Dog, *Lakota Woman*, 188.

<sup>131</sup> Crow Dog, *Lakota Woman*, 190.

<sup>132</sup> Rojas, *Women of Color and Feminism*, 25.

<sup>133</sup> Konigsberg, “Who Killed Anna Mae?” 40.

She was taught to live in fear after multiple run-ins with the federal government. She confessed to Mary Crow Dog: “They offered me my freedom and money if I’d testify the way they wanted...I chose my kind of freedom, not their kind, even if I have to die. They let me go because they are sure I’ll lead them to Peltier. They’re watching me.”<sup>134</sup> Annie Mae Aquash was caught in between two opposing forces, AIM and the FBI, both of which had grown accustomed to belittling and manipulating the presence of a commanding woman like herself. And she was aware of how this presence of hers was powerful, yet fleeting; “I’ve fought too hard...They won’t let Indians like me live.”<sup>135</sup> The FBI had intentionally sown doubt of Annie Mae’s loyalty to the movement among the ranks of AIM, and AIM leaders were simply too insecure and paranoid to let a woman of this stature put the future of the movement at risk. Whatever the justification for her abuse and death, a “good, gently tough, gifted friend” to all had been consumed by a movement that was neither willing nor prepared to protect her.<sup>136</sup>

The women involved in the Red Power movement were largely comfortable with prioritizing broader issues above those affecting them as women specifically. In a statement by Madonna Thunderhawk attending the 1975 International Women’s Year Conference, she expressed this idea plainly when stating she would not “single out women for liberation...”<sup>137</sup> Instead, she identified assimilation efforts of relocation, poor education, and the separation of families as the predominant issues impacting Native communities, explaining “We’re fighting as a people for survival.”<sup>138</sup> Mary Crow Dog admitted a feeling of alienation from the mainstream women’s movements of the time, leading her to focus on the issues of American

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<sup>134</sup> Crow Dog, *Lakota Woman*, 196.

<sup>135</sup> Crow Dog, *Lakota Woman*, 191.

<sup>136</sup> Crow Dog, *Lakota Woman*, 198.

<sup>137</sup> “Native American Women Denied Voice at International Women’s Year Conference,” *Akwesasne Notes* 7, no. 4 (1975), American Indian Histories and Cultures Database: 33.

<sup>138</sup> “Native American Women Denied Voice at International Women’s Year Conference,” 33.

Indian people more generally. A white nurse in the midst of Wounded Knee once questioned why the women were so comfortable “doing the slave work while the men got all the glory...”<sup>139</sup>

Crow Dog recalled that “We told her that her kind of women’s lib was a white, middle-class thing, and that at this critical stage we had other priorities. Once our men had gotten their rights back...we might start arguing with them about who should do the dishes. But not before.”<sup>140</sup>

Women deeply invested in the workings of AIM were willing to advocate for broader equality and justice, suppressing their particular concerns over the equality of the sexes because they resonated most with the needs of their people at this crucial time.

While it is evident that the American Indian Movement of the 1970s focused around its male leaders and the issues of legitimacy and self-determination for Native peoples, even female-led organizations did not diverge much from AIM’s platform. In fact, AIM’s goals were in almost direct agreement with the agenda of Women of All Red Nations (WARN), which was founded in 1974. WARN centered around the causes of tribal sovereignty, education, reproductive justice, and environmental justice. These were in fact issues that affected the health and security of Native women, however, WARN’s priority was on elevating Native communities as a whole and not on alleviating their particular burdens as women.

The fulfillment of treaty obligations and the recognition of tribal sovereignty by the US government were issues of utmost importance to WARN and other prominent Native women activists during this decade. In an official statement published in the journal *off our backs* in 1978, WARN viewed “the repeated and brutal violation of the 371 treaties concluded by the US government and the sovereign Indian nations as the basic issue to be addressed.”<sup>141</sup> They placed

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<sup>139</sup> Crow Dog, *Lakota Woman*, 131.

<sup>140</sup> Crow Dog, *Lakota Woman*, 131.

<sup>141</sup> “let this be a WARNing,” *off our backs* 8, no. 11 (1978), JSTOR: 9.

such an emphasis on treaty agreements because, to them, they were “the basis for our very survival...”<sup>142</sup> Outspoken Native activist Kate Shanley mirrors this idea when she wrote in her 1984 essay, “To Be Known On Our Own Terms,” that tribal sovereignty “is the single most pressing political issue in Indian country today.”<sup>143</sup>

An initiative that works in tandem with the ideals of self-determination and the preservation of Native traditions are survival schools, and members of both AIM and WARN devoted themselves to educating the younger generations about Indigenous customs. Madonna Thunderhawk, a founding member of WARN, was instrumental in the success of the We Will Remember Survival School. The survival school offered more than just education; it sought to share and instill an appreciation for the fundamental principles of the Oglala Nation. The school was described as “One small circle of resistance.”<sup>144</sup> By the time the article in *Akwesasne Notes* was published in 1978, the school encompassed “Thirty kids dedicated to the sovereignty and integrity of the Oglala Nation, of the Pipe, of a culture and a history, and to the attempt to understand the processes that attempt to destroy that.”<sup>145</sup> The We Will Remember Survival School understood the influence of memory on a people’s identity, and it dedicated itself to reminding these children of the hard truth of the Lakota Nation’s history of oppression.<sup>146</sup> The school was structured so as to incorporate what it deemed the most pressing areas of concern, including “natural resources, prisoners’ rights, [and] outreach communications.”<sup>147</sup> Ted Means, another leader of the survival school, stated that they wanted to be free from government

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<sup>142</sup> “let this be a WARNing,” 9.

<sup>143</sup> Kate Shanley, “To Be Known On Our Own Terms,” in *The Columbia Documentary History of American Women Since 1941*, ed. Harriet Sigerman (New York: Columbia University Press, 2007), 597.

<sup>144</sup> “We Will Remember Survival Group,” *Akwesasne Notes* 10, no. 1 (1978), American Indian Histories and Cultures Database: 8.

<sup>145</sup> “We Will Remember Survival Group,” 8.

<sup>146</sup> “We Will Remember Survival Group,” 8.

<sup>147</sup> “We Will Remember Survival Group,” 8.

funding, and therefore interference; ““We want full control of what our young people learn.””<sup>148</sup>

Philip Deere, an AIM spiritual leader, emphasized the importance of these schools; “...Indian people are getting together a school system to prepare their youth to rebuild sovereignty.

Associations for Indian education have failed to do this. Public and religious schools have worked against this.”<sup>149</sup> The leaders of WARN as well as AIM turned to the education of their children as a way to counteract the decades-long process of assimilation that the residential boarding school system so harmfully perpetuated. Female as well as male activists found hope in their children to foster a future of sovereignty and resistance.

This informs why widespread sterilization abuse was so distressing, as this was the main issue in which WARN distinguished itself from the male-oriented work of AIM. And while it was certainly a threat to the physical and emotional health of Native women during this time, these grievances were framed so as to concentrate on the broader impact of their communities, omitting the very harsh reality for Native women that their bodies and parental agency were not always their own. The startling findings by Dr. Connie Uri that healthy Native women of child-bearing age were receiving tubal ligations and sometimes complete hysterectomies without their informed consent prompted female-led movements to address this systemic wrongdoing. WARN began to view rampant sterilization abuse as one of the biggest obstacles to equality and justice for Native women. An article titled “The Theft of Life,” written by WARN members, revealed the extent of this sterilization abuse. The US Government Accountability Office’s study of select Indian Health Services locations showed astonishing numbers of sterilizations, but the study lacked any input from women who had been sterilized and only focused on the records of four

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<sup>148</sup> “We Will Remember Survival Group,” 8.

<sup>149</sup> “The Heart of the Earth Survival School,” *Akwesasne Notes* 7, no. 4 (1975), American Indian Histories and Cultures Database: 13.



IHS locations.<sup>150</sup> Dr. Uri, alongside other American Indian women, took it upon themselves to conduct their own investigation, publishing that “more than a quarter of all American Indian women have been sterilized, leaving only about 100,000 women of child-bearing age who can have children.”<sup>151</sup>

While these numbers are shocking and seem to imply far-reaching, coordinated efforts to strip Native women of their right to reproduce, another submission to *Akwesasne Notes* questions this notion. “A system and machine capable of this type of genocide does not need real-life villains – just a network of consultants, officials, and medical personnel who have been persuaded it is all for a good cause.”<sup>152</sup> What that good cause might be, Dr. Connie Uri insinuates, is “the warped thinking of doctors that the solution to poverty is not to allow people to be born.”<sup>153</sup> But this was nothing less than genocide. A quote from the *American Indian Journal* reads: “They took our past with a sword and our land with a pen. Now they’re trying to take our future with a scalpel.”<sup>154</sup> This quote directly correlates the history of the US government’s efforts to strip away land, resources, and tribal sovereignty to the sterilization crisis affecting thousands of Native women and girls. WARN also brought up the psychological distress of these women finding out that they could no longer have children, and it made a point to mention that “Families are torn apart by the woman’s distress, and husbands often resent the operations done without their consent...” The largest concern by far was that the American Indian population, already small, would become even smaller. Tribal Judge Marie Sanchez of the

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<sup>150</sup> Gail Mark Jarvis, “The Theft of Life,” *Akwesasne Notes* 9, no. 4 (1977), American Indian Histories and Cultures: 30.

<sup>151</sup> Mark Jarvis, “The Theft of Life,” 30.

<sup>152</sup> “Killing Our Future: Sterilization & Experiments,” *Akwesasne Notes* 9, no. 1 (1977), American Indian Histories and Cultures: 4.

<sup>153</sup> Mark Jarvis, “The Theft of Life,” 30.

<sup>154</sup> “Killing Our Future,” 4.

Northern Cheyenne exclaimed, ““There are only 5,000 of us...This is another attempt to limit our population – but this time, they’re trying to do it in the noble name of medicine.””<sup>155</sup> Though the implications of widespread erasure and genocide as a result of this rampant abuse of power are real and dire, the discourse surrounding the sterilization of Native women focused less on the individual breaches of bodily autonomy and more on the ramifications it had on Native communities, family dynamics, and population sizes.

Reproductive justice was a concern for many American women during the 1970s, testifying to the interconnected nature of differing feminisms. The 1977 National Women’s Conference in Houston was a historic event in which women from a diversity of races, sexual orientations, and socio-economic statuses came together to discuss their most vital concerns. Nonetheless, there was still marked controversy over which voices were being heard and which were being silenced. This contextualizes why out of all 26 planks published as a result of this conference, not one was specifically focused on women of a particular race.<sup>156</sup> There was a single plank, Plank 17, which focused on “Minority Women” as a monolith. While concerns of Native American women were touched upon sporadically throughout the planks, including sterilization, domestic violence, and sexual assault, Native women were more often included as an aside to these issues that were affecting all women. Mainstream feminism and women’s liberation largely ignored the reality that American Indian and Alaska Native women experience these forms of violence at disproportionate rates compared to white, affluent, able-bodied women. This kind of large-scale omission within the established feminist movements at the time led Indigenous women to view feminism quite differently. Kate Shanley’s essay distinguishes

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<sup>155</sup> “Killing Our Future,” 4.

<sup>156</sup> Thomas Dublin and Kathryn Kish Sklar, *How Did the National Women's Conference in Houston in 1977 Shape a Feminist Agenda for the Future?* (Binghamton: State University of New York, Binghamton, 2004), Alexander Street: A ProQuest Company.

mainstream feminism from the type of feminism that Indigenous women practice. To Shanley, “The word ‘feminism’ has special meanings to Indian women, including the idea of promoting the continuity of tradition, and consequently, pursuing the recognition of tribal sovereignty.”<sup>157</sup>

This idea that feminism for Native women celebrates community-oriented initiatives to reconnect with traditional ways of life and self-governing was nearly ubiquitous in the 1970s, 1980s, and into the 1990s.

Wilma Mankiller, who made history in being the first female principal chief of the Cherokee Nation in 1985, transformed her nation for the ten years that she served, working to cultivate economic development, improve education, and revitalize healthcare. Wilma Mankiller moved to San Francisco from Oklahoma when she was a child as part of the termination policy by the federal government, but it was there that she was first introduced to the grassroots organizing of the 1960s and 1970s.<sup>158</sup> She often referred to the occupation of Alcatraz Island in the early 1970s as a transformative moment for her, for it presented a world of American Indian activism that worked against the termination of treaties and relocation through restoring sovereignty.<sup>159</sup> In the years following Alcatraz, Wilma then went on to work alongside the Pit River people in reclaiming land that had been illegally taken, helping them to “maintain and gain their sovereign status.”<sup>160</sup> She would carry the insight from her experiences working with other Native peoples with her when she returned to the Cherokee Nation in 1977.

Back home in Oklahoma, Mankiller quickly made her mark on the community as she tirelessly worked on development projects in housing, education, and natural resource

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<sup>157</sup> Shanley, “To Be Known On Our Own Terms,” 597.

<sup>158</sup> *MANKILLER*, Valerie Red-Horse, dir., 2017; Red-Horse Native Productions; Hollywood: Valhalla Entertainment, 9:00.

<sup>159</sup> *MANKILLER*, 12:30.

<sup>160</sup> *MANKILLER*, 16:00.

accessibility. In 1981, she became the director of the Cherokee Nation Community Development Department in an effort to implement renewal projects in rural communities through federal funding.<sup>161</sup> Some began to refer to her as the “steward of a larger good, of a community good” as a result of all her work helping communities grow and prosper.<sup>162</sup> One such project that showcased Mankiller’s remarkable ability to promote self-sufficiency and self-determination in the Cherokee people was her work for the small community of Bell. Bell had long been regarded as one of the poorest towns in the country, with no comprehensive system for electricity or running water.<sup>163</sup> Through the Community Development Department, Mankiller set out to utilize federal funding to put in place infrastructure for town-wide plumbing; however, the success of the project was almost solely dependent on the motivation of the Bell people.<sup>164</sup> Though many doubted the ability of Bell residents to come together and work long hours to successfully construct their own water-supply system, Mankiller continued to support and pressure Bell to see this project through. Bell community-members were able to prevail because of their diligence and commitment to the process of self-help. As Mankiller explains in her own words, “Bell represented success where everyone else had anticipated failure. For me, the Bell project also validated a lot of the things that I believed about our people...we had the capacity to solve our own problems, given the right set of circumstances and resources.”<sup>165</sup> Mankiller’s leadership emboldened fellow Cherokee members to acknowledge and utilize their collective strength and efficacy to improve their living conditions from the bottom-up.

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<sup>161</sup> Wilma Mankiller and Michael Wallis, *Mankiller: A Chief and Her People* (New York: St. Martin’s Griffin Press, 1993), 233.

<sup>162</sup> *MANKILLER*, 21:20.

<sup>163</sup> *MANKILLER*, 25:00.

<sup>164</sup> Mankiller and Wallis, *Mankiller*, 234.

<sup>165</sup> Mankiller and Wallis, *Mankiller*, 235.

