



October 2021

MISSING OR MURDERED INDIGENOUS WOMEN

New Efforts Are Underway but Opportunities Exist to Improve the Federal Response

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A Century of Non-Partisan Fact-Based Work

GAO Highlights

Highlights of [GAO-22-104045](#), a report to congressional requesters

Why GAO Did This Study

According to researchers, AI/AN women in the U.S. experience higher rates of violence than most other women, and tribal and federal officials have stated that this incidence of violence constitutes a crisis. Various federal officials and tribal stakeholders have raised concerns about challenges with cross-jurisdictional cooperation and a lack of comprehensive national data on cases.

GAO was asked to review the federal response to the missing or murdered AI/AN women crisis. This report examines the extent to which (1) the number of missing or murdered AI/AN women in the U.S. is known and (2) DOJ and DOI have taken steps to address the crisis. GAO reviewed available data on missing persons and violent deaths, relevant reports, and agency documentation, including agency policies and procedures. Using agency data—which were determined to be reliable for location selection—and qualitative factors, GAO selected seven locations to interview federal, state, local, and tribal law enforcement officials; tribal officials; and nongovernmental victim service providers on the federal response to the crisis.

What GAO Recommends

GAO is making four recommendations, including that DOJ develop a plan for how it will accomplish ongoing analyses of missing or murdered AI/AN women data and that DOJ and DOI both develop plans to implement the requirements in Savanna's Act and the Not Invisible Act of 2019 that remain unfulfilled past their statutory deadlines. Both agencies concurred with our recommendations.

View [GAO-22-104045](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or GoodwinG@gao.gov; or Anna Maria Ortiz at (202) 512-3841 or OrtizA@gao.gov.

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What GAO Found

The total number of missing or murdered Indigenous women—referred to as American Indian and Alaska Native (AI/AN) women in this report—is unknown because, for several reasons, federal databases do not contain comprehensive national data on all AI/AN women reported missing. For example, federal law requires federal, state, and local law enforcement agencies—but not tribal law enforcement agencies—to report missing children under the age of 21, but not those over 21. In addition, instances of missing AI/AN women may be underreported due to mistrust of law enforcement and other reasons.

Implementation of data-related requirements in two laws, enacted in October 2020, present opportunities to increase and improve data on the number of missing or murdered Indians, including AI/AN women. For example, Savanna's Act requires tribal consultations on how to improve tribal data relevance and access to databases. The Department of Justice (DOJ) has taken some steps to analyze data in federal databases related to cases of missing or murdered AI/AN women, including publishing more detailed single-year statistics in 2020 on missing persons by race, gender, and age. However, data analyses efforts are in the early stages, and DOJ does not have a plan to continue these efforts past November 2021. Developing such a plan could provide DOJ and other stakeholders with information to better understand the nature of the missing or murdered AI/AN crisis and identify emerging trends.

Artist Installation of Red Dresses to Depict the Disappearances and Deaths of Indigenous Women, the National Museum of the American Indian, 2019



Source: GAO. | [GAO-22-104045](#)

Relevant DOJ and Department of the Interior (DOI) law enforcement agencies that investigate cases of missing or murdered Indian women in Indian country have engaged in other efforts to address the crisis, but they have not implemented certain requirements to increase intergovernmental coordination and data collection in the two 2020 laws, which remain unfulfilled past their statutory deadlines. For example, the Not Invisible Act of 2019 requires the Secretary of the Interior, in coordination with the Attorney General, to appoint members to a Joint Commission on Reducing Violence Against Indians by February 7, 2021, but as of October 15, 2021, no members have been appointed, and a draft plan to meet this requirement does not include milestones for all interim steps. Developing plans to meet this and other unfulfilled statutory requirements would provide more assurance that DOJ and DOI will meet their legal responsibilities, and support tribal partners in reducing violent crime.

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Abbreviations

AI/AN	American Indian and Alaska Native
BIA	Bureau of Indian Affairs
CDC	Centers for Disease Control and Prevention
COVID-19	Coronavirus Disease 2019
DOJ	Department of Justice
DOI	Department of the Interior
FBI	Federal Bureau of Investigation
MMIP	Missing and Murdered Indigenous Persons
MMIW	Missing or Murdered Indigenous Women
NCIC	National Crime Information Center
NamUs	National Missing and Unidentified Persons System
NVDRS	National Violent Death Reporting System
NIBRS	National Incident-Based Reporting System

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October 28, 2021

Congressional Requesters

Tribal leaders, federal officials, and other stakeholders have stated that the incidence of violence committed against American Indian and Alaska Native (AI/AN) women in the U.S. constitutes a crisis.¹ For the purposes of this report, we will refer to it as the missing or murdered Indigenous women (MMIW) crisis.² According to federal researchers, AI/AN women suffer disproportionately from intimate partner violence and other violence, such as human trafficking, and murder, compared with most other women.³ According to advocacy groups and the World Health Organization, the Coronavirus Disease 2019 (COVID-19) may be exacerbating the frequency of dating and intimate partner violence, which many tribal stakeholders consider to be a precipitating factor in AI/AN

¹In this report, we refer to a “woman” as a female adult who is 21 years or older because one of the federal laws relevant to this report defines a child as someone under the age of 21. See 34 U.S.C. § 41307(a). For the purposes of this report, “tribal stakeholders” include officials and members of Indian tribes, tribal law enforcement agencies, tribal advocacy organizations, or representatives from victim service providers who serve tribal communities.

