



Department of Justice

**STATEMENT OF
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DIRECTOR
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U.S. DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

FOR A HEARING CONCERNING

**THE GAO REPORTS ON HUMAN TRAFFICKING OF AMERICAN
INDIAN AND ALASKA NATIVES IN THE UNITED STATES**

PRESENTED

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**Statement of Tracy Toulou
Director, Office of Tribal Justice
U.S. Department of Justice**

Before the Senate Committee on Indian Affairs

**At a Hearing Entitled,
*The GAO Reports on Human Trafficking of American Indian and Alaska Natives in the
United States***

**Presented on
Wednesday, September 27, 2017**

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

It is an honor to appear before you today. Thank you for the opportunity to provide the Department of Justice's perspective on this important issue. There are numerous risk factors cited in studies about human trafficking, including poverty, homelessness, and exposure to violence and abuse. The reality is that many of these risk factors occur at higher rates among American Indian/Alaska Native populations. Recognition of the exceptional vulnerability of many American Indian and Alaska Native individuals has led to focused efforts at the Department of Justice to effectively respond to criminal activity, to support Tribes' efforts to address trafficking in their communities and to address systemic public safety issues that can lead to trafficking.

The Government Accountability Office issued a report, *Human Trafficking: Action Needed to Identify the Number of Native American Victims Receiving Federally-funded Services*, on April 6, 2017 that addressed Native American human trafficking victims. The study was focused on answering two questions: (1) the extent to which federal agencies collect and maintain data on the investigations and prosecutions of human trafficking in Indian country or involving Native Americans, and (2) the availability of federal grant programs to help address human trafficking in Indian Country or of Native Americans, and the number of Native American trafficking victims served through these programs; a companion study on investigations at the tribal and local levels and the availability of services for victims was released on July 24, 2017.¹

¹ GAO-17-624 "Human Trafficking: Information on Cases in Indian Country or that Involved Native Americans," July 24, 2017. This report addresses 1) the extent to which tribal and major city Law Enforcement Agencies (LEAs) have encountered human trafficking in Indian country or of Native Americans; 2) factors affecting the ability of LEAs to identify and investigate this specific human trafficking, and 3) availability of services to Native American victims of human trafficking.

RESOURCES TO COMBAT TRAFFICKING

The Department of Justice administers forty-one grant programs that can be used to address human trafficking in Indian country or of Native American victims regardless of location, which are cataloged in the April GAO report. These programs support a wide variety of activities including providing services, conducting research, and launching public awareness campaigns. Both GAO reports emphasize the importance of training for law enforcement and victim service providers on identifying victims and providing targeted services for them. The Department funds efforts in both of these areas, including efforts addressing the specific concerns and needs of American Indian and Alaska Native victims. For example:

- The Department's Office for Victims of Crime funded "Project Beacon" which is aimed at increasing the quantity and quality of comprehensive victim-centered services available to assist American Indian and Alaska Native victims of sex trafficking in urban areas. All services provided as part of this program must respect the decision-making autonomy of victims of sex trafficking; support victim self-sufficiency; and promote victims' feelings of increased safety and well-being. OVC awarded grants in FY 16 to the Seattle Indian Center, First Nations Community Health Source in Albuquerque, NM, and the American Indian Center of Chicago.
- The reauthorization of the Violence Against Women Act in 2013 added sex trafficking to the tribal grant programs managed by the Department's Office on Violence Against Women (OVW). OVW efforts to implement this change include funding the Minnesota Indian Women's Sexual Assault Coalition to provide training and technical assistance for tribal communities on responding to sex trafficking and to develop a resource manual for service providers on the dynamics of these crimes for native women and children.

The Department of Justice's commitment to addressing trafficking both in Indian country and among the Native American population in general goes beyond grant programs. For example:

- The Department of Justice is committed to a "whole government" approach to addressing trafficking and works in close partnership with other federal agencies to develop policies and protocols that will more effectively prevent and respond to trafficking incidents.
- Each U.S. Attorney's Office either leads or participates in at least one district-based human trafficking task force. U.S. Attorney's Offices with Indian country jurisdiction prosecute federal crimes occurring on tribal lands and have victim assistance personnel assigned to provide services to victims in Indian country. They also

consult regularly with tribes and seek their input in crafting strategies to address Indian country cases, including human trafficking. To facilitate tribal consultation, each U.S. Attorney's Office with Indian country jurisdiction has at least one Assistant United States Attorney who serves as a designated Tribal Liaison and directly interfaces with tribal leadership.

- The Executive Office for U.S. Attorneys (EOUSA) provides training and guidance to federal, state, local and tribal attorneys, law enforcement, and victim service specialists on trafficking and other law enforcement issues in Indian country.
- In July 2010, EOUSA launched the National Indian Country Training Initiative (NICTI) to ensure that Department prosecutors, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. In February 2015, the NICTI, together with the Federal Bureau of Investigation, held the first-ever Human Trafficking in Indian Country Seminar. The seminar was for federal and tribal criminal justice professionals working in Indian country. The seminar enhanced participant's understanding of legal definitions, elements of federal offenses, and current issues and challenges of human trafficking enforcement. The training also included in-depth discussions of effective strategies for identifying, investigating, and prosecuting human trafficking cases, including prosecutors' roles in planning successful enforcement operations; strategies for developing victim testimony; pretrial litigation strategies; effective trial presentation in human trafficking prosecutions; and sentencing issues. The seminar focused primarily on sex trafficking. A similar training was held in February 2017, with over 120 federal prosecutors, federal agents, and state, local, and tribal law enforcement partners. In November 2017, the NICTI is offering a new training program for federal, state and tribal prosecutors titled the "National Institute on the Prosecution of Human Trafficking in Indian Country."
- Several DOJ components collaborated on a series of training videos focused on violence committed against Alaska Natives. One of the videos, released in October 2016, concerns the issue of sex trafficking committed against Alaska Natives. The target audience for the training video is tribal, state, and federal leadership and criminal justice and social service professionals who deal with cases of domestic violence, sexual assault and sex trafficking committed against Alaska Natives. The videos are available online at <https://www.ovc.gov/library/healing-journey.html>.
- The Department of Justice formed the Federal Victims in Indian Country Working Group, comprised of staff-level experts on victim services in Indian country from