As Principal Chief of the Cherokee Nation for ten years, Wilma Mankiller was able to revitalize its healthcare, housing, and education systems, helping the nation redefine itself in a modern context while maintaining its traditions and values. Chief Mankiller pushed the federal government to subsidize the establishment of two new healthcare clinics in Sallisaw and Stilwell, Oklahoma, where there was particular need.<sup>166</sup> Her work to advance and expand medical services for her people has led the Cherokee Nation to have “the largest tribal healthcare system in the United States.”<sup>167</sup> She also made a point to implement training and scholarship programs to ensure Cherokee members themselves could become physicians and healthcare providers to their own communities.<sup>168</sup> She also dedicated much of her energy towards breaking the cycle of poverty that so many of her people had struggled under. Although there was contention surrounding the development of casinos as a way to stimulate the economy, Mankiller ultimately backed the casinos in order to fund more healthcare facilities as well as to target the Cherokee Nation’s massive unemployment and housing needs.<sup>169</sup> Through the many years she served her nation, Mankiller never wavered in her belief that the Cherokee people were equipped to maintain and protect their sovereignty; “we have indigenous solutions to our problems. Cherokee values, especially those of helping one another and of our interconnections with the land, can be used to address contemporary issues.”<sup>170</sup> She recognized the inherent value of Cherokee traditions and customs, and she made a point to implement them in the solutions she forged for the everyday struggles of her people.

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<sup>166</sup> MANKILLER, 35:00.

<sup>167</sup> MANKILLER, 36:30.

<sup>168</sup> MANKILLER, 36:45.

<sup>169</sup> MANKILLER, 46:00.

<sup>170</sup> Mankiller and Wallis, *Mankiller*, 250-251.

Her historic accomplishments set a precedent for the continued advancement and political participation of American Indian women all around her. A former intern of Wilma Mankiller's, Kimberly Teehee, recalls how Mankiller encouraged her to pursue a career in Washington D.C. Teehee explains that, "The skill sets, everything I learned from her in those early days...[made me] feel confident that what I'm saying mattered...she created that foundation for me..."<sup>171</sup> Mankiller understood the nuances of leading a major tribal nation as a woman and embraced her multiple identities as both a woman and a Cherokee to effectively serve her people. Historian Roxanne Dunbar-Ortiz reveres Mankiller for her intersectional leadership; "Wilma may be the first definition of Indigenous feminism, the difference in individual self-determination and collective self-determination."<sup>172</sup> Wilma Mankiller herself noted the cultural changes taking place in her nation as a result of her leadership; "We also are returning the balance to the role of women in our tribe. Prior to my becoming chief, young Cherokee girls never thought they might be able to grow up and become chief themselves...I feel certain that more women will assume leadership roles in tribal communities" going forward.<sup>173</sup> Wilma Mankiller was singular in her influence and effectiveness as Chief, working to elevate the Cherokee Nation to new heights in the 1980s and 1990s while empowering future generations of Native women to aspire for more than what had traditionally been available to them.

Although Native activism in the 1970s and into the 1980s revolved around broader concerns of poverty, sovereignty, natural resources, and legal equality, the groundwork was laid for active political participation by and for Indigenous women. Native women were equally as, and in some cases more, present at AIM's most momentous demonstrations, including Wounded

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<sup>171</sup> MANKILLER, 43:50.

<sup>172</sup> MANKILLER, 44:40.

<sup>173</sup> Mankiller and Wallis, *Mankiller*, 246.

Knee, Alcatraz Island, and the Trail of Broken Treaties. Not only were Native women physically present, but they were hugely fundamental to the ideological foundation and planning for these protests and demands for change. Nevertheless, AIM was distinctly male-dominated and male-focused. Tragically, AIM's militant and domineering organizational approach ultimately manifested in the betrayal and murder of Anna Mae Aquash. To better accompany AIM and its agenda, several women's coalitions were created.

Most notably, Women of All Red Nations led the charge for justice over sterilization abuse, incorporating this cause within its efforts to fight for legal, intellectual, and corporeal self-determination. While WARN's advocacy still greatly centered more around their communities, children, and families and less on the tailored, individual experiences of Native women, this was the first time in which attention of this magnitude was paid to an issue disproportionately affecting Native women and girls. Other female Indigenous activists like Kate Shanley and Wilma Mankiller adapted their feminist ideologies to honor the traditions of their people, prioritize sovereignty and self-government, and solve contemporary problems. The work of WARN and other remarkable activists proved that political organizing by Indigenous women could not only complement the work of more male-led organizations, but provide additional space for Native women's concerns to be heard and addressed.

More specifically, the work of WARN at this time helped develop the ideological basis for the Missing and Murdered Indigenous Women and Girls movement. WARN understood that an undeniable extension of tribal sovereignty was in fact female bodily autonomy. In an official statement, they identified this relationship, stating, "From the U.S. government's assuming sovereignty over the Indian nations has followed the U.S. government's assuming sovereignty

over the bodies of Native American women...”<sup>174</sup> WARN cited pervasive sterilization abuse as the primary evidence demonstrating this type of large-scale violence and violation. This belief that the vestiges of American colonization and exploitation can be found in the treatment of Native women and their bodies is a pillar for the current MMIWG movement. The work of the women in AIM, WARN, and even outside those two commanding organizations was community-oriented and broader-focused. Nonetheless, it set the precedent for how Native women could organize themselves and their communities to demand attention and solutions for the problems affecting them most.

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<sup>174</sup> “let this be a WARNing,” 9.



**“Violence is Not a Tradition:” Anti-Domestic Violence Activism from the 1980s to 2000s**

On October 3, 1995, the words “we the jury in the above entitled action find the defendant Orenthal James Simpson not guilty of the crime of murder in violation of Penal Section 187-A, a felony, upon Nicole Brown Simpson, a human being...” sent shockwaves throughout the nation.<sup>175</sup> For months leading up to the decision, Americans had been consumed by a gripping saga that polarized the country. This was not simply a murder trial. The charges against O.J. Simpson forced the nation to reckon with centuries-long issues of race and class in the justice system. A *Los Angeles Times* article from 1994 mentions how divided the country was along lines of race, with African Americans sympathizing with Simpson at almost twice the rate as whites.<sup>176</sup> The article elaborates, “Simpson’s ‘hero’ status, his place as an icon...adds another dimension to the debate. But as the weeks pass, Simpson becomes less a hero and more a symbol. A catalyst, a scapegoat, a lightning rod.”<sup>177</sup> And while race was absolutely a pivotal factor in the investigation and trial, many followed this historic legal proceeding with the knowledge that domestic violence against women had long been a national affliction. From 1994 to 2010, roughly four out of five victims of intimate partner violence were female, as published on the National Domestic Violence Hotline’s website.<sup>178</sup> The country, as well as the world, anxiously looked on as O.J. Simpson’s innocence was decided. To those who had experienced intimate partner violence, this verdict reminded many that the work to end domestic violence was far from over.

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<sup>175</sup> “Transcript of Reading of Verdict in O.J. Simpson Case,” *The Associated Press*, October 3, 1995. <https://apnews.com/article/65767f8e97d5f7b076c47f8dbde1d1c6>

<sup>176</sup> Lynell George, “Drama Raises Troubling, Divisive Issues for Blacks: Constant Scrutiny has made O.J. Simpson a Lightning Rod for Thorny Issues of Race, Class and Privilege,” *The Los Angeles Times*, July 11, 1994, ProQuest Historical Newspapers: Los Angeles Times, A1.

<sup>177</sup> George, “Drama Raises Troubling, Divisive Issues for Blacks,” A9.

<sup>178</sup> National Domestic Violence Hotline, “Domestic Violence Statistics,” National Domestic Violence Hotline. <https://www.thehotline.org/stakeholders/domestic-violence-statistics/>

And while this case was notorious on the national stage, O.J. Simpson's not guilty verdict reverberated through Native communities where the effects of domestic violence were so powerfully felt. In the Navajo Nation, for example, one shelter reported that several female survivors of domestic abuse called "shortly after the O.J. decision was announced Oct. 3 to say they no longer felt safe."<sup>179</sup> The director of the Family Crisis and Battered Women's Shelter offered an explanation as to why so many survivors were particularly troubled by the verdict. "The issue is what's the message to victims of domestic violence. That it might be okay to beat, to go to jail, or to kill because if you have enough money, you can buy your freedom."<sup>180</sup> A feeling of disbelief pervaded many domestic violence service providers who asserted that the general public was still acutely uninformed about the "real dynamics of domestic violence" and its focus on "power and control."<sup>181</sup> While the O.J. Simpson case and his subsequent acquittal elevated the issue of domestic violence to the national consciousness, it reinforced rudimentary understandings of the severity of this issue and undermined the urgency for accountability for offenders.

Intimate partner violence has continued to be an issue within the Navajo Nation; domestic violence rates on its reservations were twice the national average in 2007.<sup>182</sup> However, heightened rates of domestic violence among tribal nations was not particular to just the Navajo. A 2008 report by the CDC revealed that "39 percent of Native women said they were victims of intimate-partner violence," a rate much higher than any other demographic.<sup>183</sup> Tribal nations

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<sup>179</sup> Marley Shebala, "O.J. Verdict Felt on Navajo Nation," *The Navajo Times*, October 12, 1995, American Indian Newspapers Database, A-10.

<sup>180</sup> Shebala, "O.J. Verdict Felt on Navajo Nation," A-10.

<sup>181</sup> Shebala, "O.J. Verdict Felt on Navajo Nation," A-10.

<sup>182</sup> Cindy Yurth, "Walk Against Domestic Violence Circles Nation," *The Navajo Times*, July 12, 2007, American Indian Newspapers Database, A-10.

<sup>183</sup> Centers for Disease Control, "Report Cites High Rate of Violence Against Native Women," *The Cherokee Phoenix*, March 2008, American Indian Newspapers Database, B-5.

throughout the country were alike in increasing their activism and mobilization against domestic violence throughout the 1980s, when awareness campaigns first emerged, and into the early 2000s.

Paula Gunn Allen, a renowned American Indian poet, novelist, and activist, identified contemporary issues facing Native women in the mid-1980s in her book, *The Sacred Hoop*. She largely continued the ideological trend of prioritizing the wellbeing and longevity of Native peoples as a whole, but she also explicitly labelled violence facing Native women as a vital concern. The very first line of the chapter that names the problems impacting Native women most at her time reads, “The central issue that confronts American Indian women throughout the hemisphere is survival, *literal survival*, both on a cultural and biological level.”<sup>184</sup> Gunn Allen cited the heightened number of sterilizations for Native women and men as one example of the erasure of American Indian people, and she also mentioned the high rate of infant mortality and low life expectancy for American Indians as further evidence for why their survival is at risk.<sup>185</sup> She condemned the treatment of Native peoples by their colonizing governments, explaining that “*every single government*, right, left, or centrist in the western hemisphere is consciously or subconsciously dedicated to the extinction of those tribal people who live within its borders.”<sup>186</sup> In response to this onslaught of orchestrated oppression and genocide from the last several centuries, Gunn Allen asserted that “American Indian women struggle on every front for the survival of our children, our people, our self-respect, our value systems, and our way of life.”<sup>187</sup> Not so different from the ideologies of Madonna Thunderhawk and Kate Shanley, Paula Gunn

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<sup>184</sup> Paula Gunn Allen, *The Sacred Hoop: Recovering the Feminine in American Indian Traditions* (Boston: Beacon Press, 1986), 189.

<sup>185</sup> Gunn Allen, *The Sacred Hoop*, 189.

<sup>186</sup> Gunn Allen, *The Sacred Hoop*, 190.

<sup>187</sup> Gunn Allen, *The Sacred Hoop*, 190.

Allen viewed the prosperity of American Indian women as predicated on the survival of their communities and traditions under the governments that seek to wipe all that away.

Paula Gunn Allen did bring up physical and sexual violence against Native women as a major point of concern for their survival. She included a statistic from a 1979 article in *The Navajo Times* to demonstrate the severity of this violence: “rape was the number one crime on the Navajo reservation.”<sup>188</sup> Paula Gunn Allen offered an alternative explanation to this uptick in violence against Native women. She argued that while oppression, racism, poverty, emasculation, and a loss of traditional values do in fact play a part in why this horrid behavior towards American Indian women exists, popular media has propagated enough images of American Indian men as being savage and cruel that they have begun to internalize it.<sup>189</sup> She acknowledged that violence against Native women by Native men is not tradition, but rather powerful evidence “that the status of women within the tribes has suffered grievous decline since contact...”<sup>190</sup> In order for American Indian women to see a marked decrease in the violence they face, the depictions of Native men in popular culture must first be addressed and revised. This is because, Gunn Allen argued, “Images of Indians in media and educational materials profoundly influence how we act, how we relate to the world and to each other, and how we value ourselves. They also determine to a large extent how our men act toward us, [and] toward our children...”<sup>191</sup> Gunn Allen ended her chapter reiterating the multitude of initiatives American Indian women were pursuing to create a more just, equitable life for themselves and their communities. Her final sentence foreshadows the rhetoric of the Missing and Murdered Indigenous Women and Girls movement; “as mothers and grandmothers; ...as professionals, workers, artists, shamans,

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<sup>188</sup> Gunn Allen, *The Sacred Hoop*, 191.

<sup>189</sup> Gunn Allen, *The Sacred Hoop*, 192.

<sup>190</sup> Gunn Allen, *The Sacred Hoop*, 191.

<sup>191</sup> Gunn Allen, *The Sacred Hoop*, 192.

leaders,...writers and organizers, we daily demonstrate that we have no intention of disappearing, of being silent, or of quietly acquiescing in our extinction.”<sup>192</sup>

Due to the general ignorance of the scope of domestic violence in America in the early 1980s, the genesis of anti-domestic violence campaigns within Indian Country aimed to define what domestic violence was and lobby for it to become classified as a distinct, prosecutable crime. In a letter to the editor of *The Navajo Times* in 1980, a woman named Mikki Deerwater called attention to the problem of domestic violence, identifying it as a “hidden, but widespread problem.”<sup>193</sup> She condemned the societal tendency to brush off domestic violence as a simple matter of the home or that it is the right of a husband to punish his wife.<sup>194</sup> Not only is the abuse and mistreatment by their husbands traumatizing, “Society’s refusal to even look at the problem of domestic violence, let alone disapprove of the man’s conduct, is but another blow to the woman.”<sup>195</sup> And because there was such a critical lack of awareness for this issue and its breadth, it was common for victims to feel isolated and ashamed, living in a state of uncertainty and blaming themselves for the violence they’re experiencing.<sup>196</sup>

A different article from the same year published in *The Native Nevadan* echoed much of these same concerns about the misconceptions of domestic violence. Many people who have not experienced this type of violence are mystified as to why women stay in abusive relationships and environments, but this article aimed to humanize these survivors in the eyes of the public. The authors, Mike Kane and Roxanne Brown of the Committee to Aid Abused Women, described the commonalities between battered women. Women in abusive relationships often

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<sup>192</sup> Gunn Allen, *The Sacred Hoop*, 193.

<sup>193</sup> Mikki Deerwater, “Domestic Violence is a Problem,” *The Navajo Times*, April 10, 1980, American Indian Newspapers Database, 6.

<sup>194</sup> Deerwater, “Domestic Violence is a Problem,” 6.

<sup>195</sup> Deerwater, “Domestic Violence is a Problem,” 6.

<sup>196</sup> Deerwater, “Domestic Violence is a Problem,” 6.

suffered from low self-esteem and were reluctant to advocate for themselves because of their non-assertive personalities.<sup>197</sup> Often, these women had either experienced prior abuse or had witnessed their mothers be abused when they were growing up.<sup>198</sup> In addition, the guilt that some of these women felt was almost crippling. A woman may question her merits as a wife and mother. The authors explain, “there is guilt for even thinking about leaving her husband and guilt for not being the perfect wife.”<sup>199</sup> Obviously, any form of violence facing women at the hands of their partners is never their fault or responsibility, but the impulse to self-doubt and self-blame is especially strong when experiencing trauma.