²We use the phrase “missing or murdered” in this report to signify two distinct types of cases investigated by law enforcement agencies—(1) cases where a woman has been reported as missing and (2) cases where a woman has been murdered. Further, we use the term “MMIW” in referencing the ongoing crisis or specific initiatives. We refer to Indigenous people as “AI/AN” to be more specific and inclusive, as suggested by tribal advocacy organizations. We use the term “Indian” when describing federal laws, such as Savanna’s Act and the Not Invisible Act of 2019, which use that term.

³For example, a report analyzing the findings from the National Intimate Partner and Sexual Violence Survey found that, when looking at specific types of violence, such as intimate partner violence, stalking, and psychological aggression, AI/AN women experienced higher rates compared with non-Hispanic white women. Specifically AI/AN women experienced physical violence from an intimate partner 1.6 times as often as non-Hispanic white women (55.5 percent vs. 34.5 percent); stalking 1.8 times as often (48.8 percent vs. 26.8 percent); and psychological aggression, 1.3 times as often (66.4 percent vs. 52 percent). See André B. Rosay, *Violence Against American Indian and Alaska Native Women and Men*, a report prepared for the National Institute of Justice, Department of Justice (June 2016).

women going missing or being murdered.⁴ At congressional hearings on the federal response to the crisis of missing or murdered AI/AN women, various federal officials and tribal stakeholders have raised concerns about the lack of cross-jurisdictional cooperation and comprehensive national data on such incidents.⁵

Federal agencies have engaged in several efforts related to these issues. Specifically, on November 22, 2019, the Attorney General launched a national strategy to address missing and murdered Indigenous persons.⁶ On November 26, 2019, the President established a task force co-chaired by the Department of Justice (DOJ) and the Department of the Interior (DOI), which aims to enhance the operation of the criminal justice system and address the concerns of tribal communities regarding missing and murdered AI/AN people, particularly women and girls.⁷ In addition, in October 2020, two laws—Savanna’s Act⁸ and the Not Invisible Act of 2019 (the Not Invisible Act)⁹—were enacted that require DOJ and DOI to take various actions to increase intergovernmental coordination and the

⁴World Health Organization, *COVID-19 and Violence Against Women: What the Health Sector/System Can Do*, (April 7, 2020); Susan Montoya Bryan, “Advocates detail ‘shadow pandemic’ of violence against women,” (Associated Press News), accessed August 2021, <https://apnews.com/article/pandemics-health-violence-coronavirus-cfb40ca690c9f556b742bd39e1e8e9b6>. Rosay, *Violence Against American Indian and Alaska Native Women and Men*.

⁵See, for example, hearings held by the U.S. Senate, Committee on Indian Affairs, “Missing and Murdered: Confronting the Silent Crisis in Indian Country,” on December 12, 2018; and the U.S. House of Representatives, Committee on Natural Resources, Subcommittee for Indigenous Peoples of the United States, “Unmasking the Hidden Crisis of Murdered and Missing Indigenous Women: Exploring Solutions to End the Cycle of Violence,” on March 14, 2019.

⁶Attorney General William P. Barr Launches National Strategy to Address Missing and Murdered Indigenous Persons.” (Press release: Nov. 22, 2019), <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-launches-national-strategy-address-missing-and-murdered>.

⁷See Exec. Order No. 13898, 84 Fed. Reg. 66059 (Dec. 2, 2019). The task force—known as Operation Lady Justice—will terminate on November 26, 2021, unless otherwise directed by the President.

⁸Pub. L. No. 116-165, 134 Stat. 760 (2020) (codified at 25 U.S.C. §§ 5701-5705, 34 U.S.C. §§ 10452(a)(11)-(12), 10461(b)(23)-(24), 20126(b)(2), (4)).

⁹Pub. L. No. 116-166, 134 Stat. 766 (2020) (codified, in part, at 25 U.S.C. §§ 2801 note, 2802 note).

collection of data relevant to missing or murdered Indians, including Indian women.¹⁰

You asked us to review the federal response and other issues related to the MMIW crisis.¹¹ This report examines to what extent

- the number of missing or murdered AI/AN women in the U.S. is known, and
- DOJ and DOI have taken steps to address the MMIW crisis.

To address our first objective, we reviewed reports and testimonies and held interviews with officials from DOJ, DOI, the Centers for Disease Control and Prevention (CDC), and other stakeholders knowledgeable about data on MMIW to identify federal databases that contain nationwide data on missing or murdered individuals.¹² Using these resources, we identified two federal databases maintained by DOJ that contain nationwide information entered by participating law enforcement agencies about missing persons—the National Crime Information Center (NCIC) database and the National Missing and Unidentified Persons System (NamUs).¹³ We also identified two federal databases that contain nationwide information about people who have been murdered—the

¹⁰The term “Indian” appears in various federal laws, including Savanna’s Act and the Not Invisible Act, and we use the same term when describing these laws or their implementation. In addition, although our report addresses missing or murdered AI/AN women, our discussion of jurisdiction is based on federal laws that apply to the murder of an “Indian” in Indian country, as we discuss later in this report.

¹¹The characterization of MMIW issues as a “crisis” is common across the federal government. See, for example, the Not Invisible Act, which refers to “the crisis of missing or murdered Indians.” Pub. L. No. 116-166, 134 Stat. at 769.

¹²The other stakeholders we interviewed to identify databases that contain data on missing or murdered individuals were identified based on a review of testimony presented at the two congressional hearings cited above. These stakeholders were representatives from two tribal advocacy organizations we describe below and had experience with federal data on missing or murdered women.

While individual states may have clearinghouses that contain data relevant to a study of cases of missing AI/AN women, we did not review these databases because they do not contain nationwide data, and our review addresses the availability of nationwide data in federal databases.

¹³Other DOJ investigative databases contain information on missing persons, such as the National DNA Index System and the Violent Crime Apprehension Program. For the purposes of this report, we excluded these databases for reasons including that they are focused on specific case information, such as DNA profiles, or do not contain as many recorded missing persons cases compared with NCIC and NamUs.