numerous agencies, to share best practices, identify challenges, and develop recommended solutions.

ADDRESSING DATA LIMITATIONS

In the April report, the GAO underscored the lack of reliable data on the number of American Indian and Alaska Native trafficking victims. Collecting data on American Indian and Alaska Natives has been a long-time challenge for the Department of Justice, and we agree that we need to improve our data collection on human trafficking of Native Americans. Indeed, the need to better understand patterns and map the impact of specific risk factors associated with human trafficking involving Native Americans and in Indian country is at the core of several leadership-driven efforts. For example, our most recent National Strategy to Combat Human Trafficking (January 2017) includes a section on trafficking in Indian country that describes risk factors, identifies areas with higher trafficking activity, and highlights some of the efforts by DOJ to address trafficking of American Indian/Native Alaska individuals. More recently, Attorney General Sessions established the Task Force on Crime Reduction and Public Safety, which includes subcommittees on human trafficking and Indian country.

The April GAO report made a two-part recommendation for action: to report the number of human trafficking victims served using grant funding, and, as appropriate, to report the Native American status of those victims. The Department of Justice has taken steps to ensure that our grantees serving this population are reporting the number of human trafficking victims served using grant funds. However, as noted in our formal response to the GAO, which was appended to the final report, the Department was not in agreement with the part of the recommendation that indicated we should **mandate** that grantees report on the Native American status of individual human trafficking victims.

The Department's objection to establishing a new mandatory reporting requirement is rooted in the fundamental need to protect a victim's right to privacy. Trafficking victims are understandably reluctant to disclose personal information for fear of discovery and retaliation. The Department of Justice's primary objective is to ensure that victims of crime are able to access appropriate services and have their immediate safety needs addressed. Adding an additional mandatory reporting requirement may result in collection of potentially public information so granular that it makes vulnerable crime victims easily identifiable, particularly in smaller communities. Indeed, certain grant programs include a statutory confidentiality provision that specifically prohibits grantees from sharing personally identifying information in order to meet federal reporting requirements.² From an administrative standpoint, we are

² This provision permits grantees to share non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with federal grant reporting requirements. However, it also specifically provides that no personally identifying information may be shared in order to comply with such federal reporting requirements. See 42 U.S.C. § 13925(b)(2)(D)(i)(I), (ii)(II).

concerned that adding new reporting requirements will overburden service providers and encroach on the already limited time they have to provide services to victims who are in desperate need.

The Department has additional concerns about treating performance data from grantees as a source of representative statistics. Consider that victim service providers funded in part by Department of Justice grants will only report on DOJ grant-related activity. The full breadth of service provided to trafficking victims will not be captured in such a report, nor are Department of Justice grantees representative of all service providers working with trafficking victims. The statistical and research arms of the Department are the best equipped of the grant-making components to manage statistical collections of data and conduct large-scale research on this issue. There are studies currently underway that will help us better understand victimization of Native Americans and Alaska Natives: the National Institute of Justice is currently funding a multi-year effort, the Violence Against Indian Women National Baseline study, to obtain an accurate national victimization rate of violence against American Indian and Alaska Native women living in tribal communities.³ The Bureau of Justice Statistics is conducting a national census of victim service providers, followed by a survey of a nationally representative sample of victim service providers.⁴

The Department supports GAO's premise that additional data would be beneficial to agencies and lawmakers alike, and is taking action to ensure that appropriate reporting mechanisms are available to grantees and to actively support broader efforts to better understand trafficking of Native American victims. To this end, the Department is consulting with Tribal leaders on this topic at the annual government-to-government consultation under the Violence Against Women Act, which will take place on October 3-4 of this year.

The Department of Justice maintains that challenges faced by Tribes are best met by solutions that include Tribal input. The Office of Tribal Justice and the network of tribal liaisons in the United States Attorneys' offices and specialists located in field and headquarters offices help ensure that Tribes are able to communicate concerns and collaborate on solutions with appropriate Department personnel. This network and the guiding philosophy will play a critical role as we develop more effective strategies to combat trafficking in Indian country and among Native American people. We look forward to working with our partners here in D.C., in Indian country, and elsewhere to address these heinous crimes. I would be happy to answer any questions you may have.

"Personally identifying information" is defined to include any information, "including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify an individual." 42 U.S.C. § 13925(a)(20)(E).

³ Information on the National Baseline Study can be found here: <https://www.nij.gov/topics/tribal-justice/vaw-research/Pages/baseline-study.aspx>.

⁴ For more information on the census and survey, see <https://www.bjs.gov/index.cfm?ty=tp&tid=98>.