

**Statement of Tracy Toulou
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Before the Senate Committee on Indian Affairs

At a Hearing on S. 227, Savanna's Act; S. 288, Justice for Native Survivors of Sexual Violence Act; S. 290, Native Youth and Tribal Officer Protection Act; S. 982, Not Invisible Act of 2019; and S. 1853, Bridging Agency Data Gaps and Ensuring Safety (BADGES) for Native Communities Act

**Presented on
June 19, 2019**

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee:

Thank you for the opportunity to discuss S. 227, Savanna's Act; S. 288, Justice for Native Survivors of Sexual Violence Act; S. 290, Native Youth and Tribal Officer Protection Act; S. 982, Not Invisible Act of 2019; and S. 1853, Bridging Agency Data Gaps and Ensuring Safety (BADGES) for Native Communities Act, which address a number of long-standing threats to public safety throughout Tribal communities. We have worked with the Senate Committee for Indian Affairs staff on numerous occasions in the development of these bills. These discussions have been productive and substantive; we would like to express our appreciation for your efforts to address difficult and sometimes complex issues collaboratively. Thank you for that outreach, which we hope will continue as these bills progress and new legislation is developed.

Attorney General Barr's visit to Alaska earlier this month gave leadership at the Department of Justice (Department) an opportunity to hear directly from Tribal representatives about the public safety challenges in their communities and to bear witness to the consequences of historically inadequate support. The issues that were raised by Tribal leaders, service providers and community members overlap with many of the issues in the five bills under discussion today. During the trip Attorney General Barr promised to be mindful of the urgency that underscores requests for support from Native communities. As a result of time spent in Alaska, Department leadership at the highest levels have expressed a renewed commitment to improving public safety in Indian country and Native villages and is directly engaged in seeing that commitment through.

The Tribal Law and Order Act of 2010 changed the way the Department works in and provides support to Native communities. The five bills under discussion today build on current

efforts to meet a higher standard for supporting law enforcement and victim services in Tribal communities by making better use of resources, further improving interagency coordination, and demanding accountability for results. The Department is committed to meeting a higher standard across these areas to achieve substantial, sustainable improvements in public safety in Native communities.

The Department appreciates that so many of the bills under discussion today address the numbers of missing and murdered people, especially women, in Native communities. From a legal perspective, missing persons and murder cases are two very different issues that require different law enforcement responses. However, the term “missing and murdered” outside of a strict legal perspective goes far beyond investigative procedures or legal definitions. “Missing and murdered” has become a call to action to address the crimes and public safety conditions that result in loved ones lost to domestic violence, sexual assault, substance abuse, and inadequate law enforcement resources. The Department supports efforts by this Committee to answer this call to action and stands ready to do our part.

Savanna’s Act focuses on the need for improved protocols in responding to reports of missing persons, the need for improved access to law enforcement databases, and accountability for increased Departmental engagement in investigations and cases of missing persons or murder cases in Indian country. Committee staff have reached out to the Department a number of times on this particular bill and we continue to appreciate the opportunities to provide technical assistance. In the course of these discussions with Committee staff, we have been able to describe ongoing efforts by the Department to better respond to these critical issues and impediments to progress, such as jurisdictional constraints and lack of law enforcement resources. The current draft language reflects those discussions and the result is a series of clear and targeted actions that are intended to help the Department operate more efficiently, partner more effectively with Tribal, State, and local agencies responding to these reports, and enhance Tribal governments’ capacity to develop their responses as well. The Department would like to work with the committee to address the impact of the newly-drafted Section 7 on existing grant opportunities and will reach out to Committee staff to discuss these technical issues.