National Violent Death Reporting System (NVDRS), maintained by CDC within the Department of Health and Human Services;¹⁴ and the National Incident-Based Reporting System (NIBRS), maintained by DOJ. We reviewed documents and guidance related to each database, and conducted additional interviews with officials knowledgeable about these databases to understand their content and how this content might relate to MMIW. We determined that the information and communication component of internal control—that an agency should identify the information requirements needed to achieve the agency’s objectives and should process the data into quality information to make informed decisions and evaluate the entity’s performance in achieving key objectives and addressing risks—was significant to our first objective.

To address our second objective, we assessed DOJ’s and DOI’s efforts to address aspects of the MMIW crisis by reviewing relevant agency documents, including policies and procedures, and through interviews with agency officials.

To address both objectives, we reviewed agency reports and congressional testimony, and conducted interviews with officials from DOJ and DOI and other stakeholders knowledgeable about issues surrounding the MMIW crisis. We reviewed relevant laws, agency policies and procedures, and other agency documents relevant to MMIW initiatives and their implementation by these agencies. We also interviewed officials at DOJ and DOI to understand their ongoing and planned initiatives.

In addition, we selected a nongeneralizable sample of seven locations nationwide to learn more about how data on MMIW are collected and used and to better understand aspects of federal law enforcement response to the MMIW crisis.¹⁵ To select the seven locations, we identified cities where there were relatively high numbers of AI/AN women either reported missing or murdered in 2018 and where there were high numbers of these incidents compared with the total AI/AN population in

¹⁴We reviewed information from NVDRS because it contained more detailed information about violent deaths—including information specific to location—than other data reports (e.g., National Fatal Injury reports) from CDC.

¹⁵We conducted these interviews via telephone because many tribal government and other stakeholders were working remotely as a result of COVID-19.

that year.¹⁶ We identified the number of AI/AN women reported missing using information from NCIC¹⁷ and identified the number of murdered AI/AN women using NVDRS data on violent deaths.¹⁸ We combined the missing persons data with the violent death data to estimate the number of reported cases of missing or murdered AI/AN women by city and state to identify locations with the highest number of AI/AN women reported missing or counted among those who died as a result of a violent death.

We also used U.S. Census Bureau information on the population of AI/AN individuals by city and state in 2018 to determine the total cases per capita to account for locations that may not have the highest absolute number of cases but that experienced a high volume relative to their population. We used the information collected from interviews with knowledgeable agency officials and a review of documentation for each data source to assess the reliability of the data we used as part of our selection methodology. We determined that while the data have limitations for estimating the absolute magnitude of missing or murdered AI/AN women, they were sufficiently reliable for the purposes of identifying potential locations with relatively high numbers and missing or murdered AI/AN women per capita.

In addition, we also took into account qualitative factors to achieve a diverse mix of locations in our sample, including general geographic dispersal; if the location is urban or rural; variation in whether tribes' Indian country was subject to federal or state criminal jurisdiction, or both;

¹⁶We used 2018 data because they were the most recent year of data available at the time of this analysis.

¹⁷NCIC does not record a missing person's last known whereabouts. Since this information is not available, we used NCIC's Originating Agency Identifier, which can be used to identify the address of the law enforcement agency that entered the missing persons report, to compare the volume of missing AI/AN women cases in different cities. However, there are likely instances where the Originating Agency Identifier does not geographically represent the location the missing person was last seen.

¹⁸NVDRS defines a "violent death" as a death that results from the intentional use of physical force or power, threatened or actual, against oneself, another person, or a group or community. According to agency officials, NVDRS uses the World Health Organization definition of violence, as defined in this reference: Krug EG, Mercy JA, Dahlberg LL, Zwi AB. The world report on violence and health. *Lancet* 2002;360:1083–8, and cited in this Morbidity and Mortality Weekly Report in the methods section: <https://www.cdc.gov/mmwr/volumes/69/ss/ss6908a1.htm>. The NVDRS data for 2018 were the most complete data available; however, the 2018 data did not include records from 10 states: Arkansas, Florida, Idaho, Mississippi, Montana, North Dakota, South Dakota, Tennessee, Texas, and Wyoming. These states were added for the 2019 year, but data from these states were not available to us at the time of our analysis.

and whether the location is in a state where DOJ or DOI has implemented initiatives related to missing or murdered Indian women. On the basis of the above factors, we selected seven locations in the following states: Alaska, Arizona, Minnesota, Montana, New Mexico, South Dakota, and Washington.

For each location, we identified which law enforcement agencies investigated crimes and interviewed officials from these agencies, including officials from DOJ's Federal Bureau of Investigation (FBI); DOI's Bureau of Indian Affairs (BIA); state and local law enforcement agencies; and, where applicable, tribal law enforcement agencies. We also identified a tribe or tribal organization located near or within each area and interviewed that tribe's or tribal organization's officials, including law enforcement if the tribe had assumed responsibility for law enforcement from BIA. In addition, we identified and interviewed a nongovernmental victim service provider that serves or is proximate to each area.