The *Native Nevaden* article also maintained that economic dependency was a motivating factor for women to stay in these harmful situations. Abusive men “control the purse strings and usually with an iron hand. Rarely does a victim have more than a few dollars she can spend on her own. More often than not, a battered woman barely has enough to shop once a week at the supermarket.”<sup>200</sup> Little means of economic self-sufficiency coupled with insecurity and emotional duress make it unbelievably difficult for a woman to successfully escape her abusive situation. This article identified several commonalities among the men who become abusers as well. Very often, abusive men experience violence and abuse themselves as children; their actions then perpetuate a pernicious cycle of violence.<sup>201</sup> Many male abusers also struggle with alcohol and substance use in tandem with mental health disorders.<sup>202</sup> Unemployment or job dissatisfaction can also influence the abusive behavior of men.<sup>203</sup> All of these circumstances

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<sup>197</sup> Mike Kane and Roxanne Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” *Native Nevaden*, September 5, 1980, American Indian Newspapers Database, 13.

<sup>198</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>199</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>200</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>201</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>202</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>203</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

place a man in a particularly vulnerable position; his own insecurities drive him “to show his ‘macho,’ over-bearing and intimidating manner, which provides him with a false (yet real enough to him) manhood that puts him in power” over his female partner.<sup>204</sup> Domestic violence was still an emerging societal concern both on and off American Indian land; many did not understand the root causes or the complexity of these harmful circumstances, so awareness campaigns first had to address those misunderstandings.

In the early 1980s, the systems and services that communities had in place to respond to domestic violence were critically inadequate. In Deerwater’s Letter to the Editor, she argued for more shelters to be implemented on reservations, describing them as “one of the most effective responses to the immediate needs of a battered woman.”<sup>205</sup> The fact that she then had to explain the myriad benefits of shelters signifies that they were only beginning to materialize in order to respond to this type of violence. Deerwater illustrated the advantages of shelters, disclosing that “There the woman can live temporarily in a supportive environment where she can reflect upon her situation in safety and make decisions about what to do.”<sup>206</sup> The foundational principle of domestic violence shelters, she asserted, was to provide immediate safety to these women and their children, so that they could then strategize ways to permanently escape the violence they are facing. Another essential aspect of shelters and safe home systems, where other women in the community offer to house women fleeing violence, is to provide a community of support and solidarity among survivors.<sup>207</sup> Kane and Brown similarly advocated for the role of shelters as a way to help women in crisis, but they did note that there were “hardly enough to keep up” with

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<sup>204</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>205</sup> Deerwater, “Domestic Violence is a Problem,” 6.

<sup>206</sup> Deerwater, “Domestic Violence is a Problem,” 6.

<sup>207</sup> Deerwater, “Domestic Violence is a Problem,” 6.

the demand, especially in rural areas.<sup>208</sup> Their article highlighted the success of one shelter that was established on the Rosebud Reservation by the White Buffalo Calf Women's Society, and they encouraged other reservations to follow suit in building shelters and forming "linkages with other Native American women and shelters already in existence..."<sup>209</sup> Support services for women experiencing domestic violence on reservations during this time period were only budding, but many Native individuals and groups understood that they were "critical to effectively addressing the problem as it occurs here in the Navajo Nation" and elsewhere.<sup>210</sup>

The legal framework in place for the Navajo Nation offered some liberties to Navajo women experiencing abuse and violence, but there was much work to be done to identify domestic violence as a serious and prosecutable crime. Unlike some other tribal nations, Navajo women were granted the right to divorce and file restraining orders against their spouses without too many legal, bureaucratic obstacles.<sup>211</sup> In addition, assault could be justification for an arrest even within a family, but the willingness of women to seek these forms of legal recourse varied greatly.<sup>212</sup> When a woman would approach the authorities because she feared for her life, it was not uncommon for them to say in response that her partner must commit a crime in the presence of a police officer in order to be charged.<sup>213</sup> And if a woman did decide to pursue legal action, she could "expect to encounter a long and difficult process in the prosecution."<sup>214</sup> Another barrier to justice for Navajo women experiencing domestic violence was antagonism by the Nation's courts. The courts reinforced these acts of violence "by turning an accusing eye to the

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<sup>208</sup> Kane and Brown, "Wife Abuse Was Not a Native American Custom But Does Exist," 13.

<sup>209</sup> Kane and Brown, "Wife Abuse Was Not a Native American Custom But Does Exist," 14.

<sup>210</sup> Deerwater, "Domestic Violence is a Problem," 6.

<sup>211</sup> Kane and Brown, "Wife Abuse Was Not a Native American Custom But Does Exist," 14.

<sup>212</sup> Kane and Brown, "Wife Abuse Was Not a Native American Custom But Does Exist," 14.

<sup>213</sup> Deerwater, "Domestic Violence is a Problem," 6.

<sup>214</sup> Deerwater, "Domestic Violence is a Problem," 6.



woman...Many times a court will dismiss a case (if it ever gets that far), believing they are just dealing with a hysterical woman.”<sup>215</sup> The prejudicial behavior of Navajo police and courts continued throughout the next decade as well, discouraging survivors from coming forward or seeking justice. According to Anna Beth Nez, a counselor with Battered Family Services, ““We really need to take a look at the Navajo judicial system and straighten it up so police and judges realize the forms domestic violence takes”” in order to adequately respond to it.<sup>216</sup> Although the Navajo Nation did offer some protections and agency to women experiencing domestic violence, the process of reporting and prosecuting their partners was often too burdensome and belittling to be worthwhile.

Select municipalities decided to change their laws surrounding domestic violence, which to some Native communities served as a model for their own legal apparatuses. The city of Minneapolis in the mid-1980s made domestic violence a “criminal act” that would allow for police officers to make arrests with probable cause.<sup>217</sup> Authorities no longer had to be in the presence of a crime in order to arrest a person who is battering their partner.<sup>218</sup> The article published in *The Navajo Times* reporting on this new law encouraged Navajo officials to follow suit. The article called for the Navajo Tribal Council to “rethink its code for domestic violence,” and strengthen its laws to further protect victims by jailing offenders.<sup>219</sup> Nine years later, the Navajo Nation *did* change its laws on domestic violence. Mentioning that rates of domestic violence were at ““epidemic proportions,”” an article from *The Navajo Times* in 1996 talked

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<sup>215</sup> Kane and Brown, “Wife Abuse Was Not a Native American Custom But Does Exist,” 13.

<sup>216</sup> Mark Engler, “March, Rally Shed Light on Domestic Violence,” *The Navajo Times*, August 17, 1995, American Indian Newspapers Database, A-2.

<sup>217</sup> “Domestic Crimes,” *The Navajo Times*, October 9, 1984, American Indian Newspapers Database, 8.

<sup>218</sup> “Domestic Crimes,” 8.

<sup>219</sup> “Domestic Crimes,” 8.

about the 1993 law's impact.<sup>220</sup> The law's intent is "to provide protection to the victim, not punishment for the abuser" by imposing jail time only when those who commit domestic violence fail to obey protection orders.<sup>221</sup> The article lauds this law's accessibility, for victims can have "easy access to the legal system" since legal counsel is not necessary to get a protection order.<sup>222</sup> Furthering the law's inclusivity are its provisions that do not require a couple to be married or living together in order for a protection order to be granted; there is also an understanding that men, women, seniors, and children alike can be victims of domestic abuse.<sup>223</sup> The Navajo Nation demonstrated a willingness to adapt its laws to protect victims of domestic violence in response to continued pressure by its communities, but this kind of legal responsiveness was not the norm.

Although domestic violence was still a relatively new concern within the national framework, by the mid 1980s and '90s, there was a litany of organizations and coalitions that were founded to assist survivors and expand resources on a state and national level. The National Coalition Against Domestic Violence (NCADV) had its first conference in 1980. Of the women in attendance, only about 6 out of 600 were Native American.<sup>224</sup> Nevertheless, Native women were directly involved from the onset of this movement. As the organization gained traction, it began to advocate for a unified national voice on domestic violence within America's public policy.<sup>225</sup> It also sought to foster collaborative organizing among local, state, and regional services in the hopes of "Building a national communication network of community based

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<sup>220</sup> Anne Tom, "Laws Set for Domestic Violence," *The Navajo Times*, April 25, 1996, American Indian Newspapers Database, A-5.

<sup>221</sup> Tom, "Laws Set for Domestic Violence," A-5.

<sup>222</sup> Tom, "Laws Set for Domestic Violence," A-5.

<sup>223</sup> Tom, "Laws Set for Domestic Violence," A-5.

<sup>224</sup> Deerwater, "Domestic Violence is a Problem," 6.

<sup>225</sup> "Women and Violence: National Coalition Against Domestic Violence," *Women's International Network News* 14, no. 1 (1995): ProQuest Women's Magazine Archive, 48.

programs.”<sup>226</sup> In 1988, the NCADV was responsible for maintaining the national hotline for women experiencing relationship violence as well as acquiring federal funds for the creation of additional shelters.<sup>227</sup>

National mainstream organizations were not alone in their work to curb this type of violence; Indigenous communities began to form coalitions between reservations in order to share resources and services. According to an article published in *Hocak Worak* in 1988, the Wisconsin Native American Coalition Against Family Violence comprises representatives from eleven different reservations within the state and seeks to make available services like safe homes, shelters, and counselling on the reservations.<sup>228</sup> “The Coalition came into existence through the identified unmet needs of existing state programs,” working alongside both tribal councils and elected officials to offer advocacy, protection, and support to Native women and children experiencing family violence.<sup>229</sup> An example of state-based Indigenous organizing that turned national is Mending the Sacred Hoop. The organization began in the 1980s in Duluth, Minnesota to advocate for and support domestic violence survivors.<sup>230</sup> Over the years, it has expanded to provide re-education classes for men who batter, host community gatherings, and offer culturally-sensitive training for responding to domestic violence.<sup>231</sup> This has all been done with the “goal of changing the way systems and service people respond to American Indian people.”<sup>232</sup> As organizations and coalitions were forming to address the specific needs of

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<sup>226</sup> “Women and Violence,” 48.

<sup>227</sup> “Women and Violence,” 48.

<sup>228</sup> “Wisconsin Native American Coalition Against Family Violence,” *Hocak Worak*, August 1989, American Indian Newspapers Database, 3.

<sup>229</sup> “Wisconsin Native American Coalition Against Family Violence,” 3.

<sup>230</sup> Mending the Sacred Hoop, “How Mending the Sacred Hoop Started,” Mending the Sacred Hoop. <https://mshoop.org/about-us/history/>

<sup>231</sup> Mending the Sacred Hoop, “How Mending the Sacred Hoop Started.”

<sup>232</sup> Mending the Sacred Hoop, “How Mending the Sacred Hoop Started.”

particular populations experiencing domestic violence in the 1980s, governments and lawmakers began to acknowledge this societal problem as well.

By 1984, Attorney General William French Smith oversaw a task force that was designed to address the harmful societal impacts of domestic violence. The task force recognized that it was imperative for domestic violence to be considered a crime like any other type of violence is considered crime, despite it taking place behind closed doors in the home.<sup>233</sup> There was a belief that because domestic violence occurs in intimate settings away from the public eye, it was “nobody’s business” or simply could be reduced to family matters. An article re-published in *The Navajo Times* contradicted this belief, arguing that “The sooner that abusers and victims alike know that society will fully enforce laws against assault, no matter what the circumstances of the assault, the sooner that violence can be reduced.”<sup>234</sup> The Attorney General’s task force was entrusted with providing a list of recommendations to law enforcement agencies when responding to domestic violence in their communities. Included in these recommendations was the expansion of logging reports to better inform police officers of a potential history of violence within a family or relationship.<sup>235</sup> The task force also encouraged state victim-compensation programs to include survivors of domestic violence and proposed that more shelters should be established.<sup>236</sup> While many of these recommendations were geared to the state and local level, “federal leadership can make all the difference in showing that the law’s protection does not stop at the doorstep.”<sup>237</sup>

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<sup>233</sup> “The Law Should ‘Step Inside’ for Domestic Violence Cases,” *The Navajo Times*, October 9, 1984, American Indian Newspapers Database, 8.

<sup>234</sup> “The Law Should ‘Step Inside’ for Domestic Violence Cases,” 8.

<sup>235</sup> “The Law Should ‘Step Inside’ for Domestic Violence Cases,” 8.

<sup>236</sup> “The Law Should ‘Step Inside’ for Domestic Violence Cases,” 8.

<sup>237</sup> “The Law Should ‘Step Inside’ for Domestic Violence Cases,” 8.

By the mid-1990s, intimate partner violence had secured its place in the consciousness of many Americans, and the federal government took a monumental step in mitigating this social problem with the passage of the Violence Against Women Act (VAWA) in 1994. This piece of legislation categorized violence and crimes against a person's opposite sex as a violation of the victim's civil rights.<sup>238</sup> Federal Judge Janet Bond Arterton upheld the constitutionality of VAWA in 1996, asserting that it was ““narrowly tailored and reasonably adopted to accomplish a constitutionally permitted end.””<sup>239</sup> That constitutionally permitted end, according to Judge Bond Arterton, is the ““civil right to be free from gender-based violence.””<sup>240</sup> VAWA came to be in response to congressional findings that state and federal criminal laws were insufficient in protecting against gender-based violence.<sup>241</sup> Proponents of VAWA profess that the act gives women in particular more legal recourse since they no longer have to solely rely on prosecutors deciding whether or not to file state sexual assault and rape charges in their name.<sup>242</sup> The legal protections afforded to women by VAWA are numerous.

Opposition to VAWA has been widespread; in a 1995 Letter to the Editor of *The New York Times*, the author, Donna E. Shalala, contested the claims of one VAWA opponent who called the act wasteful and inconsequential. The opponent, Anita K. Blair, suggested that most of the law's federal funding was filling the pockets of bureaucrats and consultants.<sup>243</sup> Shalala adamantly refuted this assertion, calling it absurd and describing the act as ““profoundly state and

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<sup>238</sup> James Barron, “Federal Judge Upholds Law on Violence Against Women,” *The New York Times*, June 20, 1996, ProQuest Historical Newspapers: The New York Times with Index, B4.

<sup>239</sup> Barron, “Federal Judge Upholds Law on Violence Against Women,” B4.

<sup>240</sup> Barron, “Federal Judge Upholds Law on Violence Against Women,” B4.

<sup>241</sup> Barron, “Federal Judge Upholds Law on Violence Against Women,” B4.

<sup>242</sup> Barron, “Federal Judge Upholds Law on Violence Against Women,” B4.

<sup>243</sup> Donna E. Shalala, “Violence Act Safeguards Women,” *The New York Times*, August 2, 1995, ProQuest Historical Newspapers: The New York Times with Index, A18.

community-oriented in its focus.”<sup>244</sup> She then cited that the law’s intent is to provide \$500 million in state funding for shelters and rape crisis centers over the course of five years as well as \$800 million to law enforcement agencies and prosecutors responding to gender-based violence.<sup>245</sup> Blair had also contended that federal funding was superfluous considering how seemingly well private charities and organizations address this need, but Shalala rejected this claim, too. Shalala maintained that federal funding helped “90 percent of the 1,200 shelters and safe homes” within the country. Shalala was in ardent support of VAWA’s fundamental premise to work within all levels of government to provide “well-trained professionals and comprehensive services at the local level.”<sup>246</sup> However, she recognized that misconceptions surrounding the legislation, such as those of Anita K. Blair, were a barrier to the successful implementation of its provisions and knew the general public’s sentiment must be in favor of VAWA in order to fulfill its goals in mitigating violence against women.