The BADGES for Native Communities Act also seeks to improve information sharing practices and programs, establishing a Tribal liaison for the National Missing and Unidentified Persons System (NamUs), addressing hiring issues at the Bureau of Indian Affairs, establishing grant resources to respond to missing persons and murder cases, and establishing accountability measures. This bill is the most recent of the five under discussion today, and is still under review by the Department. We are encouraged by the language that supports further expansion of our Tribal Access Program (TAP). TAP was created to fulfill information sharing mandates established in the Tribal Law and Order Act of 2010, thus helping Tribes protect their communities. It has developed into a program of great benefit to participating Tribes and their

agencies, from law enforcement to courts to sex offender registries. This bill would help the Department continue to develop TAP and deepen our ability to support effective law enforcement partnerships in and around Native communities. This bill also responds to concerns we hear from Tribal representatives about the need for dedicated resources and better information sharing to respond more effectively to reports of crime in their communities, including missing persons reports. The Department would like to work with the Committee on some of the current language. For example, we see opportunities to address compatibility issues between Federal Bureau of Investigation Criminal Justice Information Services databases and NamUs, to ensure improved information sharing, as intended. The Department also proposes a technical fix to add “or Tribal” after “if authorized by State” and “, Tribal,” after “to officials of State” in 34 U.S.C. § 41101 (commonly known as PL 92-544). This would allow Tribes, consistent with authority that States already possess through this law, to authorize the use of criminal justice databases for official non-criminal justice record checks such as checks for those working with the elderly, developmentally-disabled adults, candidates for elections, and others.

Both the Justice for Native Survivors of Sexual Violence Act and the Native Youth and Tribal Officer Protection Act would expand Tribal special domestic violence criminal jurisdiction over non-Native offenders, which responds to feedback we have heard for years from Tribal representatives. The Native Youth and Tribal Officer Protection Act in particular addresses a number of scenarios often related to incidents of domestic violence: crimes against children and crimes against first responders in these incidents. The Department has repeatedly expressed support for the existing special domestic violence jurisdiction, but has taken a measured approach to ensure that jurisdictional expansion will be supported by the courts. Because exercising criminal jurisdiction is such a crucial aspect of sovereignty, the Department would welcome an opportunity to work with the Committee to ensure that the legislation will weather judicial challenges.

The Native Youth and Tribal Officer Protection Act also mandates that Federal agencies coordinate more effectively on support for Tribal justice systems and for programs providing services to victims. Increased interagency coordination was a critical component of the Tribal Law and Order Act that has led to more effective partnerships and improvements in Federal support to Tribal governments. The Department appreciates that this bill would apply similar measures to specifically support Tribal justice systems and victims of crime in Indian country. Importantly, the Native Youth and Tribal Officer Protection Act would require that training on recognizing and responding to domestic violence be available to both Tribal and Federal employees working in Native communities. This is responsive to feedback the Department has received from Tribal representatives about the need for more community-based platforms to address public safety issues.

The Not Invisible Act of 2019 addresses the broader issue of violent crime in Native communities. In addition to forming an advisory committee to examine violent crime in Native communities, the bill would establish more centralized oversight of activities, grants, and programs at the Department of the Interior. The Department would like to work with the Committee on the language of this bill to ensure it achieves its stated goals of increasing coordination, and identifying and combatting violent crime in Native communities.

The Department of Justice's work to enhance public safety continues to be shaped by our commitment to empowering tribal governments; to improving coordination and collaboration at the Federal, Tribal, State, and local levels; and to be appropriately accountable for the work we do. The Department and Tribes are partners in ensuring public safety in Indian country, and we recognize that challenges faced by the Tribes are generally best met by Tribal solutions. Indeed, the best success stories and the most effective policies and practices in Indian country are the result of close collaboration with Tribal experts and joint implementation with Tribal partners. The Department appreciates the work of this Committee to improve public safety in Indian country, to hold the agencies to the high standards that Tribes deserve and urgently need, and to collaborate on legislative development to ensure the best results. Thank you again for the chance to provide testimony today and we would welcome the additional opportunity to work with the Committee on the development of these bills. I would be happy to answer any questions you may have.