To collect tribal perspectives on issues related to missing or murdered AI/AN women, we interviewed 23 tribal stakeholders in our seven selected locations regarding their views on how federal law enforcement agencies respond to cases of missing or murdered Indian women or how they assist with state or local investigations, as applicable. Tribal stakeholders included officials from tribal governments, a tribal organization serving several tribes, and tribal law enforcement agencies; and representatives from five victim service providers or tribally focused organizations that address violence against AI/AN women in or near our selected locations; and representatives from four tribal advocacy organizations.¹⁹ One of these stakeholders invited family members of missing or murdered women to our meeting to share their perspectives. Whether we asked about federal investigations of missing or murdered Indian women, or federal assistance to state or local investigations, depended on whether the relevant tribe was subject to federal or state

¹⁹The four tribal advocacy organizations we spoke with were the National Indigenous Women's Resource Center, the Alaska Native Women's Resource Center, the Sovereign Bodies Institute, and the National Congress of American Indians. We identified these advocacy organizations on the basis of internet searches for organizations, reports, and webinars that address MMIW topics, as well as a review of organizations from which representatives were asked to provide testimony during two congressional hearings on this topic, as cited above.

jurisdiction, or both.²⁰ In one state, the tribes associated with the location are subject to state criminal jurisdiction. In the other six selected locations, the tribes are subject to federal criminal jurisdiction, and two of the six are also subject to state criminal jurisdiction to some extent.

In addition, to understand state and regional MMIW efforts, we reviewed reports from tribal advocacy groups, states, and the federal government, focused on individual states or regions (e.g., Northern California and the Northern Plains region).

We conducted this performance audit from January 2020 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Federally Recognized Indian Tribes and Terminology

As of September 2021, there were 574 federally recognized Indian tribes in the U.S. In the Federally Recognized Indian Tribe List Act of 1994, Congress found that the U.S. has a trust responsibility to recognized Indian tribes, maintains a government-to-government relationship with those tribes, and recognizes the sovereignty of those tribes.²¹ Each year, DOI must publish in the *Federal Register* the list of tribes recognized by the Secretary of Interior.²² Tribes with federal recognition are eligible for federal programs and services provided to Indians because of their status

²⁰This report does not include tribal stakeholders' perspectives on how state or local law enforcement agencies respond to cases of missing or murdered Indian women because it was not within our scope of work to address these issues, only how federal law enforcement agencies respond to, or assist with, such cases. By "federal law enforcement agencies," we mean the Bureau of Indian Affairs' Office of Justice Services within the Department of the Interior and the Federal Bureau of Investigation within the Department of Justice. By "woman," we mean an adult female who is 21 or older.

²¹Pub. L. No. 103-454, tit. I, § 103(2), 108 Stat. 4791 (1994) (codified at 25 U.S.C. § 5130 note).

²²See Pub. L. No. 103-454, tit. I, § 104, 108 Stat. at 4792 (codified at 25 U.S.C. § 5131).

as Indians—a term used in federal law to signify a person’s political classification as a member of a federally recognized Indian tribe.²³

Several federal laws, including Savanna’s Act, require the Attorney General to consult with tribes on specified topics. According to DOJ, the agency’s consultation policy and Statement of Principles for Working with Tribes are intended to establish a framework to guide all of DOJ’s interactions with tribal representatives. The tribal consultation policy states that consultation is the formal process through which DOJ seeks tribal input, and the principle of consultation has its roots in the unique government-to-government relationship between the federal government and the governments of federally recognized tribes. According to the policy, coordination between tribes and DOJ encompasses a variety of forms of communication that include formal consultation, listening sessions, meetings with individual tribes, and informal discussions with tribal leaders.²⁴

According to 2019 population estimates from the U.S. Census Bureau, over 5.6 million people in the U.S. identified their racial category as AI/AN, of which 37 percent were women over the age of 18.²⁵ Not every person who identifies as AI/AN is an enrolled member of a federally recognized Indian tribe or is an Indian for purpose of federal criminal

²³See 25 U.S.C. § 5131.

²⁴DOJ, *U.S. Department of Justice Policy on Tribal Consultation*, U.S. Department of Justice 001; Policy Statement 0300.01 (2013).

²⁵According to the U.S. Census Bureau’s American Community Survey 1-Year Data estimates of Public Use Microdata Sample for 2019 for American Indian and Alaska Native (alone or in combination with one or more races), female, 18 years or older.

law.²⁶ People who identify as AI/AN, or are members of federally recognized tribes, live both inside and outside Indian country.²⁷

Distinction Between Missing Persons Cases and Murder Cases

Although various federal and tribal stakeholders refer to “missing and murdered AI/AN women,” the expression combines two types of cases, and only murder cases are criminal. Not all AI/AN women who go missing are murder victims. While some adults go missing because of criminal activity, they may also choose to go elsewhere without letting anyone know, for example, to seek protection from an abuser. They may also go missing because of a fatal accident, natural disaster, or health condition (e.g., dementia).²⁸ According to DOJ officials, most missing persons cases are resolved, with the person found alive. In other cases, a missing person’s body may be found. This resolves the missing persons case and, in some instances, may lead to a murder investigation if investigators determine that the cause of death was murder, as opposed to natural causes, suicide, or accident. According to BIA officials, this determination involves an examination of the body by medical examiners in concert with an assessment of other evidence—for example, the presence of a weapon at the scene.

²⁶Federal criminal law does not define “Indian,” but federal courts have developed different tests to determine who is an Indian for criminal jurisdiction purposes. Generally, these tests require the person to have Indian blood and be recognized as an Indian. For example, some courts require a significant degree of Indian blood and a sufficient connection to a federally recognized tribe to be regarded as one of its members. See, e.g., *LaPier v. McCormick*, 986 F.2d 303 (9th Cir. 1993); *United States v. Torres*, 733 F.2d 449, 455 (7th Cir. 1984); and *United States v. Broncheau*, 597 F.2d 1260, 1263 (9th Cir. 1979), *cert. denied*, 444 U.S. 859 (1979).