VAWA impacts Native communities greatly, and these communities have been among the law’s strongest supporters. In 2005 when it was time for VAWA to be reauthorized for the second time, the first lady of the Navajo Nation, Vikki Shirley, was vocal about its benefits. In a *Navajo Times* article published that same year, Shirley was quoted as saying, “I ask everyone to stand and support this life-saving legislation...I ask you to support VAWA 2005 to help continue the fight to save women’s lives.”<sup>247</sup> Shirley cited that domestic violence was the number one crime on the Navajo Nation, elaborating that if the federal law were to expire, it would “send a devastating message to all Native women...”<sup>248</sup> Five years later, another article from *The Navajo*

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<sup>244</sup> Shalala, “Violence Act Safeguards Women,” A18.

<sup>245</sup> Shalala, “Violence Act Safeguards Women,” A18.

<sup>246</sup> Shalala, “Violence Act Safeguards Women,” A18.

<sup>247</sup> “First Lady Hopeful Violence Against Women Act Will Be Renewed,” *The Navajo Times*, September 22, 2005, American Indian Newspapers Database, A-2.

<sup>248</sup> “First Lady Hopeful Violence Against Women Act Will Be Renewed,” A-2.

*Times* wrote of recent measures by the Department of Justice to fight the prevalence of violent crimes against Native women. According to the article, Attorney General Holder directed the “44 U.S. attorneys’ offices with federally recognized tribes in their districts to reinvigorate efforts to combat and prosecute violent crime” against women and children in Indian Country.<sup>249</sup> Lynn Rosenthal, the White House advisor on violence against women, championed these efforts. As reported in the article, Rosenthal stated “Our unique legal relationship with Native American tribes mandates” federal responsibility to minimizing the “endemic pattern” of violence on reservations, “and the Violence Against Women Act...calls for it.”<sup>250</sup> The consistent coverage of VAWA by a notable Indigenous newspaper like *The Navajo Times* across a decade signifies how relevant this legislation was and continues to be for Native communities.

Tribal nations were on the forefront of conducting public demonstrations and calls of action to rid their communities of domestic violence against women. The Navajo Nation was particularly vocal about this problem within their nation. In Window Rock, Arizona in 1995, advocates for domestic violence relief staged a rally and protest to raise awareness about the importance of recognizing early signs of physical abuse. The marchers “were angry with Navajo police and judges for not taking seriously domestic abuse, particularly verbal and emotional abuse.”<sup>251</sup> Those participating in the march criticized local officials for not recognizing emotional and verbal abuse as precursors to physical violence, often diminishing the severity of these types of abuse and brushing them off as something a couple should just sort out themselves.<sup>252</sup> Despite all the grassroots efforts to educate the public about the complexities of

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<sup>249</sup> “A Triumph of Justice for Native American Women,” *The Navajo Times*, January 28, 2010, American Indian Newspapers Database, 2.

<sup>250</sup> “A Triumph of Justice for Native American Women,” 2.

<sup>251</sup> Engler, “March, Rally Shed Light on Domestic Violence,” A-2.

<sup>252</sup> Engler, “March, Rally Shed Light on Domestic Violence,” A-2.

domestic violence, there was still a significant number of people who were ill-informed about who this problem impacted and how devastating it really was.

By the early 2000s, there was some improvement in the public's level of concern over domestic violence. Walking the Healing Path is an organization that was founded by John Tsosie that hosts an annual walk to "spread the message of hope for victims and perpetrators of domestic violence" throughout the Navajo Nation. In 2007 for its fourth annual walk, supporters walked 800 miles within a five-week time span.<sup>253</sup> While that was the longest walk to date, participants and organizers were more focused on the widespread attention Walking the Healing Path was receiving. Amnesty International partnered with Walking the Healing Path to sponsor the five week-long walk.<sup>254</sup> In addition, the Arizona Coalition Against Domestic Violence invited Tsosie to merge the "next year's walk with a statewide event" that the organization helps sponsor.<sup>255</sup> The efforts to raise awareness about and heal from the Navajo Nation's elevated rates of domestic violence were finally being amplified by larger, more visible campaigns and organizations.

In the decades surrounding the turn of the century, Indigenous organizations and individuals called specific attention to the disproportionate violence impacting Native women. The violence activists were concerned about, however, was of the intimate violence between members of Indigenous communities. In general, there was a marked increase in domestic violence awareness nationally throughout this time period. Native peoples followed suit in publicly condemning this pervasive crime and advocating for more legal remedies throughout the 1980s, '90s, and early 2000s. Elevated public concern for this particular societal ill was

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<sup>253</sup> Yurth, "Walk Against Domestic Violence Circles Nation," A-10.

<sup>254</sup> Yurth, "Walk Against Domestic Violence Circles Nation," A-10.

<sup>255</sup> Yurth, "Walk Against Domestic Violence Circles Nation," A-10.



evidenced by the vocality of several Indigenous-run newspapers. Gradually, state governments as well as the federal government began to more seriously consider the extensive effects of domestic violence within more vulnerable populations, culminating in the passage of the Violence Against Women Act in 1994. While this signified an immense societal shift in terms of acknowledging and prioritizing the particular struggles of many American women, including Native women, it did not do nearly enough to eradicate the conditions in which Native women are targeted and gravely harmed at inordinate rates compared to white women.

Nevertheless, the far-reaching work of Indigenous coalitions, organizations, and individuals to mitigate the effects of domestic violence within their communities laid the groundwork for the Missing and Murdered Indigenous Women and Girls movement in the following decade. A striking difference between these movements, however, would be the focus of who is truly perpetrating this abhorrent violence against Native women and girls. While domestic violence continues to be a concern for many Indigenous families and relationships, there is now an understanding that Native women and girls are often targeted by white men, often outsiders to tribal communities. The most illustrative similarity between the anti-domestic violence campaigns of the late twentieth and early twenty-first centuries and the MMIWG movement of the 2010s is their use of public awareness tactics to reduce violence. In the formerly discussed 1995 march and rally that took place in Window Rock, Arizona, many demonstrators wore purple t-shirts with “Violence is Not a Tradition” emblazoned on the front.<sup>256</sup> Purple is the official color for domestic violence awareness. Lately, MMIWG activists have taken to wearing red and painting red handprints over their mouths to symbolize their many lost and forgotten sisters, daughters, family members, and friends. Visibility was a major strategy

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<sup>256</sup> Engler, “March, Rally Shed Light on Domestic Violence,” A-2.

for the anti-violence campaigns of the preceding decades, and it remains critical to curbing the rates of disappearances and murders among Indigenous women and girls. Only then can legislators, tribal officials, and society-at-large coordinate their efforts to eliminate this violence entirely.

### “Walking Around with an Open Wound:” The Contemporary MMIWG Movement

Alaska Native Alyssa McLemore loved ultimate frisbee, canoeing, and, most importantly, her family.<sup>257</sup> Growing up, she had been predominantly raised by her aunt, Tina Russell. She, like any other 20-something year old, enjoyed going out and spending time with friends.<sup>258</sup> On April 9, 2009, the Kent Police Department in Washington received a 911 call from 21-year-old McLemore, asking for help.<sup>259</sup> The line went dead, and Alyssa McLemore has been missing ever since. Each year her family holds a vigil for McLemore, and on the ten year anniversary of her disappearance, a public vigil was held. The purpose of these vigils, according to her aunt, is to show people that Alyssa is human “she has a family that loves her...[that] we’re looking for her.”<sup>260</sup> These vigils are often a very emotionally-draining experience. Tina Russell described these public gatherings as something “that takes a lot from your spirit.”<sup>261</sup> Darius Burgans, McLemore’s father, spoke in front of the crowd, extending his gratitude to those who continue to show their support for her search. Although it is incredibly difficult to go on each year without answers, he holds faith that she is still out there somewhere.<sup>262</sup>

On June 5, 2019, the Washington State Patrol in partnership with Kam-Way Transportation through the Homeward Bound program unveiled a tractor trailer with an image of McLemore emblazoned on its sides.<sup>263</sup> Acting as a sort of mobile billboard, the truck drives around the state to spread the word about her case and encourage anyone with information to contact the Kent Police Department. This kind of visibility for cases of MMIWG is rare, as Tina

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<sup>257</sup> Lauren Frohne and Bettina Hansen, dir., *Not Invisible: Confronting a Crisis of Violence Against Native Women: An Open Wound*, 2019; Seattle: *The Seattle Times*, 1:00.

<sup>258</sup> Frohne and Hansen, *An Open Wound*, 1:45.

<sup>259</sup> Frohne and Hansen, *An Open Wound*, 2:10.

<sup>260</sup> Frohne and Hansen, *An Open Wound*, 3:30.

<sup>261</sup> Frohne and Hansen, *An Open Wound*, 3:25.

<sup>262</sup> Frohne and Hansen, *An Open Wound*, 4:25.

<sup>263</sup> Frohne and Hansen, *An Open Wound*, 6:50.

Russell can attest to. For a long time, McLemore's family felt like local authorities did not pay enough attention to her case, as if it wasn't a concern for them. Russell explained, "I did talk and not trust in the police department. Any of them, none of them. I just felt like they didn't care. They were unresponsive to my needs."<sup>264</sup> McLemore's family's experience with law enforcement is not unlike many other stories of the loved ones of MMIWG. Families and friends face apathy and negligence not only from local authorities, but also from the federal and state agencies tasked with responding to cases of MMIWG. Within the last decade or so, the Missing and Murdered Indigenous Women and Girls Movement has taken hold in the legislative halls of America's state and national governments. This movement's shift in approach is in the belief that anti-violence work must be legislated before communities can see an amelioration of conditions for American Indian and Alaska Native women in real-time. The need is urgent, for the pain of not knowing continues to burden so many communities. It is like "walking around with an open wound that'll never heal," says Tina Russell; and "If today isn't the day we find her, God, can we be one more day closer to finding her?"<sup>265</sup>

Since its initial passage in 1994, the Violence Against Women Act has remained a pivotal piece of federal legislation that seeks to minimize the extent of gender-based violence, and with each reauthorization, there have been more protections incorporated for Native women. In the ten years after its enactment, states had collectively passed more than 660 laws to counter domestic violence, stalking, and dating violence.<sup>266</sup> Between 1993 and 1998, the rate of reporting

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<sup>264</sup> Frohne and Hansen, *An Open Wound*, 7:30.

<sup>265</sup> Frohne and Hansen, *An Open Wound*, 0:33, 8:30.

<sup>266</sup> The National Task Force to End Sexual and Domestic Violence Against Women, *The Violence Against Women Act: 10 Years of Progress and Moving Forward* (Washington, DC, 2005), 2. <http://209.198.129.131/images/VAWA10YearsProgress.pdf>

by women experiencing intimate partner violence increased by 11 percent.<sup>267</sup> When it came time to reauthorize VAWA for a second time in 2005, the federal government aimed to expand the legislation's impact by taking a "more holistic approach" so as to ensure all victims of gender-based violence, not just domestic violence survivors, were being served.<sup>268</sup> According to a brief report by the National Task Force to End Sexual and Domestic Violence Against Women, the 2005 reauthorization of VAWA will recognize the "specialized needs of women of color, Native women and women with disabilities..." by developing leadership roles within their communities to implement specialized services.<sup>269</sup> What these specialized services were was unclear. The task force also advocated for the 2005 Reauthorization because it would emphasize the need for more community-based prevention programs and response services to ensure self-sufficiency for survivors and rehabilitation for offenders.

While the 2005 Reauthorization passed without too much controversy, the 2013 Reauthorization was much more contentious because of its stipulations to return some criminal jurisdiction to tribal governments that are able to meet federal due process requirements. For more than a year, House Republicans had stalled a reauthorization of VAWA, insisting on a "much weaker, deficient version" of a bill passed by the Senate that included necessary new protections for queer, immigrant, and American Indian victims of sexual assault and domestic violence.<sup>270</sup> Among the opposition to increases in tribal sovereignty for certain crimes committed on tribal land was the misconception that tribal courts would be incapable of holding a fair trial

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<sup>267</sup> The National Task Force to End Sexual and Domestic Violence Against Women, *The Violence Against Women Act*, 2.

<sup>268</sup> The National Task Force to End Sexual and Domestic Violence Against Women, *The Violence Against Women Act*, 2-3.

<sup>269</sup> The National Task Force to End Sexual and Domestic Violence Against Women, *The Violence Against Women Act*, 3.

<sup>270</sup> "A Shift on Violence Against Women," *The New York Times*, February 28, 2013, ProQuest Historical Newspapers: The New York Times with Index, A28.

against a non-Native. Republican Senator Charles E. Grassley had objected to these provisions, saying that ““You’ve got to have a jury that is a reflection of society as a whole, and on an Indian reservation, it’s going to be made up of Indians...So the non-Indian doesn’t get a fair trial.””<sup>271</sup>

Renowned American Indian author Louise Erdrich rejected these baseless claims in an article published in *The New York Times* in 2013, bringing up the double standard in which most Native individuals charged with a crime face trials with zero American Indian jurors.<sup>272</sup> Erdrich also contextualized the makeup of many Native reservations, in which they have significant non-Native populations.<sup>273</sup> Erdrich pressured House Republicans to pass the Senate bill, explaining that insufficient protections can “leave Native women at the mercy of their predators or provide a slim margin of hope for justice.”<sup>274</sup> Finally in February of 2013, the House of Representatives passed the Senate’s bipartisan bill to reauthorize VAWA, yet each of the 138 votes in opposition were by republicans.<sup>275</sup>

When the 2013 Reauthorization did eventually pass, it was championed by many as a “partial *Oliphant* fix,” but its positive effects on tribal jurisdiction were not universally felt among tribal nations.<sup>276</sup> Title XI of the 2013 Reauthorization, called the “Tribe Title,” provided tribes a sort of “special domestic violence jurisdiction” to prosecute non-Native offenders with “sufficient ties to the community who commit domestic violence, dating violence, or violate a

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<sup>271</sup> Louise Erdrich, “Rape on the Reservation,” *The New York Times*, Feb. 27, 2013, ProQuest Historical Newspapers: The New York Times with Index, A25.

<sup>272</sup> Erdrich, “Rape on the Reservation,” A25.

<sup>273</sup> Erdrich, “Rape on the Reservation,” A25.

<sup>274</sup> Erdrich, “Rape on the Reservation,” A25.

<sup>275</sup> Annie Rose Strasser, Josh Israel, and Adam Peck, “BREAKING: Congress Finally Reauthorizes Violence Against Women Act,” *ThinkProgress.org*, February 28, 2013.

<https://archive.thinkprogress.org/breaking-congress-finally-reauthorizes-violence-against-women-act-341a99d9512a/>

<sup>276</sup> Lily Grisafi, “Living in the Blast Zone: Sexual Violence Piped onto Native Land by Extractive Industries,” *Columbia Journal of Law and Social Problems* 53, no.4 (2020), EBSCO Discovery Service: 520.

protective order on tribal land.”<sup>277</sup> A massive caveat to this increased jurisdiction is the fact that tribal nations can only prosecute non-Natives for certain interpersonal crimes, “all of which require prior relationship between the victim and the defendant.”<sup>278</sup> How these “sufficient ties” are defined is through “the defendant’s residence on the reservation, employment on the reservation, or relationship with a tribal member or Indian resident.”<sup>279</sup> This means that stranger rape, assault during a casual sexual encounter, sex trafficking, and more do not fall under this expanded jurisdiction.<sup>280</sup> An additional obstacle for tribal governments to successfully implement this heightened jurisdictional agency is that the legislated due process requirements are an expensive undertaking to satisfy. Tribal nations must have the economic means and judicial infrastructure to offer “effective assistance of counsel ‘to at least that guaranteed in the U.S Constitution,’” provide defense attorneys to indigent defendants, conduct jury trials, and maintain the records of criminal proceedings.<sup>281</sup> Unfortunately, many tribal governments “simply cannot afford the costs of running a comprehensive criminal justice system that complies with federal law.”<sup>282</sup> The Violence Against Women Act and its subsequent reauthorizations have paid more attention to the needs of American Indian women and the flaws within the United States’ justice system. This legislation alone, however, cannot account for and curtail the disproportionate rates of violence facing Native women and girls.

