



Department of Justice

STATEMENT OF
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BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

FOR A HEARING ON
MISSING AND MURDERED: CONFRONTING THE SILENT CRISIS IN
INDIAN COUNTRY

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Good afternoon Chairman Hoeven, Vice Chairman Udall, and Members of the Committee. I appreciate the opportunity to appear before you today to discuss the FBI's ongoing efforts to support our partners in Federal, state, local and Tribal law enforcement in resolving missing person cases.

The FBI and its dedicated Special Agent and Victim Specialists of the FBI's Indian Country Program work hard to partner with Tribal communities across the United States to deliver quality law enforcement service. We remain fully committed to our unique role in Indian Country and to our partnerships with other Federal, state, local, and Tribal law enforcement agencies.

There are 573 federally recognized Indian Tribes in the United States and approximately 326 Indian reservations with over one million Native American residents on or near reservation lands. The FBI shares federal law enforcement responsibility with the Bureau of Indian Affairs, Office of Justice Services (BIA-OJS) on more than 200 of those Indian reservations not in PL-280 areas, and has federal criminal jurisdiction over acts directly related to Indian gaming regardless of jurisdiction status.

The FBI's Indian Country Program includes over 140 Special Agents (SA) and 40 Victim Specialists (VS) in 36 Field Offices. Indeed, 33 percent of the FBI's Victim Specialists and 50 percent of the FBI's Child and Adolescent Forensic Interviewers (CACIs) work directly with victims and families in Indian Country.

Our highest priorities in Indian Country focus on the most serious crimes of violence, including murder, child sexual and physical abuse, sexual abuse of adults, and violent assault. FBI investigations in these priority categories comprise over 75 percent of all FBI investigations in Indian Country. In addition, crime related to gangs and drugs is increasing in Indian country, and the FBI investigates allegations of financial corruption. The FBI in Indian Country simultaneously addresses many different aspects of crime and remains fully committed and engaged with our Tribal partners

The FBI often responds to crime scenes within Indian Country after receiving notification from our Tribal and BIA-OJS partners. They work hand in hand to process the crime scene, collect evidence, ensure victim safety, conduct interviews and locate suspects. The cooperation between the FBI, BIA-OJS and Tribal law enforcement is paramount to solving crime and protecting Tribal communities.

The Tribal Law and Order Act of 2010 (TLOA) requires that the Attorney General submit an annual report to Congress detailing investigative efforts by the FBI and dispositions of

matters received by United States Attorney's Offices (USAOs) with Indian country responsibility. The majority of criminal offenses committed, investigated, and prosecuted in Tribal communities are adjudicated in Tribal justice systems. In much of Indian country, Tribal law enforcement and Tribal justice systems hold criminals accountable, protect victims, provide youth prevention and intervention programs, and confront precursors to crime such as alcohol and substance abuse. These efforts are often in partnership with federal agencies or accomplished with support from federal programs and federal funding opportunities.

Specifically, the FBI's statistics for Calendar Year (CY) 2017 show a total of 2,210 closed investigations – a 12.5 percent increase in total closed investigations compared to the previous year. Of those, approximately 68 percent – or 1,511 out of 2,210 – of Indian country criminal investigations opened by the FBI were referred for prosecution.

Importantly, of the nearly 700 Indian country investigations the FBI closed administratively without referral for prosecution, the primary reason for closing (approximately 21 percent) was that the case did not meet statutory definitions of a crime or USAO prosecution guidelines. In addition, analysis of CY 2017 data indicates that 15 percent of investigations closed administratively were closed due to unsupported allegations, meaning no evidence of criminal activity was uncovered during the investigations. Another reason for non-referral (20 percent) was that the deaths under investigation were determined to be the result of accident, suicide, or natural causes (i.e., non-homicides). In short, though not a first responder, the FBI remains committed to resolving crime in Indian Country and works closely with our partners to ensure cases are adjudicated fully through the court system.

With regard to crimes against Native American women in Indian Country, the status of the victim and subject as Indian or non-Indian is generally initially based on information reported to law enforcement. Tribal police, BIA, and FBI subsequently receive documentation from tribal government authorities to confirm the tribal membership status of individuals.

At the end of 2017, individuals entered into the National Crime Information Center (NCIC) as "Indian" made up 1.8 percent of active missing person records. The racial category of "Indian" is formally classified in the NCIC as "American Indian" and is defined as a person having origins in any of the original peoples of the Americas and maintaining cultural identification through tribal affiliations or community recognition. The determination of whether a person is listed as "Indian" would be decided by the entering agency, which could be Federal, state, local or Tribal. Importantly, at the end of 2017, Native American ("Indian") females accounted for 0.7 percent of the active missing person cases – 633 in all. The FBI's Missing Person and Unidentified Person statistics are updated annually and available publicly on-line.