²⁷Federal law defines “Indian country” as all land within the limits of any Indian reservation under the jurisdiction of the U.S. government, all dependent Indian communities within U.S. borders, and all existing Indian allotments, including any rights-of way running through an allotment. See 18 U.S.C. § 1151. Some states have little, or no, Indian country. For example, as a result of a Supreme Court decision, there is very little Indian country in Alaska. See *Alaska v. Native Village of Venetie Tribal Govt.*, 522 U.S. 520 (1998).

²⁸Trisha Charkraborty, *Reporting & Investigating Missing Persons: A Background Paper On How To Frame The Issue* (August 2019).

Jurisdiction to Prosecute Cases Involving Murdered Indian Women

Federal, state, or tribal prosecutors may have jurisdiction to prosecute the murder of an Indian woman, depending on where the murder occurred—inside or outside of Indian country, the identity of the defendant, and other factors.²⁹

- **Federal jurisdiction.** If an Indian woman is murdered in Indian country, the federal government has jurisdiction to prosecute the case under two federal laws—the Major Crimes Act, which applies if the defendant is an Indian;³⁰ and the General Crimes Act, which applies if the defendant is a non-Indian.³¹
- **State jurisdiction.** States, and their political subdivisions (local governments), have no jurisdiction to prosecute the murder of an Indian woman in Indian country unless a federal law grants such jurisdiction. For example, Public Law 280 granted six states—Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin—jurisdiction to prosecute crimes by or against Indians in Indian country and allows the other 44 states the option of assuming this jurisdiction, with the tribe’s consent.³² Depending upon the federal law, state criminal

²⁹Although our report addresses missing or murdered AI/AN women, our discussion of jurisdiction is based on federal laws that apply to the murder of an Indian in Indian country. See 18 U.S.C. §§ 1151-1153. Because these laws apply to crimes and do not address missing persons, we do not refer to missing persons cases when discussing jurisdiction. In addition, we do not discuss the federal crime of murder that applies within federal enclaves, such as national parks and military bases, where federal jurisdiction is based on whether the murder occurred within the special maritime and territorial jurisdiction of the United States, not whether it was committed by or against an Indian in Indian country. See 18 U.S.C. § 1111(b).

³⁰See 18 U.S.C. § 1153. The Major Crimes Act enumerates a list of serious offenses over which the federal government has jurisdiction if committed by an Indian in Indian country, including murder, manslaughter, kidnapping, felony sexual abuse, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and felony larceny, theft, and embezzlement.

³¹See 18 U.S.C. § 1152.

³²See 18 U.S.C. § 1162(a); 25 U.S.C. § 1321(a)(1). Public Law 280 exempts the Indian country of certain tribes in Alaska, Minnesota, and Oregon from state criminal jurisdiction. See 18 U.S.C. § 1162(a).

jurisdiction may be exclusive of federal jurisdiction or concurrent.³³ Exclusive jurisdiction means that the state can enforce its criminal laws in Indian country, but the federal government cannot. Concurrent jurisdiction means that both the state and federal governments can enforce their criminal laws in Indian country.

- **Tribal jurisdiction.** Tribes have inherent sovereignty to prosecute Indians who commit crimes in Indian country, including cases involving murdered Indian women.³⁴ In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes.³⁵ Tribes may exercise this special domestic violence criminal jurisdiction to prosecute certain non-Indians who commit domestic or dating violence, or protection order violations, against Indian victims in Indian country.³⁶ For serious crimes such as murder, tribes may nevertheless defer to federal or state prosecutors, as applicable, to handle the case instead of exercising their own jurisdiction. This is because sentences imposed by tribal courts are subject to statutory caps, which can be very low compared to any applicable statutory caps that may apply to sentences imposed by federal or state courts. The Tribal Law and Order Act of 2010 raised the sentencing cap on tribal courts from 1 year to 3 years per offense under certain circumstances.³⁷ However, because these sentences are not commensurate with serious crimes like murder, a tribe may defer to federal or state prosecutors to handle these cases instead of exercising its own jurisdiction.

³³See, e.g., 18 U.S.C. § 1162(c)-(d); 25 U.S.C. § 1321(a)(2).

³⁴A tribe might exercise its inherent sovereignty by consenting to BIA's enforcement of tribal law on its behalf. See 25 U.S.C. § 2802(c)(1).

³⁵See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 121 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants with certain rights and protections. 25 U.S.C. § 1304(d).

³⁶25 U.S.C. § 1304(b)(4), (c).

³⁷Specifically, a tribe may exercise this enhanced sentencing authority, provided that (1) the defendant has been previously convicted of the same, or a comparable, offense in any U.S. jurisdiction, or is being prosecuted for an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or a state; and (2) the tribe has met other applicable statutory requirements, including the adoption of certain protections for the accused in a criminal case. See Pub. L. No. 111-211, tit. II, § 234(a), 124 Stat. 2258, 2261, 2279-2281 (2010) (codified at 25 U.S.C. § 1302(a)(7)(C), (b)-(c)). Otherwise, the maximum sentence a tribal court may impose is 1 year per offense. 25 U.S.C. § 1302(a)(7)(B). For cases involving multiple offenses, the total sentence a tribal court may impose is 9 years. 25 U.S.C. § 1302(a)(7)(D).

Table 1 summarizes these sources of federal, state, and tribal jurisdiction to prosecute cases involving murdered Indian women in Indian country.