In 2010, Congress passed the Tribal Law and Order Act, one of the first pieces of federal legislation specifically-tailored to minimize violent crime in Native communities. The law’s

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<sup>277</sup> Grisafi, “Living in the Blast Zone,” 520.

<sup>278</sup> Grisafi, “Living in the Blast Zone,” 527.

<sup>279</sup> Grisafi, “Living in the Blast Zone,” 528.

<sup>280</sup> Grisafi, “Living in the Blast Zone,” 527.

<sup>281</sup> Sarah Deer, “Native People and Violent Crime: Gendered Violence and Tribal Jurisdiction,” *Du Bois Review* 15, no. 1 (2018), ProQuest: 101.

<sup>282</sup> Deer, “Native People and Violent Crime,” 101.

intent is to mitigate some of the obstacles tribal governments face when trying to investigate and charge individuals for violent crimes on their land. Among its provisions includes minimum training requirements for tribal agencies, granting “trained individuals the status and authority of ‘Federal law enforcement officer[s].’”<sup>283</sup> The law establishes “a new position, the Native American Issues Coordinator, in the DOJ Executive Office for United States Attorneys to coordinate prosecutions in Indian Country.”<sup>284</sup> The law also implements “major procedural changes” to clarify the varying responsibilities of federal, state, and tribal law enforcement in response to certain crimes.<sup>285</sup> In addition to its funding of community programs for substance use, mental health, and education, the law allocates federal funds for legal representation in courts, the construction and improvement of tribal jails, and the use of probation officers.<sup>286</sup> A major benefit of the TLOA was the national notoriety that came with the federal government responding to concerns of violence committed against American Indians, women in particular. Jasmine Owens, the author of an article analyzing the advantages and failings of the TLOA, contends that “increased public awareness and public disdain for the behavior of raping American Indian and Alaska Native women may have some effect and aid in preventing the cycle of non-Native men raping Native women.”<sup>287</sup> Native women survivors of sexual violence when seeking justice can, as a result of the TLOA, expect more thorough investigations and medical care, yet only limited improvements in prosecution rates.<sup>288</sup> Though championed as a

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<sup>283</sup> Jasmine Owens, “‘Historic’ in a Bad Way: How the Tribal Law and Order Act Continues the American Tradition of Providing Inadequate Protection to American Indian and Alaska Native Rape Victims,” *The Journal of Criminal Law and Criminology* 102, no. 2 (2012), Gale Academic OneFile: 516.

<sup>284</sup> Owens, “‘Historic’ in a Bad Way,” 515.

<sup>285</sup> Owens, “‘Historic’ in a Bad Way,” 515.

<sup>286</sup> Owens, “‘Historic’ in a Bad Way,” 515.

<sup>287</sup> Owens, “‘Historic’ in a Bad Way,” 518.

<sup>288</sup> Owens, “‘Historic’ in a Bad Way,” 518.



landmark step towards eliminating violent crime within Native communities, the TLOA is not without its flaws.

Instead of simplifying the roles of the federal and state government when responding to crimes on Indian land, the Tribal Law and Order Act adds more bureaucratic steps and individuals to the jurisdictional fray. Journalist Michael Riley encapsulates this complication when stating, “a system with overlapping opportunities for intervention can also fail multiple times.”<sup>289</sup> And as Jasmine Owens appreciates the increased attention and additional regulation for investigations of violent crime committed against Native women, she knows that “A piece of legislation cannot ensure vigor of prosecution...”<sup>290</sup> The law cannot compel a U.S. attorney to pursue a prosecution of a low-profile case, which means many cases involving Native women might still go unaddressed due to their marginalization within the public consciousness. Much like the conditions put forth under VAWA in 2013, wealthy tribal governments will be the almost exclusive benefactors of this newfound jurisdictional liberty because of the law’s many due process prerequisites. What might be the most glaring fault of the act is that it further imbeds the notion that solutions to violent crime in Indian Country require increased federal and state governmental oversight, rather than through the empowerment of tribal governments. Furthermore, both the TLOA and VAWA Reauthorization of 2013 “require tribal governments to abide by Anglo-American legal norms in order to take advantage of restored jurisdiction.”<sup>291</sup> This certainly raises concerns about the validity of these laws when they impose such uncompromising Anglo-American ideologies onto tribal judicial systems. Nevertheless, the Tribal Law and Order Act and the Violence Against Women Act extend much-needed federal

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<sup>289</sup> Owens, “‘Historic’ in a Bad Way,” 519.

<sup>290</sup> Owens, “‘Historic’ in a Bad Way,” 520.

<sup>291</sup> Deer, “Native People and Violent Crime,” 101.

funding and attention towards ameliorating some of the very-real roadblocks that Native women face when seeking justice.

Recent legislation on the federal level has been specifically geared towards the MMIWG crisis, attempting to remedy the tragedy that no one knows just how many Indigenous women and girls are missing and murdered. The legislation seeks to centralize data for cases of Missing and Murdered Indigenous women and coordinate responses to such cases between federal departments and across all levels of government. On October 10, 2020, Savanna's Act and the Not Invisible Act were signed into law. The former was named after Savanna LaFontaine Greywind, a member of the Spirit Lake Nation who went missing while 8-months pregnant on August 19, 2017, only for her body to be discovered eight days later.<sup>292</sup> Savanna's Act was originally introduced in 2018 by then-Senator Heidi Heitkamp, but was blocked by a republican member of the House.<sup>293</sup> Senator Lisa Murkowski of Alaska re-introduced the legislation in the most recent session of Congress and, alongside the Not Invisible Act, it was passed unanimously by both the Senate and the House of Representatives. Savanna's Act calls on the Department of Justice to revise and develop specifically-tailored law enforcement and justice protocols to address MMIWG.<sup>294</sup> Among its stipulations, the FBI must include gender in its statistics for missing and unidentified persons.<sup>295</sup> The public, in particular tribal law enforcement agencies, should be trained on how to utilize the National Missing and Unidentified Persons System.<sup>296</sup> In

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<sup>292</sup> Vincent Schilling, "Savanna's Act and Not Invisible Act Pass Senate," *Indian Country Today*, March 12, 2020. <https://indiancountrytoday.com/news/savannas-act-and-not-invisible-act-pass-senate>

<sup>293</sup> Schilling, "Savanna's Act and Not Invisible Act Pass Senate."

<sup>294</sup> U.S. Congress, Senate, *To Direct the Attorney General to Review, Revise, and Develop Law Enforcement and Justice Protocols Appropriate to Address Missing and Murdered Indians, and for Other Purposes (Savanna's Act)*, S.227, 116th Cong., 2nd Sess., introduced in Senate January 3, 2020.

<sup>295</sup> U.S. Congress, Senate, *Savanna's Act*.

<sup>296</sup> U.S. Congress, Senate, *Savanna's Act*.

correspondence with tribal nations, the DOJ is also obliged to develop guidelines and offer training on how to best respond to and report cases of MMIWG.

In a similar vein, the Not Invisible Act aims to reduce the prevalence of violent crime within Indian Country and against American Indians. To accomplish this, the act instructs the Department of the Interior to designate an official within the BIA to coordinate prevention efforts, grants, as well as programs to address the abduction, trafficking, and murder of American Indians.<sup>297</sup> The official must work across several federal agencies, including the FBI, the Office of Tribal Justice, and the Office on Violence Against Women among others.<sup>298</sup> In addition, the designated official is tasked with working alongside tribal nations and organizations to provide “victim centered and culturally relevant training to law enforcement,” IHS providers, and urban Indian groups in responding to cases of MMIWG.<sup>299</sup> The Not Invisible Act also calls on the DOI and the DOJ to establish a joint commission on violent crime within Indian Country that includes the voices of a diverse array of tribal nations. The joint commission must then produce a list of recommendations to the Secretary of the Interior and the Attorney General to facilitate data collection, inform actions the federal government can take to sufficiently utilize resources in addressing this epidemic, and coordinate efforts to augment prosecutions for cases of MMIWG.<sup>300</sup> Savanna’s Act and the Not Invisible Act are two major pieces of legislation that demonstrate the growing momentum for the Missing and Murdered Indigenous Women and Girls movement on the national stage. Their recency, however, makes it difficult to know whether these goals will be fulfilled.

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<sup>297</sup> U.S. Congress, Senate, *To Increase Intergovernmental Coordination to Identify and Combat Violent Crime within Indian Lands and of Indians (Not Invisible Act of 2019)*, S.982, 116th Cong., 2nd Sess., introduced in Senate January 3, 2020.

<sup>298</sup> U.S. Congress, Senate, *Not Invisible Act of 2019*.

<sup>299</sup> U.S. Congress, Senate, *Not Invisible Act of 2019*.

<sup>300</sup> U.S. Congress, Senate, *Not Invisible Act of 2019*.

Federal action to address MMIWG hasn't just been taken by the legislative branch, for the Operation Lady Justice Task Force has opened numerous cold case offices throughout the country within the last year. Under Executive Order 13898, the task force was created to preside over the establishment of seven cold case offices on and near tribal lands in order to solve cases of MMIWG.<sup>301</sup> The first office opened on July 27, 2020 in Bloomington, Minnesota and offices then opened in Rapid City, South Dakota; Billings, Montana; Anchorage, Alaska; and Albuquerque, New Mexico within the following month. The last of the seven offices, located in Nashville, Tennessee, opened January of this year.<sup>302</sup> These new offices will be staffed with special agents from the BIA's Office of Justice Services alongside law enforcement personnel, in conjunction with tribal police, the FBI, and Offices of the U.S. Attorneys.<sup>303</sup> With these cold case offices, the Operation Lady Justice Task Force "is working to collect and manage data across jurisdictions; establish protocols for new and unsolved cases; establish multi-jurisdictional cold case teams; [and] improve the response to investigative challenges..."<sup>304</sup> Considering the recency of work of the task force and its various cold case offices, there is little concrete detail on how the overwhelming number of unsolved cases of MMIWG will be alleviated. There are also some doubts over the efficacy of the task force, since it was established under an administration that was particularly hostile towards Native concerns. In an article celebrating the opening of the Bloomington office published by the BIA, a 200 percent increase in drug cases across Indian

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<sup>301</sup> U.S. Department of the Interior; Indian Affairs, "Trump Administration Establishes the First Cold Case Task Force Office for Missing and Murdered American Indians and Alaska Natives," July 27, 2020. <https://www.bia.gov/as-ia/opa/online-press-release/trump-administration-establishes-first-cold-case-task-force-office>

<sup>302</sup> U.S. Department of the Interior; Indian Affairs, "Operation Lady Justice Task Force Opens Cold Case Office in Nashville, Tennessee," January 13, 2021. <https://www.bia.gov/news/operation-lady-justice-task-force-opens-cold-case-office-nashville-tennessee>

<sup>303</sup> Indian Affairs, "Trump Administration Establishes the First Cold Case Task Force Office for Missing and Murdered American Indians and Alaska Natives."

<sup>304</sup> Indian Affairs, "Trump Administration Establishes the First Cold Case Task Force Office for Missing and Murdered American Indians and Alaska Natives."

Country was framed as evidence of the success of the 45th President's Administration in minimizing this type of violence.<sup>305</sup> The preoccupation with further policing Native communities as a way to reduce the occurrence of MMIWG is not only problematic, but dangerous. While the launch of these cold case offices is promising in the increased attention it allots to many forgotten cases of MMIWG, it is unclear what the impact of these offices will be in achieving justice for the victims and their families.

State governments and individual policy-makers have continued this trend towards finding legislative solutions for the lack of conclusive information about the MMIWG crisis as well as spreading vital awareness among the public. One such legislator that has worked to address MMIWG in her state is democratic Alaska State Representative Tiffany Zulkosky. As a member of the Yupik people, Zulkosky primarily works in tribal healthcare and, having been elected for the first time in 2018, now chairs the Health and Social Services Committee.<sup>306</sup> In a conversation I had with her in December, she told me that one of her first introductions to the issue of MMIWG was actually through the feature film *Wind River*. From there, she has integrated some of the concerns the movie touched upon into her work in the Alaska State legislature. Representative Zulkosky is reluctant to advocate for the creation of a state-wide task force, for they often do not immediately address the issue at hand. In her experience, their purpose is to provide “funding and structure for a process to figure out how pervasive is the problem,” but her goal as a freshman legislator was “not to create a cycle of studying, spending money to study the issue further, [of] which we already know is pronounced...”<sup>307</sup> Therefore, she

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<sup>305</sup> Indian Affairs, “Trump Administration Establishes the First Cold Case Task Force Office for Missing and Murdered American Indians and Alaska Natives.”

<sup>306</sup> Representative Tiffany Zulkosky in discussion with the author, December 2020, 23:40.

<sup>307</sup> Representative Tiffany Zulkosky, 48:30.

has worked to create several pieces of legislation to address the MMIWG crisis both nationally and at home.

A major theme of our conversation revolved around the unique position of Alaska Native women in the discourse surrounding MMIWG. As Representative Zulkosky articulated, “the challenge around Missing and Murdered Indigenous Women and its role as a crisis within our communities, I think, feels particularly pronounced in Alaska” because as a state it falls under Public Law 280.<sup>308</sup> This only adds to the jurisdictional fray as tribal governments must juggle between both state and federal interference just to respond to a single case. Another challenge that is particular to Alaska Native women who face violence is their geographical isolation. Most Native communities in the state lie in extremely rural areas that are often unconnected to major road systems.<sup>309</sup> To make matters worse, “inherent systemic inequity” contributes to an environment in which Alaska Native women “don’t have resources to even a 911 number to call” or the ability to “lean into” their community for help.<sup>310</sup> This shortage of resources is visible in the gross under-representation of cold case investigators in the state. According to Representative Zulkosky, there should typically be one investigator for every ten cold cases in the state, yet there is only one employed for the entire state.<sup>311</sup> With all these obstacles to justice, intentional legislating to rectify these challenges is imperative.

In last year’s legislative session, Representative Zulkosky’s main intention was to “elevate the issue overall, to bring the issue of Missing and Murdered Indigenous Women into a policy space in Alaska.”<sup>312</sup> To do this, Representative Zulkosky invited a local artist named

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<sup>308</sup> Representative Tiffany Zulkosky, 1:00:12.

<sup>309</sup> Representative Tiffany Zulkosky, 30:15.

<sup>310</sup> Representative Tiffany Zulkosky, 32:40.

<sup>311</sup> Representative Tiffany Zulkosky, 51:00.

<sup>312</sup> Representative Tiffany Zulkosky, 38:30.