Due to the high volume of violent crimes within Indian Country to include death investigations, our partnerships with the Bureau of Indian Affairs, Office of Justice Services (BIA-OJS), 17 Safe Trails Task Forces (STTF), and tribal law enforcement are critical. Our partners provide invaluable assistance and intelligence related to the location of the crime scenes, identification of suspects/victims, and location of suspects.

The 17 FBI STTFs are a significant force multiplier focusing on violent crime to include death investigations with approximately 90 full time Task Force Officers spread across Indian

Country. STTF full time officers are made up of state, local, and tribal police officers. This important program has expanded in the last year and the FBI plans to add new STTFs in FY 2019 to combat the levels of violent crimes and narcotic trafficking in Indian Country.

The FBI also partners with local and Tribal police to assist when requested in missing persons cases. FBI Agents and STTFs provide assistance and, when foul play is believed to have occurred, an FBI case is opened and an investigation undertaken. The FBI and the STTFs continue to work closely with the respective Tribal Police Department, BIA-OJS, and surrounding state and local departments.

Further, the FBI remains committed to expanding access to the National Instant Criminal Background Check System (NICS) to our Tribal partners. Earlier this year, the Department of Justice announced a significant expansion of the Tribal Access Program (TAP), a program providing federally recognized Tribes an additional method to access and exchange data with the national crime information databases maintained by the FBI Criminal Justice Information Services (CJIS) Division for both civil and criminal purposes. In this way, TAP supports tribal governments in their efforts to access, utilize, and report critical criminal justice information, including NICS relevant data, to the FBI in order to protect tribal communities from violent crime.

Under TAP, Tribes have already entered information directly into the federal databases, resulting in nearly 600 sex offender registrations and over 550 sex offender check-ins, nearly 250 instances of data entry that would prohibit someone from being able to purchase a firearm, over 700 orders of protection entered and nearly 5,000 finger-print based record checks of individuals seeking employment in positions with contact with or control over children or tribal housing placements. To date, TAP has been deployed to 47 federally recognized tribes with over 200 tribal criminal justice and tribal civil agencies.

The FBI's CJIS Uniform Crime Reporting (UCR) Program also coordinates with BIA-OJS to increase the number of Tribes that report crime statistics. This has been accomplished primarily through liaison efforts and presentations to increase awareness at Tribal law enforcement conferences. This increases the number of Tribes that are eligible to receive funding under the DOJ Justice Assistance Grants (JAG) program. Since Tribal jurisdiction UCR data is publicly accessible, it increases available information about the incident of Indian country crime and assists Tribal government leaders to make effective decisions about strategies to fight crime and efficient allocation of tribal law enforcement resources.

The FBI remains committed to preparing our Agents in Indian Country with the knowledge and skills required to address the important cases they will investigate. All FBI Agents attend and graduate from the FBI Academy with the skills to investigate any crime over which the FBI has jurisdiction. All FBI Agents assigned to Indian Country are given additional training to ensure they are prepared to effectively investigate crimes that occur within Indian Country.

Our Indian Country Crimes Unit (ICCU) provides a comprehensive training program to include intermediate and advanced classes on various topics related to the investigation of crimes in Indian Country. Many of these trainings are open to Tribal law enforcement officers, Safe

Trails Task Force Officers and BIA-OJS officers and agents. The mission of ICCU is to support Indian Country Agents in the field and to develop and implement strategies to address the most egregious crimes committed in Indian Country. The FBI has partnered with DOJ's National Indian Country Training Initiative (NICTI) to develop and deliver courses for Federal agents, Tribal law enforcement officers and Federal and Tribal prosecutors. Just in the last several years, the partnership has hosted over 15 courses specific to Indian Country crime.

Beginning in 2016, FBI ICCU and BIA-OJS partnered to pilot a two week intensive training course for FBI and BIA Agents, which is now offered on a regular basis at BIA's training facility in Artesia, New Mexico. Each class accommodates 24 students which include FBI Agents, Tribal Criminal Investigators, and BIA-OJS Criminal Investigators. The course provides detailed investigative tools and procedures specific to Indian Country.

In summary, the FBI remains fully committed to working with its partners at all levels on the issues raised in this hearing today, including missing persons and murder victims. It is imperative that we work together to make certain that all missing persons are entered into the appropriate databases, that cases are being fully investigated, and that persons responsible for criminal activity in Indian country are brought to justice. We look forward to continuing this important work and appreciate the support of this committee. Thank you for the opportunity to appear before you today. I am now happy to answer any questions.