Table 1: Selected Sources of Federal, State, and Tribal Jurisdiction to Prosecute Cases Involving Murdered Indian Women in Indian Country

Source of criminal jurisdiction	Summary of criminal jurisdiction	Entities with criminal jurisdiction		
		Federal	State	Tribal
Major Crimes Act, 18 U.S.C. § 1153(a)	The Major Crimes Act provides federal jurisdiction over Indians who commit specified crimes in Indian country, including murder. This statute is the source of federal jurisdiction to prosecute Indian defendants accused of murdering Indian women in Indian country.	X	—	—
General Crimes Act, 18 U.S.C. § 1152	The General Crimes Act provides federal jurisdiction over non-Indians who commit crimes against Indians in Indian country, including murder. This statute is the source of federal jurisdiction to prosecute non-Indian defendants accused of murdering Indian women in Indian country.	X	—	—
Various federal laws, including Public Law 280, codified, as amended, at 18 U.S.C. § 1162; 25 U.S.C. § 1321	States do not have jurisdiction to prosecute crimes by or against Indians in Indian country unless a federal law grants such jurisdiction. There are various federal laws that provide states with criminal jurisdiction in Indian country. One example is Public Law 280, which granted six states—Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin— criminal jurisdiction in Indian country ^a and the other 44 states the option of assuming this jurisdiction, with the affected tribe’s consent. Depending upon the federal law, state criminal jurisdiction may be exclusive of federal jurisdiction or concurrent. Exclusive jurisdiction means that the state can enforce its criminal laws in Indian country, but the federal government cannot. Concurrent jurisdiction means that both the state and federal governments can enforce their criminal laws in Indian country. For example, Public Law 280 granted exclusive criminal jurisdiction in Indian country to California but also allows a tribe to request, and the Attorney General to consent to, concurrent federal jurisdiction for that tribe’s Indian country. Federal laws such as Public Law 280 are a source of state jurisdiction to prosecute Indian and non-Indian defendants accused of murdering Indian women in Indian country, and such jurisdiction may be concurrent with, or exclusive of, federal criminal jurisdiction.	X <i>(sometimes)</i>	X	—

Letter

Source of criminal jurisdiction	Summary of criminal jurisdiction	Entities with criminal jurisdiction		
		Federal	State	Tribal
Inherent tribal sovereignty, <i>Talton v. Mayes</i> , 163 U.S. 376 (1896); 25 U.S.C. § 1301(2); <i>United States v. Lara</i> , 541 U.S. 193 (2004); Violence Against Women Reauthorization Act of 2013 (VAWA), 25 U.S.C. § 1304(b)(1)	<p>Indian tribes retain their inherent sovereignty to punish Indians who commit crimes in Indian country. The Supreme Court first recognized tribes' inherent sovereignty in an 1896 case involving tribal jurisdiction over one of its members. In 2004, the Supreme Court recognized tribes' inherent sovereignty to exercise criminal jurisdiction over all Indians, not just tribal members, based on the enactment of 25 U.S.C. § 1301(2), which recognized and affirmed this power.</p> <p>VAWA recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes in a tribe's Indian country. This special domestic violence criminal jurisdiction enables tribes to prosecute certain non-Indians who commit domestic or dating violence, or protection order violations, against Indian victims in Indian country.</p> <p>Inherent tribal sovereignty is the source of tribal jurisdiction to prosecute Indian defendants accused of murdering Indian women in Indian country, as well as certain non-Indian defendants for cases that fall within VAWA's special domestic violence criminal jurisdiction.</p>	—	—	X

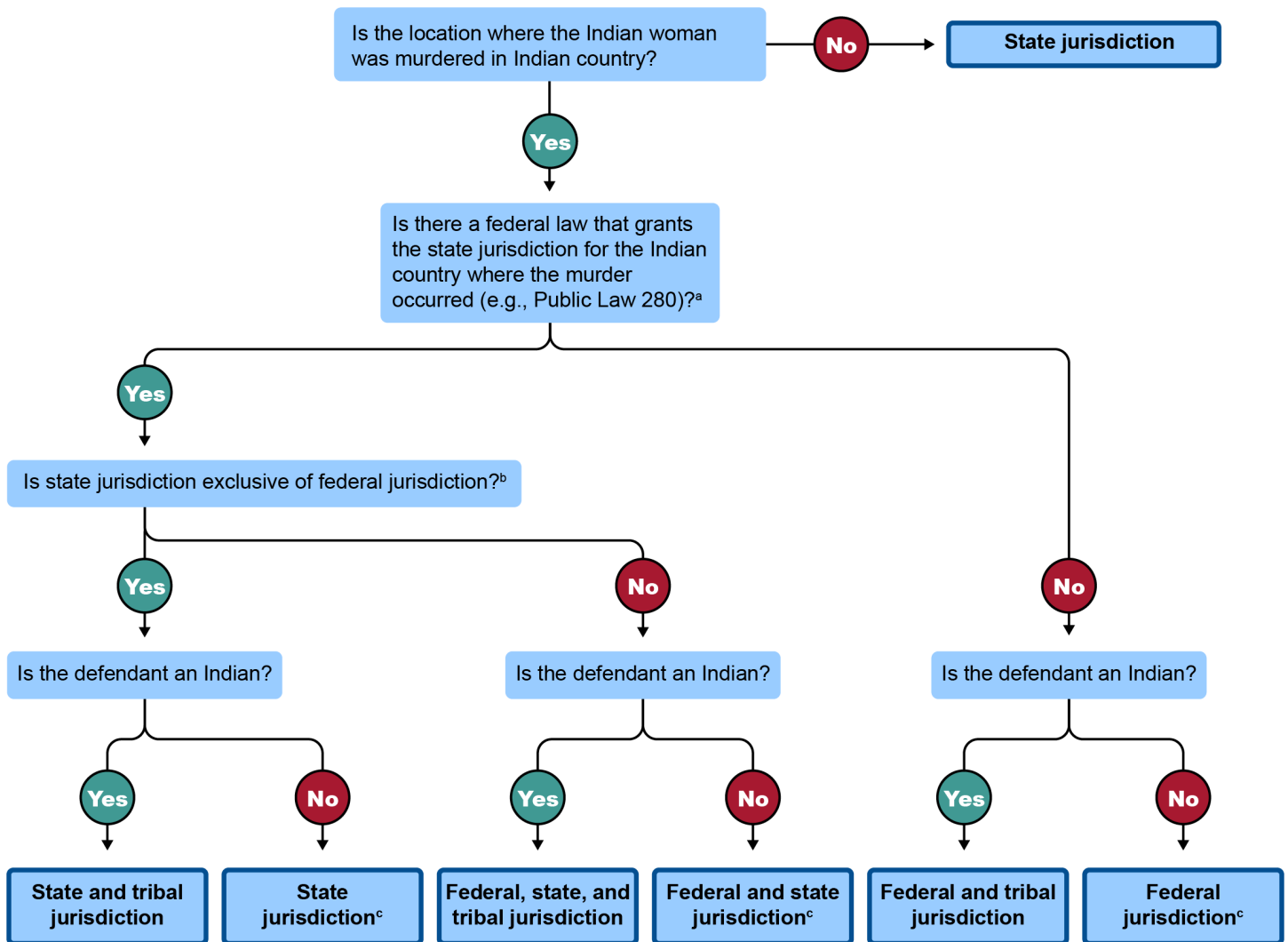
Source: GAO analysis of federal laws and court decisions. | GAO-22-104045