Amber Webb to install a recent project of hers as the backdrop to the Indian Affairs Committee’s hearings about MMIWG in 2019. Webb had sewn images of various missing and murdered Alaska Native women’s faces onto a white qaspeq, which is a traditional overshirt worn by Alaska Native women.<sup>313</sup> With this powerful artwork on display, Representative Zulkosky was able to push through several pieces of legislation, including House Bill 277 and House Resolution 10. HB 277, titled “Missing/Murdered Indigenous Women; Report,” requires the employment of two individuals within the Department of Public Safety “to act as liaisons between law enforcement agencies and federally recognized tribes” and to investigate cases of MMIWG in Alaska.<sup>314</sup> In addition, the bill requires “state and local law enforcement agencies to use standardized methods for investigating” missing persons cases involving Indigenous women.<sup>315</sup> HR 10’s focus is a bit more large-scale, for it urges the national government to reauthorize the Violence Against Women Act without exemption for Alaska tribal governments to exercise jurisdiction in cases involving violence against Alaska Native women.<sup>316</sup> HR 10 also encourages the federal government to pass Savanna’s Act, which had yet to happen at the time the resolution was approved. Statistics illustrating the degree of this epidemic of violence against Alaska Native women appeared in the resolution, including the fact that Alaska has the fourth highest number of MMIWG in the nation, despite being one of the least populous states.<sup>317</sup>

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<sup>313</sup> Alex DeMarban, “Giant Qaspeq Shines Light On Missing and Murdered Indigenous Women,” *The Anchorage Daily News*, October 17, 2019. <https://www.adn.com/alaska-news/rural-alaska/2019/10/18/powerful-qaspeq-shines-light-on-missing-and-murdered-indigenous-women/>

<sup>314</sup> AK House of Representatives, *An Act Relating to the Alaska Police Standards Council; Relating to the Department of 2 Public Safety; and Providing for an Effective Date*, HB 277, 31st Leg., 2nd Sess., introduced in House February 24, 2020. <http://www.akleg.gov/PDF/31/Bills/HB0277A.PDF>

<sup>315</sup> AK House of Representatives, *An Act Relating to the Alaska Police Standards Council*.

<sup>316</sup> AK House of Representatives, *Urging the United States Congress to Reauthorize the Violence Against Women Act of 1994 Without an Exemption for Tribal Governments in the State and to Support Savanna's Act and Highlight the Crisis of Missing and Murdered Indigenous Women*, HR 10, 31st Leg., 2nd Sess., introduced in House 2019. <http://www.akleg.gov/PDF/31/Bills/HR0010Z.PDF>

<sup>317</sup> AK House of Representatives, *Urging the United States Congress to Reauthorize*.

Representative Zulkosky's legislative record has worked to inform her colleagues of the disproportionate impact of violence against Alaska Native women compared to the general population of women in Alaska, instill bureaucratic change in how agencies approach cases of MMIWG, and compel the federal government to respond to the concerns of Alaska Native women.

While Alaska passed MMIWG legislation in 2019, the state of Minnesota launched a Missing and Murdered Indigenous Women Task Force in September of 2019. It is composed of state legislators, law enforcement officials, attorneys, representatives from various Indigenous organizations, as well as at least one representative from each of the eleven federally recognized tribal nations within the state.<sup>318</sup> The task force recently published a report to the MN state legislature as of December 2020. The 163-page report offers some basic statistics, illustrating the severity of this epidemic, alongside a comprehensive analysis of the root causes of this violence, most notably America's history of colonization and the sexualization of Native women and the jurisdictional maze that allows many perpetrators to circumvent accountability. Despite making up just two percent of Minnesota's female population, American Indian women and girls account for roughly fifteen percent of the state's female missing persons cases in any given month.<sup>319</sup> In addition, "9% of the women and girls murdered in Minnesota from 2010-2019 were American Indian."<sup>320</sup> A key objective of the task force's report is to provide the state legislature a list of actionable policy changes to reconcile the disproportionate impact of violence on American Indian women and girls.

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<sup>318</sup> Nicole MartinRogers and Virginia Pendleton, *Missing and Murdered Indigenous Women Task Force: A Report to the Minnesota Legislature*, Saint Paul: Wilder Research, December 2020.

<https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>

<sup>319</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 16-17.

<sup>320</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 17.



Among those recommendations, of which there are twenty, there is a notable emphasis on increasing coordination between agencies and organizations within the state as well as clarifying what data currently exists and what pathways communities can take to respond to cases of MMIWG. In a conversation with democratic Minnesota State Senator Mary Kunesch-Podein, who presides over the task force, she spoke to the importance of these initiatives. In order for the report to instigate “a broad breadth of systematic change,” Kunesch-Podein said that there needs to be a “willingness and ability to collect data and share data through all the different agencies and the commissions across the state, so that we’re able to recognize a trend...see that there is something happening in certain areas, and we’re able to put the resources needed there.”<sup>321</sup> To achieve this, the task force encourages the creation of a MMIW Office in which an annual report and dashboard relating to cases of MMIWG should inform both the public and policy-makers on how the issue changes over time in response to various programs.<sup>322</sup> In addition, technical assistance should be provided to tribal communities on how to contribute to relevant data systems.<sup>323</sup> The task force also advocates for the implementation of “trauma-informed and victim-centered” responses by law enforcement and the healthcare system for cases of violence against Native women and girls.<sup>324</sup> Lastly, it calls on the legislature to “Promote [the] healing of perpetrators, survivors, relatives, and communities by supporting culturally responsive, community-led efforts.”<sup>325</sup> The report, while seemingly exhaustive, is only the first step in instituting real change to improve the lives of Native women and girls in the state through advocacy, prevention, and justice.

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<sup>321</sup> Senator Mary Kunesch-Podein in discussion with the author, December 2020, 7:23.

<sup>322</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 12.

<sup>323</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 12.

<sup>324</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 13.

<sup>325</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 14.

Senator Mary Kunes-Podein celebrated recent developments on the federal level to more specifically address this issue and acknowledged just how fundamental visibility is to propelling change. Kunes-Podein explained that there is a need for a sort partnership between the state and federal government, stressing that the federal government is better suited to set precedent for state governments to follow suit.<sup>326</sup> In response to Savanna’s Act and the Not Invisible Act being signed into law, she stated “it just sort of bolsters what we’re doing here at the state” level.<sup>327</sup> Senator Kunes-Podein revealed that much of the preliminary, yet necessary, work of the task force was to introduce these issues facing Indigenous communities onto the radar of her fellow legislators. According to Kunes-Podein, “When I first broached the subject within the legislature, people [were] just dumbfounded and heartbroken that this was even a thing. And they had no idea...Why didn’t anybody tell us about this earlier? How does it keep happening?”<sup>328</sup> The lack of awareness about the MMIWG crisis is debilitating for the movement. If no one is there to raise these concerns among the general public, among elected officials, then “you don’t know what you don’t know. But once you know, you are obliged to make that difference.”<sup>329</sup> Awareness, though urgently needed, can only serve as the impetus for change, but it takes tangible work on the grassroots level through the national level to make the lives of Indigenous women and girls more secure.

Montana is another state that has chosen to establish a task force in the hopes of curbing the rates of violence within its Native communities. A report by the Montana Missing Indigenous Persons Task Force that was published in September of 2020 outlines the dire situation for the state’s American Indian residents. Montana is one of the five top states in the nation for its

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<sup>326</sup> Senator Mary Kunes-Podein, 14:47.

<sup>327</sup> Senator Mary Kunes-Podein, 15:23.

<sup>328</sup> Senator Mary Kunes-Podein, 9:45.

<sup>329</sup> Senator Mary Kunes-Podein, 10:00.

number of MMIW.<sup>330</sup> American Indians account for 26 percent of all missing persons cases from the state despite only making up 6.5 percent of the total population.<sup>331</sup> While men and women generally go missing at similar rates, when one looks specifically at statistics for American Indians who have gone missing, Native women represent 60 percent of these cases.<sup>332</sup>

But disappearances are not the only concern for Indigenous communities in the state of Montana, for homicide rates are alarmingly high in certain areas. American Indians in Montana are nearly four times more likely to be victims of homicide compared to the state's general population.<sup>333</sup> The Northern Cheyenne community has had several murders in the last year, and its government has grown frustrated with the lack of communication coming from both the FBI and the BIA.<sup>334</sup> This has caught the attention of Montana's two US Senators. In an August 2020 letter written by Senator Jon Tester, he called on the heads of both these federal agencies to commit their personal attention to this emergency. "The loss of these individuals has rippled through the community as has alarm at the growing number of cases...I urge you to work with the Northern Cheyenne Tribe to ensure family and community members continue to receive regular updates on these investigations."<sup>335</sup> In a similar effort to call the federal government's attention to these unsolved cases, Senator Steve Daines wrote to the Attorney General and the Secretary of the Interior. Senator Daines highlighted one particular case, writing that one Cory

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<sup>330</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities: Report to State-Tribal Relations Interim Committee*, Helena: Montana Department of Justice, 2020, 7.

[https://media.dojmt.gov/wp-content/uploads/LINC\\_Report\\_STRIC\\_FINAL\\_Aug.pdf](https://media.dojmt.gov/wp-content/uploads/LINC_Report_STRIC_FINAL_Aug.pdf)

<sup>331</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 7.

<sup>332</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 27.

<sup>333</sup> Juliana Sukut, "In Protest and Grief: 1 Year After Hardin Teen's Death, Family Still Searches for Closure," *The Billings Gazette*, September 1, 2020. [https://billingsgazette.com/news/state-and-regional/mmiw/in-protest-and-grief-1-year-after-hardin-teens-death-family-still-searches-for-closure/article\\_73a1a473-cb77-582d-8721-91e129c5afaf.html](https://billingsgazette.com/news/state-and-regional/mmiw/in-protest-and-grief-1-year-after-hardin-teens-death-family-still-searches-for-closure/article_73a1a473-cb77-582d-8721-91e129c5afaf.html)

<sup>334</sup> Tom Lutey, "Tester, Daines: FBI Must Do More About Northern Cheyenne Deaths," *The Billings Gazette*, August 13, 2020. [https://billingsgazette.com/news/state-and-regional/mmiw/tester-daines-fbi-must-do-more-about-northern-cheyenne-deaths/article\\_8ed1d521-6e62-5004-a4b3-bdf8ddfd574e.html](https://billingsgazette.com/news/state-and-regional/mmiw/tester-daines-fbi-must-do-more-about-northern-cheyenne-deaths/article_8ed1d521-6e62-5004-a4b3-bdf8ddfd574e.html)

<sup>335</sup> Lutey, "Tester, Daines."

Blackwolf of the Northern Cheyenne had been murdered in broad daylight the day prior.<sup>336</sup> He demanded a specialized response to Blackwolf’s case, among others, stressing that, “it is imperative that additional resources are promptly made available and you actively coordinate with the Tribe to address this crisis.”<sup>337</sup> He insisted that the DOI and DOJ must work in tandem with local law enforcement to find a “reasonable solution” to this marked increase in violence on the Northern Cheyenne Reservation, especially considering Operation Lady Justice’s recent investigation into a case in the nearby Crow Reservation.<sup>338</sup> Individual congressmen had now exposed the violence present in Montana’s Indian Country as a way to appeal to the federal government for assistance.

In its report, the Montana Missing Indigenous Persons Task Force reviewed several relevant pieces of legislation that were passed at the end of the 2019 session. House Bill 54, for example, calls for immediacy by law enforcement agencies when responding to reports of missing persons; within two hours of receiving reports of individuals younger than age 21, they must be filed into the national database.<sup>339</sup> For individuals older than age 21, the expectation is that it should take no more than eight hours to add their cases to the nationwide database.<sup>340</sup> This bill hopes to compel law enforcement agencies to have more transparency in their reporting and to ensure their numbers are accurate and up-to-date. House Bill 21, Hanna’s Act, permits the DOJ to assist in missing persons cases and encourages the installation of a Missing Persons Specialist within the Montana DOJ “to work with tribal, local, state, and federal officials” and manage the state’s missing persons database.<sup>341</sup> As a companion bill to Hanna’s Act, Senate Bill

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<sup>336</sup> Lutey, “Tester, Daines.”

<sup>337</sup> Lutey, “Tester, Daines.”

<sup>338</sup> Lutey, “Tester, Daines.”

<sup>339</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 11.

<sup>340</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 11.

<sup>341</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 11.

312 creates a competitive grant program in order for a tribal college to centralize and maintain all the state's data on missing Indigenous persons and to ensure tribal agencies have access to this network.<sup>342</sup> The passage of these recent pieces of legislation is promising as it indicates a greater societal movement towards addressing the MMIWG crisis as it exists in Montana. Nevertheless, when there is so much of a focus on perfecting data collection and offering services to police agencies, the human impact of this crisis can become sidelined. Cases like those of Ashley Loring Heavyrunner, Kaysera Stops Pretty Places, and Selena Not Afraid are yet to be solved in the state, and these are young women in real-time who have fallen victim to the systems that chronically overlook and devalue their needs. LeEllen Bundy McLeod, a member of the task force, reminds us beautifully that “These are not just numbers...they are our daughters, our sisters, our aunties, our mothers, our friends...and they need you.”<sup>343</sup>

In an effort to recenter this conversation around the human lives that are impacted by the Missing and Murdered Indigenous Women and Girls epidemic, the stories of a few women whose cases have entered the mainstream and been covered by notable news outlets are highlighted. In 2019, ABC's *Nightline* featured a segment on Ashley Loring Heavyrunner of Montana's Blackfeet Nation. Ashley Loring Heavyrunner was known to be a warm, welcoming force within her community whose smile could light up a room.<sup>344</sup> Despite her notoriety within the community, her family struggled to get the attention of authorities when Heavyrunner went missing on June 5, 2017 at 20 years old.<sup>345</sup> It took two months before the BIA seriously pursued

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<sup>342</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 12.

<sup>343</sup> Montana Missing Indigenous Persons Task Force, *Looping in Native Communities*, 23.

<sup>344</sup> ABC News, “Indigenous Student's Disappearance Part of Epidemic of Missing Native Women [FULL REPORT] Nightline,” YouTube Video, October 16, 2019, 00:45.  
<https://www.youtube.com/watch?v=FDdBk4RGv5g>

<sup>345</sup> ABC News, “Indigenous Student's Disappearance Part of Epidemic of Missing Native Women,” 4:50.

Heavyrunner's case.<sup>346</sup> This segment of *Nightline* discussed many of the same issues already touched upon in this project, most notably that jurisdictional complications and an acute inequality of local resources create the conditions in which cases like Heavyrunner's are not sufficiently investigated. As the reporter revealed, "Facing a justice system seemingly designed to fail, Ashley's family, led by her older sister Kimberly, scoured the immense reservation on their own..."<sup>347</sup> Kimberly and a family friend discovered crucial evidence, a tattered sweatshirt and stained boots, the last things Heavyrunner was wearing, without the help of any authority.<sup>348</sup> Even with this newfound information, authorities have yet to conclusively identify a suspect. In February of 2018, the FBI took over Ashley Loring Heavyrunner's case. Her name only appeared on the national missing persons database for the first time 18 months after her initial disappearance.<sup>349</sup> There are still no answers to Ashley Loring Heavyrunner's case. The ambiguity can hurt almost as much as the loss, as her aunt described it as "literally a nightmare."<sup>350</sup>

Kaysara Stops Pretty Places, a strong-minded, courageous, and independent young Crow woman, went missing on August 24, 2019.<sup>351</sup> Five days later, her body was found in the backyard of a home in Hardin, Montana: she was just 18 years old. Though her body was found August 29, her family was only notified of her death on September 11.<sup>352</sup> A year after her death, her family has few answers. According to an article by *The Billings Gazette*, investigators still haven't provided any details about neither a cause nor manner of death, and it was recently

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<sup>346</sup> ABC News, "Indigenous Student's Disappearance Part of Epidemic of Missing Native Women," 5:15.

<sup>347</sup> ABC News, "Indigenous Student's Disappearance Part of Epidemic of Missing Native Women," 6:58.

<sup>348</sup> ABC News, "Indigenous Student's Disappearance Part of Epidemic of Missing Native Women," 7:30.

<sup>349</sup> ABC News, "Indigenous Student's Disappearance Part of Epidemic of Missing Native Women," 15:53.

<sup>350</sup> ABC News, "Indigenous Student's Disappearance Part of Epidemic of Missing Native Women," 16:47.

<sup>351</sup> Sukut, "In Protest and Grief."

<sup>352</sup> Sukut, "In Protest and Grief."

unearthed that local law enforcement had failed to report her case to the missing persons database in the first place.<sup>353</sup> The seemingly disinterested response from local authorities has led her family to pursue different means of investigation, including asking the FBI for direct assistance.<sup>354</sup> Though the details surrounding Stops Pretty Places’s disappearance and death remain unclear, her family has not stopped in their pursuit for justice. Her aunt, Grace Bulltail, sat ““In protest and grief”” for six days in the heat of the summer, near the site of where Stops Pretty Places was found.<sup>355</sup> Bulltail has been particularly vocal, speaking both in front of the Missing and Murdered Indigenous People Task Force, Operation Lady Justice, and the Democratic National Convention Native American caucus, trying to inform people of her niece’s case.<sup>356</sup> In honor of Stops Pretty Places on the year anniversary of her death, her family has partnered with the Sovereign Bodies Institute, the National Indigenous Women’s Resource Center, and attorneys at Pipestem Law “to host a two weeks-long series of events” to demand justice.<sup>357</sup> This activism is important, yet her family knows ““Nothing we can do will bring her back.””<sup>358</sup> The pain of losing that kind-hearted girl, who would so often sit and braid her 10-year-old sister’s hair, cuts deep, and the negligence surrounding her case only continues the torment that her family is facing.

*The Seattle Times* has released a docuseries highlighting the contemporary MMIWG movement in the state of Washington. The five-part series from 2019 was crafted, according to its journalists, to reach readers “in a way that feels as personal and grassroots as the movement

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<sup>353</sup> Sukut, “In Protest and Grief.”

<sup>354</sup> Sukut, “In Protest and Grief.”

<sup>355</sup> Sukut, “In Protest and Grief.”

<sup>356</sup> Sukut, “In Protest and Grief.”

<sup>357</sup> Sukut, “In Protest and Grief.”

<sup>358</sup> Sukut, “In Protest and Grief.”

itself.”<sup>359</sup> Among its episodes, the unsolved murder of Rosenda Strong is featured alongside that of Alyssa McLemore’s disappearance, the story at the beginning of this chapter. Rosenda Strong was a devoted mother of four; her sister, Cissy Strong Reyes, called her the “best mother in the world.”<sup>360</sup> Karman Strong, Rosenda Strong’s daughter, described her as loving, outgoing, and hilarious; her mother was her best friend.<sup>361</sup> Rosenda Strong was last seen inside the Legends Casino in Toppenish, Washington on October 2, 2018.<sup>362</sup> In the following month, her family held a public prayer walk in Wapato to amplify her story, demanding that people “Say Her Name!”<sup>363</sup> Rosenda Strong’s disappearance was unbelievably difficult for her loved ones, but what was also deeply troublesome was the prejudice her family faced when trying to report her missing. According to Cissy Strong Reyes, the authorities responded to her initial report by saying, “She’s probably out partying or doing drugs. She’ll come home in a couple days when she wants to come down.”<sup>364</sup> Invalidating the very real concerns of Rosenda Strong’s family, law enforcement was slow to pick up her case. Her sister recalled that she found out most details about what happened to Strong through the gossip of the community; “the streets knew before the cops did.”<sup>365</sup> In an abandoned freezer along US Highway 97, Rosenda Strong’s body was found, not even three miles away from her home.<sup>366</sup> With no answers still, Strong’s family continues to hold prayer walks and vigils for her life. “This isn’t something that you just sweep under the rug, and

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<sup>359</sup> *Not Invisible: Confronting a Crisis of Violence Against Native Women*, “About the Project,” *The Seattle Times*, 2019. <https://projects.seattletimes.com/2019/mmiw/>

<sup>360</sup> Frohne and Hansen, *Not Invisible: Justice for Rosenda*, 1:37.

<sup>361</sup> Frohne and Hansen, *Justice for Rosenda*, 2:05.

<sup>362</sup> Frohne and Hansen, *Not Invisible: We Cannot Be Invisible Any Longer*, 1:50.

<sup>363</sup> Frohne and Hansen, *We Cannot Be Invisible Any Longer*, 1:37.

<sup>364</sup> Frohne and Hansen, *We Cannot Be Invisible Any Longer*, 8:20.

<sup>365</sup> Frohne and Hansen, *We Cannot Be Invisible Any Longer*, 8:38.

<sup>366</sup> Frohne and Hansen, *Justice for Rosenda*, 0:55.



people are gonna forget about it,” said her sister; “It’s real, and the heartache’s real, the pain, the loss, the wondering, it’s all real.”<sup>367</sup>

The benefits of having the stories of various missing and murdered Indigenous women showcased in popular news sources can be great in terms of generating an increased public interest in finding answers. This can be especially true considering that “approximately three-quarters of MMIW cases are never reported in the local, state, or national media.”<sup>368</sup> However, there are problematic tendencies that certain mainstream outlets utilize that perpetuate harm against Indigenous victims and their communities. Among the findings of the Minnesota MMIW Task Force, there is a propensity for media outlets to use mug shots as the missing persons photograph for Indigenous women in lieu of more humanizing imagery.<sup>369</sup> Even in the *Nightline* feature about Ashley Loring Heavyrunner, ABC chose to sensationalize her story by playing on stereotypes of Native communities. As the reporter described, “Her bright future ahead of her, until the tentacles of poverty, crime, and drug abuse that plague her home, Montana’s vast and beautiful Blackfeet Nation, wrapped themselves around her.”<sup>370</sup> *Nightline* could have covered Heavyrunner’s disappearance by appreciating the life she led and the profound influence she had on her loved ones, but instead chose to intertwine their coverage with damaging, bigoted generalizations about her community. This is not uncommon behavior among news outlets, either. The Urban Indian Health Institute studied 934 articles published about 129 unique cases of MMIW and found that 31 percent of media outlets had used “violent language” in their

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<sup>367</sup> Frohne and Hansen, *Justice for Rosenda*, 3:15.

<sup>368</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 109.

<sup>369</sup> MartinRogers and Pendleton, *A Report to the Minnesota Legislature*, 109.

<sup>370</sup> ABC News, “Indigenous Student’s Disappearance Part of Epidemic of Missing Native Women,” 1:20.

coverage.<sup>371</sup> Among that violent language, 38 percent was in reference to drugs and alcohol, 33 percent misgendered trans victims, and 31 percent referenced the victim's criminal history.<sup>372</sup>

The UIHI also found that the vast majority of coverage on MMIW cases focused on reservation-based violence. This ultimately minimizes the issue as it pertains to urban areas and “bolsters stereotypes of American Indian and Alaska Native people as solely living on reservations or in rural areas, [and] perpetuates perceptions of tribal lands as violence-ridden environments...”<sup>373</sup>

With increased attention and coverage by local and national media comes the reminder that individual networks and publications must be vigilant in eradicating the influence of its destructive biases about Native communities within their reporting.

The 2017 feature film *Wind River* served as a high-profile representation of the MMIWG epidemic, touching on many of the same concerns previously discussed. The general plot follows the work of FBI agent Jane Banner (Elizabeth Olsen) and US Fish and Wildlife Service tracker Cory Lambert (Jeremy Renner) in the investigation surrounding the death of 18-year-old Natalie Hanson (Kelsey Asbille) on the Wind River Reservation in Wyoming. Natalie Hanson's body had been found frozen in the snow, showing signs of sexual assault. Despite the indications that foul play may have been present, the medical examiner is reluctant to classify her death as a homicide, which prevents additional federal resources from being allocated to Hanson's case, leaving Banner alone to investigate.<sup>374</sup> Banner soon stumbles upon several complicating factors within the law enforcement apparatus on the reservation, notably that there are only six tribal

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<sup>371</sup> Annita Lucchesi and Abigail Echo-Hawk, *Missing and Murdered Indigenous Women & Girls: A Snapshot of Data from 71 Urban Cities in the United States* (Seattle: Urban Indian Health Institute, 2018), 18-19.

<sup>372</sup> Lucchesi and Echo-Hawk, *Missing and Murdered Indigenous Women & Girls*, 19.

<sup>373</sup> Lucchesi and Echo-Hawk, *Missing and Murdered Indigenous Women & Girls*, 18.

<sup>374</sup> *Wind River*, Taylor Sheridan, dir., 2017; Park City and Salt Lake City, UT: Lionsgate Home Video, 27:45.

officers tasked with covering an area the size of Rhode Island.<sup>375</sup> Later in the film, the tribal sheriff Ben Shoyo explained that the reservation “isn’t the land of back-up; this is the land of ‘you’re on your own.’”<sup>376</sup> And in response to Agent Banner asking for an ambulance to be called for an injured suspect, the sheriff counters with the fact that the closest EMS is an hour away.<sup>377</sup> The film illustrates vividly the dire situation for many tribal communities in their isolation from assistive resources and lack of investigative capacity for violent crimes. The final shot of the film elucidates the inadequate state of data collection for cases of MMIW. It reads: “While missing person statistics are compiled for every other demographic, none exist for Native American women. No one knows how many are missing.”<sup>378</sup> Legislative countermeasures have been implemented within the few years since the release of this film, but it is apparent that the statistics are still failing to accurately inform the public, law enforcement, and policy-makers about the breadth of this crisis.

It is eventually uncovered that those responsible for Hanson’s assault and murder were coworkers of her white boyfriend who worked security for a local drill site. As we have seen from the work of scholar Lily Grisafi, violent crime against Native women and girls increases substantially when outside workers come to extract local resources.<sup>379</sup> This problem is further exacerbated by the fact that VAWA’s increased jurisdiction for tribal governments does not apply to circumstances including most transient workers. Grisafi explains, “The influx of transient workers means Native women are less likely to have a prior relationship with their attackers and their attackers are less likely to have sufficient ties with the tribe,” eliminating the

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<sup>375</sup> *Wind River*, 28:35.

<sup>376</sup> *Wind River*, 38:00.

<sup>377</sup> *Wind River*, 41:45.

<sup>378</sup> *Wind River*, 1:39:55.

<sup>379</sup> See introduction footnotes 56 and 57 for more specific information as to why violent crime against Native women increases on and around sites of extractive industries.

option for tribal governments to arrest, try, or convict these perpetrators.<sup>380</sup> A potential remedy to this dangerous loophole is to require that the Environmental Protection Agency holds energy companies accountable for the safety of Native women in the area surrounding their projects.<sup>381</sup> One way to achieve this is for the potential impact on the safety of Native women in the area to be included within the already established Environmental Impact Statements that companies must provide in order for projects to be approved.<sup>382</sup> Grisafi also proposes that “tribal governments could sue fossil fuel producers under state common law public nuisance for the negligent hiring practices that lead to spikes in violence against Native women.”<sup>383</sup> Both of these proposed forms of redress are contingent upon the federal government’s affinity towards correcting harmful policies and valuing the concerns of Indigenous communities. Nonetheless, *Wind River* serves as a very public introduction to the MMIWG emergency for mainstream America.

The most important public awareness work, of course, has been led by Native communities, survivors, and the families of MMIWG. Included in the *Seattle Times* docuseries was the story of prominent MMIWG activist Roxanne White. White, a survivor of human trafficking, considers her story “not much different in so many ways than other Missing and Murdered Indigenous Women.”<sup>384</sup> Roxanne White was first trafficked at age 22 at a man camp on the Yakama Reservation.<sup>385</sup> In the years following her escape from trafficking, White struggled to find peace. She felt that “there was this thing that people knew about me, like that I had been hurt, that I had been raped, that I had been abused, and it seems like each person that

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<sup>380</sup> Grisafi, “Living in the Blast Zone,” 528.

<sup>381</sup> Grisafi, “Living in the Blast Zone,” 535.

<sup>382</sup> Grisafi, “Living in the Blast Zone,” 535.

<sup>383</sup> Grisafi, “Living in the Blast Zone,” 536.

<sup>384</sup> Frohne and Hansen, *Not Invisible: Say Her Name*, 1:03.

<sup>385</sup> Frohne and Hansen, *Say Her Name*, 4:00.

came along in my life did the very same thing as the last person.”<sup>386</sup> And while to this day she still questions why she was able to survive when so many do not, Roxanne White uses her past to guide her in her activism and vocality. “My story, it’s universal,” said White, “I’ve witnessed a lot, survived a lot. My ancestors, they’re using me to speak. They gave me this voice.”<sup>387</sup> White uses that sacred voice of hers to demand recognition for the far too many women like her who haven’t survived, leading chants to “Say Their Names” at vigils, women’s marches, and Redgalias, MMIWG-specific events that are painted red. “Sheila Pearl Lewis, Celestine Spencer, Clydell Simpson, Babette Green, Teresa Stahi,” and countless others: “Gone, but never forgotten.”<sup>388</sup>

The work of Indigenous communities to command attention regarding the issue of MMIWG spans the entire nation. Jordan Marie Brings Three White Horses Daniel of the Lower Brule Sioux Nation ran the 2019 Boston Marathon in honor and prayer for MMIWG. With MMIW written in red down both her leg and arm and a red hand print painted across her mouth, she dedicated each of the 26 miles to a different Indigenous woman who had fallen victim to this epidemic. To Daniel, “Red represents the movement and the hand print represents all the voices who have been silenced by the long-standing violence our women, girls and relatives continue to experience.”<sup>389</sup> Daniel had initially only hoped this public demonstration would be recognized among Indigenous communities who are all too familiar with this crisis, but she was shocked to learn that she had gone viral, as well as her message of MMIWG.<sup>390</sup> Following her lead, Rosalie

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<sup>386</sup> Frohne and Hansen, *Say Her Name*, 4:40.

<sup>387</sup> Frohne and Hansen, *Say Her Name*, 5:37.

<sup>388</sup> Frohne and Hansen, *Say Her Name*, 0:38.

<sup>389</sup> Jordan Marie Daniel, “Voices: Jordan Marie Daniel is Running for Those Whose Voices Were Stolen,” *Global Sport Matters*, November 15, 2019. <https://globalsportmatters.com/culture/2019/11/15/voices-jordan-marie-daniel-is-running-for-those-whose-voices-were-stolen/>

<sup>390</sup> Daniel, “Voices.”

Fish of the Cowlitz Tribe began to sport that same red handprint and the letters MMIW panned on her body at each of her high school track meets.<sup>391</sup> For Rosalie Fish, the MMIWG crisis is personal. When she was three years old, her aunt disappeared, and a year later her body was found.<sup>392</sup> Fish is a decorated runner, having won the Washington state championship for the two-mile event, but she struggles at times to run with the weight of all those women on her shoulders.<sup>393</sup> But she knows that “Acknowledgement is power,” therefore she has dedicated each of her medals to different MMIWG in her community.<sup>394</sup> Despite the enduring pain for the loss of her aunt and the solemnity that can at times consume her, she charges on.