^aPublic Law 280 exempts the Indian country of certain tribes in these states from state criminal jurisdiction. See 18 U.S.C. § 1162(a). In addition, as a result of a Supreme Court decision, there is very little Indian country in Alaska. See *Alaska v. Native Village of Venetie Tribal Govt.*, 522 U.S. 520 (1998).

If the murder of an Indian woman occurs outside Indian country, the state has jurisdiction to prosecute the case, while the federal government and the tribes do not. Although certain federal crimes apply across the nation, such as federal human trafficking offenses, the murder of an Indian woman is a federal crime under the General and Major Crimes Acts only if committed in Indian country.³⁸ Tribes also have no jurisdiction to prosecute the murder of an Indian woman outside of Indian country because inherent tribal sovereignty extends only to Indian country, not beyond. Figure 1 shows how these jurisdictional rules apply to cases involving murdered Indian women inside and outside of Indian country.

³⁸Human trafficking may involve sex trafficking and/or labor trafficking. For specific crimes in each category, see 18 U.S.C. ch.77 (Peonage, Slavery and Trafficking in Persons), and ch. 117 (Transportation for Illegal Sexual Activity and Related Crimes).

Figure 1: Federal, State, and Tribal Jurisdiction for Prosecuting Cases Involving Murdered Indian Women



Source: GAO analysis of federal laws and court decisions. | GAO-22-104045

Text of Figure 1: Federal, State, and Tribal Jurisdiction for Prosecuting Cases Involving Murdered Indian Women

- 1) Is the location where the Indian woman was murdered in Indian country?
 - a) No = State Jurisdiction
 - b) Yes

i) Is there a federal law that grants the state jurisdiction for the Indian country where the murder occurred (e.g., Public Law 280)?/a/

(1) Yes = Is state jurisdiction exclusive of federal jurisdiction?/b/

(a) Yes = Is the defendant an Indian?

(i) Yes = State and tribal jurisdiction

(ii) No = State jurisdiction/c/

(b) No = Is the defendant an Indian?

(i) Yes = Federal, state, and tribal jurisdiction

(ii) No = Federal and state jurisdiction/c/

(2) No = Is the defendant an Indian?

(a) Yes = Federal and tribal jurisdiction

(b) No = Federal jurisdiction/c/

Note: The murder of an Indian woman is a federal crime under the General and Major Crimes Acts, if committed in Indian country. See 18 U.S.C. §§ 1152, 1153. Federal law does not define the term “Indian,” but federal courts have developed different tests to determine who is an Indian for criminal jurisdiction purposes. Generally, these tests require the person to have Indian blood and be recognized as an Indian. For example, some courts require a significant degree of Indian blood and a sufficient connection to a federally recognized tribe to be regarded as one of its members. See, e.g., *LaPier v. McCormick*, 986 F.2d 303 (9th Cir. 1993); *United States v. Torres*, 733 F.2d 449, 455 (7th Cir. 1984); and *United States v. Broncheau*, 597 F.2d 1260, 1263 (9th Cir. 1979), cert. denied, 444 U.S. 859 (1979). Federal law defines “Indian country” as all land within the limits of any Indian reservation under the jurisdiction of the U.S.; all dependent Indian communities within U.S. borders; and all existing Indian allotments, including any rights-of-way running through an allotment. 18 U.S.C. § 1151. As a result of a Supreme Court decision, there is very little Indian country in Alaska. See *Alaska v. Native Village of Venetie Tribal Govt.*, 522 U.S. 520 (1998).

^aStates have no jurisdiction to prosecute crimes by or against Indians in Indian country, including the murder of an Indian woman, unless a federal law grants them this jurisdiction. One example of such a law is Public Law 280, which granted six states—Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin—criminal jurisdiction in Indian country and the other 44 states the option of assuming this jurisdiction, with the affected tribe’s consent. See 18 U.S.C. § 1162(a), 25 U.S.C. § 1321(a)(1). Public Law 280 exempts the Indian country of certain tribes in Alaska, Minnesota, and Oregon from state criminal jurisdiction. See 18 U.S.C. § 1162(a).

^bDepending upon the federal law, state criminal jurisdiction may be exclusive of federal jurisdiction—meaning that the state can enforce its criminal laws in Indian country, but the federal government cannot—or it may be concurrent with federal jurisdiction—meaning that both the state and federal governments can enforce their criminal laws in Indian country. For example, Public Law 280 granted exclusive jurisdiction to California, but it also allows a tribe to request, and the Attorney General to consent to, concurrent federal criminal jurisdiction for that tribe’s Indian country. See 18 U.S.C. § 1162(c)-(d).