So much of this chapter has focused on legislated responses to the increasing calls for change from Indigenous communities and activists. Congressional hearings continue to bear witness to survivors, organizers, and experts in the field demanding for swift, impactful legislation. Task forces throughout the ranks of American government have been established to make sense of this crisis by studying its causes, identifying current failings and systemic blunders, and curating appropriate countermeasures. The tireless work by so many Native communities to elevate this crisis to a national consciousness has realized momentous steps in the right direction, as individual state governments and Congress have committed to remedying aspects of this crisis through law-making. The momentum continues. 2019 marked the first time in which American Indian women were elected to Congress. Representatives Sharice Davids of the Ho-Chunk Nation and Deb Haaland of the Laguna Pueblo have made Indigenous concerns,

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<sup>391</sup> Robert O. Saunooke, “Running for Missing and Murdered Native Women: Expansion of Tribal Court Criminal Jurisdiction,” *The Judges’ Journal* 59, no. 2, (2020), ProQuest Central: 2.

<sup>392</sup> Saunooke, “Running for Missing and Murdered Native Women,” 2.

<sup>393</sup> Saunooke, “Running for Missing and Murdered Native Women,” 2.

<sup>394</sup> Rosalie Fish, “Running for Missing and Murdered Indigenous Women,” YouTube video, January 30, 2020, 10:48. [https://www.youtube.com/watch?v=X8bFL7WC4iE&ab\\_channel=TEDxTalks](https://www.youtube.com/watch?v=X8bFL7WC4iE&ab_channel=TEDxTalks)

including MMIWG, a priority.<sup>395</sup> Deb Haaland was confirmed as Secretary of the Interior on March 15, 2021, marking the first time in which an American Indian has ever held a Cabinet Secretary position.<sup>396</sup> 2020 was a “year of real visibility for the issue of missing and murdered Indigenous women,” according to Sarah Deer.<sup>397</sup> Largely as a result of grassroots organizing, this past year has been “a whirlwind of visibility. A perfect storm, in a good way.”<sup>398</sup> What the rest of 2021 may bring is yet to be seen, but Indigenous communities should be proud of their indefatigable advocacy, activism, and the pressure they’ve placed on lawmakers to finally fulfill their duties to the public to protect every American.

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<sup>395</sup> Carrie N. Baker and Katie Fleischer, “Legislation to Address Missing and Murdered Indigenous Women Signed into Law,” *Ms. Magazine*, October 6, 2020.

<https://msmagazine.com/2020/10/06/congress-finally-passes-legislation-to-address-missing-and-murdered-indigenous-women/>

<sup>396</sup> Aliyah Chavez, “Secretary Deb Haaland’s First Day,” *Indian Country Today*, March 17, 2021.

<https://indiancountrytoday.com/news/secretary-deb-haalands-first-day>

<sup>397</sup> Baker and Fleischer, “Legislation to Address Missing and Murdered Indigenous Women Signed into Law.”

<sup>398</sup> Baker and Fleischer, “Legislation to Address Missing and Murdered Indigenous Women Signed into Law.”

## Conclusion

The purported solutions to the Missing and Murdered Indigenous Women and Girls crisis often prioritize increasing law enforcement responses and instituting carceral penalties to those who harm Native women and girls. Yet Native communities are right to be skeptical of elevated carceral presences in their communities, for they have been disproportionately impacted by mass incarceration since its genesis. The purpose of the federal carceral system's creation was to punish Native peoples who were reluctant to follow Western-imposed laws and restrictions.<sup>399</sup> The installation of Fort Leavenworth in 1827 was described by Professor Sara M. Benson as a “strategic site for the beginning of the nation’s first prison.”<sup>400</sup> Native peoples and those living in Indian Country were disproportionately incarcerated as a response to the incorporation of the reservation system in the nineteenth century. Those who rejected and fled the reservation system were branded as “outlaws” and “roamers” that, under President Grant’s Peace Policy, needed to be rounded up and “‘relentlessly crushed’ by mass ‘arrest and return to Indian Territory.’”<sup>401</sup> In Benson’s words, “The federal prison system was an idea about the mass incarceration of Native people.”<sup>402</sup> The federal government’s punitive policies implemented within the initiatives of Westward Expansion and Native displacement created the backdrop for increased law enforcement intervention in Indigenous communities for the coming centuries.

The statistics today are staggering. Native men are admitted to prison at four times the rate of white men and Native women fare even worse, being admitted to prison at a rate six times

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<sup>399</sup> Sara M. Benson, “Territorial Politics: Mass Incarceration and the Punitive Legacies of the Indian Territory,” in *The Prison of Democracy: Race, Leavenworth, and the Culture of Law* (Berkeley: University of California Press, 2019), JSTOR, 45.

<sup>400</sup> Benson, “Territorial Politics,” 36.

<sup>401</sup> Benson, “Territorial Politics,” 46.

<sup>402</sup> Benson, “Territorial Politics,” 56.



that of white women.<sup>403</sup> Despite the fact that Native youth represent only one percent of the nation's youth, they represent seventy percent of all children admitted to the Federal Bureau of Prisons.<sup>404</sup> In 2010, American Indian and Alaska Native individuals in adult correctional facilities numbered 37,854.<sup>405</sup> For reference, "That is equivalent to a total incarceration rate of 1,291 per 100,000 people, more than double that of white Americans..."<sup>406</sup> Mass incarceration and over-policing have wreaked havoc on Native communities, causing some communities to distance themselves from punitive measures as a way to keep Native women and girls safe.

The Navajo Nation, which has the largest tribal court system in the country, has reintegrated traditional values in its justice process. Beginning in the 1980s, the Navajo Nation sought to return to its traditional style of justice called "Peacemaking."<sup>407</sup> The Peacemaking approach aims to "restore harmony and balance" within the community when incidents and disputes arise.<sup>408</sup> While Navajo judges are compelled to make decisions in alignment with Peacemaking values under the Fundamental Laws of the Dine, Peacemaking ultimately "emphasizes that our Diné people solve their own problems by talking it out and finding justice, rather than depending on the courts."<sup>409</sup> The Peacemaking program embodies restorative and transformative justice, as it works to identify problems and harm in the community as relating to personal accountability and openness to healing. The Navajo Nation believes that the majority of

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<sup>403</sup> Lakota People's Law Project, *Native Lives Matter* (Bismarck: Lakota People's Law Project, 2015), 6. <https://s3.us-west-2.amazonaws.com/romeroac-stage/uploads/Native-Lives-Matter-PDF.pdf>

<sup>404</sup> Lakota People's Law Project, *Native Lives Matter*, 6.

<sup>405</sup> Roxanne Daniel, "Since You Asked: What Data Exists about Native American People in the Criminal Justice System?," Prison Policy Initiative, April 22, 2020. <https://www.prisonpolicy.org/blog/2020/04/22/native/>

<sup>406</sup> Daniel, "Since You Asked."

<sup>407</sup> Chief Justice (Emeritus) Robert Yazzie, "History of the Courts of the Navajo Nation," The Judicial Branch of the Navajo Nation, 2003. <http://www.courts.navajo-nsn.gov/Index.htm>

<sup>408</sup> *Peacemaking Program of the Navajo Nation* (Window Rock: Peacemaking Program of the Judicial Branch). <http://www.courts.navajo-nsn.gov/Peacemaking/PMP-brochure-2017.pdf>

<sup>409</sup> Yazzie, "History of the Courts of the Navajo Nation;" *Peacemaking Program of the Navajo Nation*.

disputes, including family disharmony and persistent substance use, can be resolved through Peacemaking.<sup>410</sup> For the Navajo Nation with its expansive tribal legal court system to transition away from “Anglo-American judicial court procedures” indicates that there is inherent value in pursuing alternatives to carceral solutions for violence, both physical and emotional, within Indigenous communities.

On the Pine Ridge Reservation in South Dakota, the Cangleska women’s shelter fortifies the surrounding community by protecting female survivors of domestic violence and rehabilitating men who batter. Karen Artichoker, director of the shelter, uses the tagline “Sovereign women strengthen sovereign nations” to remind community leaders of the need for attention and resources to be directed to minimizing the presence of domestic violence on Pine Ridge.<sup>411</sup> Artichoker recognizes that issues of sovereignty and autonomy are of great concern for the Lakota people, and she applies these ideas when assisting recovering men. Cangleska’s program for men who batter emphasizes that violence towards women is not the behavior of a “true Lakota man.”<sup>412</sup>

The program relies on male allies to support this work; one such man is Heath Ducheneaux. Ducheneaux, a recovering alcohol and drug user, found himself struggling in his relationship with his wife, citing one incident where he became physically agitated during a quarrel.<sup>413</sup> It was then that he knew he needed help in rediscovering his gentle nature, so he turned to Cangleska. The shelter now runs annual retreats for struggling men. These retreats

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<sup>410</sup> The Judicial Branch of the Navajo Nation, “The Peacemaking Program of the Navajo Nation,” The Navajo Nation. <http://www.courts.navajo-nsn.gov/indexpeacemaking.htm>

<sup>411</sup> Alison Owings, “Tales From Pine Ridge: Karen Artichoker, with Heath Ducheneaux and Dwanna Oldson (Lakota),” in *Indian Voices: Listening to Native Americans* (New Brunswick and London: Rutgers University Press, 2011), 154.

<sup>412</sup> Owings, “Tales From Pine Ridge,” 157.

<sup>413</sup> Owings, “Tales From Pine Ridge,” 159.

include Lakota ceremonies, traditional activities like horse-riding, and healing practices with the goal of instilling Lakota values.<sup>414</sup> Ducheneaux now works as probation coordinator for the shelter, counseling men from the ages of 14 to 59 to mend their abusive ways. He describes his work as life-changing; “Every day I’m at my job, I get the opportunity to continue growing in something I believe in...it enriches my family.”<sup>415</sup> Ducheneaux sees progress in the men he works with. “They’re trying to make changes similar to the ones I’m trying to make. We’re doing it because we have a belief. That makes it much more powerful, because it’s not just a job. It’s really about what you believe in your own life, how you want to live.”<sup>416</sup> The Cangleska shelter’s programming illustrates that to minimize the level of pain and violence within a community, work first needs to be done in healing those who are hurting, those who are perpetuating this violence.

In Akwesasne, one program has been working directly with formerly incarcerated community members to encourage growth and healing. Two remarkable individuals of the Kanien’kehá:ka (Mohawk) people, Karatoten “Pray” Thomas John Lazore and Jonel Beauvais, have dedicated their careers to facilitate the transition back into the community for men who have been previously incarcerated. What sets them apart from other programming, however, is their time and experience being incarcerated themselves. As Jonel explained, “...the experts on prison are the people who have been to prison.”<sup>417</sup> Therefore, their insight is invaluable in helping fellow members of the community adjust to the difficulties of life post-incarceration when trying to juggle probation, secure housing, maintain employment, and mend relationships with loved ones. One aspect of their work, entitled the Tiny Home Project, makes it a point to

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<sup>414</sup> Owings, “Tales From Pine Ridge,” 159-160.

<sup>415</sup> Owings, “Tales From Pine Ridge,” 161.

<sup>416</sup> Owings, “Tales From Pine Ridge,” 161.

<sup>417</sup> Jonel Beauvais in discussion with the author, January 2021, 16:58.

provide housing to these men at rates comparable to that of welfare so as to ensure these men not only have stable housing, but are motivated to then invest in the surrounding community. Jonel describes this succinctly when saying, "...it took a community to give them that. And so now your debt is to the community."<sup>418</sup> Another instrumental element of their program is the Welcoming Home the Spirit ceremony in which healthy, supportive members of the community surround the returning men, offering encouragement and sharing their love and their passion with these hurting men so as to truly begin the healing process.<sup>419</sup>

In our conversation, Pray and Jonel were quite candid about their pasts and the lasting pain from having been incarcerated. Jonel compared the criminal justice system, what she terms the "criminal system," to that of an abusive relationship. There is so much stigma surrounding incarceration, much like the stigma that exists for victims of abuse. "Nobody talks about it. It is an extremely shameful experience because the whole process of incarceration is to degrade you, to take your power, because if you don't have power and you don't know who you are, the easier it is for me to control you."<sup>420</sup> The criminal justice system is abuse that is institutionalized. For a person who leaves this system, battered and demoralized, a lack of community support systems can be catastrophic. Pray, who had never received this community of support when returning from incarceration, remembered how he was invited to participate in the Welcoming Home the Spirit ceremony alongside the other men he was helping. He recalled, "they sat me in that circle and they, they gave me all the stuff I was searching for, you know, like forgiveness of the community...people that I looked up to were saying, 'you're going to be okay. You're going to be a part of this. You're going to help other people.' You know, they gave me hope that I didn't

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<sup>418</sup> Jonel Beauvais, 20:44.

<sup>419</sup> Karatoten "Pray" Thomas John Lazore in discussion with the author, January 2021, 28:50.

<sup>420</sup> Jonel Beauvais, 9:06.

have.”<sup>421</sup> The healing power that comes from care and attention within one’s own community is profound. The Tiny Home Project further prioritizes healing through reconnecting with tradition. Pray explains, “we give them [men post-incarceration] that established residence. Safe, healthy, full of tradition, full of culture, full of learning...So when these people leave...they’re going to be established, they’re going to have that footing that they need.”<sup>422</sup> These men, once their spiritual and physical needs are met, can then put energy into developing their community.

Ultimately by working to heal vulnerable populations, the community will be able to heal alongside them. Jonel shared a beautiful message about this preeminent goal: “if I could really dream big, my biggest dream is that by us getting to these men, cleaning them off, getting them into a healthy brotherhood, we’ve now decreased the level of violence and harm in our community to our women, to our children by at least 50 percent. Now that is a dream that hopefully me and Pray live long enough to see.”<sup>423</sup> Pray then chimed in, continuing that “we’re already seeing that. I see it when I look into that screen. I see it when I see my brother, my brother Chad, we worked on that little house a little bit earlier. I see it;” it’s generational. I’m “looking at that trickle effect, you know, but it ain’t a trickle. It’s like a tidal wave, man. It goes, and I see it’s happening now. And there’s nothing that can be done to stop it.”<sup>424</sup>

Only recently has awareness on the national level brought to light what Native communities had known for years: that justice for American Indian and Alaska Native women and girls who have been targeted, violated, and stolen simply does not exist. Tangible, concrete progress has been made in lessening the informational gap in data collection and reporting about Missing and Murdered Indigenous Women and Girls. This is momentous, seeing that nothing

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<sup>421</sup> Pray Thomas John Lazore, 30:10.

<sup>422</sup> Pray Thomas John Lazore, 34:03.

<sup>423</sup> Jonel Beauvais, 44:44.

<sup>424</sup> Pray Thomas John Lazore, 45:18.

can improve until officials and communities truly understand how far-reaching this crisis extends. Yet, we must remember that there are real people behind these data points. Real women and girls have had their lives forever changed. Their loved ones are often left without answers and without peace. Many uncertainties still remain. This thesis aims to fill at least some of the academic void about MMIWG: why this problem exists, what the movement looks like, and what is currently being done to help. In this, the lives and stories of some of these women and girls are remembered, are grieved, and are cherished. Scholarly attention is not enough, however. Legislation is not enough. The efforts of Native communities alone are not enough. The violent conditions for Native women and girls that the United States has created must be dismantled. Native communities have been doing this work for decades. It is time we look to them to take note of their community-focused approaches to restoring those who cause harm and healing those who are harmed. This very human crisis demands humanizing solutions. No more stolen sisters.

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