⁹In certain cases involving non-Indian defendants who commit domestic or dating violence, or protection order violations against Indian victims in Indian country, a tribe may also have special domestic violence criminal jurisdiction. The Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians who commit certain domestic and dating violence crimes in a tribe's Indian country. See 25 U.S.C. § 1304(b)(1).

Source: GAO analysis of federal laws and court decisions. | GAO-22-104045

Federal and Tribal Law Enforcement in Indian Country

FBI and BIA are the two federal agencies that share responsibility for investigating federal “Indian country crimes,” that is, crimes committed by or against Indians subject to the General and Major Crimes Acts, including cases involving murdered Indian women, in areas of Indian country where there is federal criminal jurisdiction.³⁹ In addition, BIA provides uniform police to some tribes as a direct service. Other tribes have assumed responsibility for law enforcement from BIA through self-determination contracts or self-governance compacts—including uniform police, criminal investigation services, or both.⁴⁰ Additionally, BIA may also enforce tribal law in Indian country, with the consent of the tribe and subject to any applicable requirements in federal or tribal law.⁴¹ Tribal law enforcement agencies are also responsible for enforcing tribal law.

There are 94 federal judicial districts in the U.S., 52 of which have Indian country in their districts, according to Executive Office for United States Attorneys officials. Each of these U.S. Attorneys' Offices has at least one

³⁹BIA's Office of Justice Services is the component responsible for law enforcement in Indian country. While BIA and FBI both have authority to investigate Indian country crimes, FBI, but not BIA, also has authority to investigate federal crimes that apply nationwide, such as federal human trafficking offenses. Human trafficking may involve sex and/or labor trafficking. For specific offenses in each category, see 18 U.S.C. ch. 77 (Peonage, Slavery and Trafficking in Persons), and ch. 117 (Transportation for Illegal Sexual Activity and Related Crimes).

⁴⁰Under the Indian Self-Determination and Education Assistance Act of 1975, as amended, federally recognized tribes can enter into self-determination contracts and self-governance compacts with the federal government to take over administration of certain federal programs previously administered on their behalf. Pub. L. No. 93-638, 88 Stat. 2203 (codified as amended at 25 U.S.C. §§ 5301-5423). Self-determination contracts allow tribes to assume responsibility for managing the program's day-to-day operations, with BIA providing technical oversight to ensure that the tribe meets contract terms. Self-governance compacts transfer to tribes the administration of the program and provide tribes with some flexibility in program administration.

⁴¹See 25 U.S.C. § 2802(c)(1).

Assistant U.S. Attorney appointed as Tribal Liaison and is responsible for most dealings with tribes in their district.

Because tribes have inherent sovereignty to prosecute Indians who commit crimes in Indian country, tribal prosecutors may bring charges in tribal court against Indian defendants who murder an Indian woman in violation of tribal law.⁴² However, tribal sentences are subject to statutory caps that would not apply if the defendant was tried, convicted, and sentenced for the murder by a federal court (or, if applicable, by a state court).⁴³

The Total Number of Missing or Murdered AI/AN Women Is Unknown; Implementation of New Laws and Plans Could Help

The Total Number of Missing or Murdered AI/AN Women Is Unknown Because Federal Databases Do Not Contain Comprehensive National Data

The total number of missing or murdered AI/AN women is unknown, because federal databases do not contain comprehensive national data, including comprehensive data from tribal, state and local law enforcement entities. While there is no single federal database that contains comprehensive national data on missing or murdered AIAN women, we identified four federal databases that individually contain information on





⁴²A tribe's inherent sovereignty includes criminal jurisdiction over certain non-Indians for specific crimes. Specifically, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes in a tribe's Indian country. See 25 U.S.C. § 1304(b)(1). This special domestic violence criminal jurisdiction enables tribes to prosecute certain non-Indians who commit domestic or dating violence, or protection order violations, against Indian victims in Indian country.

⁴³Specifically, the maximum tribal sentence for murder is 1 year—or, potentially, 3 years under certain circumstances. See 25 U.S.C. § 1302(a)(7)(B)-(C), (b)-(c).

missing or murdered individuals, including AI/AN women.⁴⁴ Although not comprehensive and designed for purposes other than tracking the number of missing or murdered AI/AN women, NCIC, NamUs, NIBRS, and NVDRS contain the most useful national information on how many AI/AN women go missing or are murdered in the U.S. Figure 2 provides details about these four federal databases and information relevant to missing or murdered AI/AN women cases that each database contains.

⁴⁴According to DOJ officials, there is also no single federal database that contains comprehensive national data on missing or murdered women of other races.

Figure 2: Key Federal Databases That Contain Information Related to Cases of Missing or Murdered American Indian and Alaska Native (AI/AN) Women

Database	Agency	Content of database	Relevant information for missing or murdered AI/AN women	Sources of information
<p>NCIC National Crime Information Center</p> 	<p>Department of Justice (DOJ) Criminal Justice Information Services Division within the Federal Bureau of Investigation (FBI)</p>	<p>Information to help locate missing persons and identify unidentified persons, in addition to other criminal justice information</p>	<p>Active missing persons records</p> <p>Active unidentified persons records</p>	<p>Authorized users including federal, tribal, state and local law enforcement agencies, non-law enforcement criminal justice agencies and medical examiners and coroners</p>
<p>NamUs National Missing and Unidentified Persons System</p> 	<p>DOJ National Institute of Justice within the Office of Justice Programs</p>	<p>Information and forensic resources to help solve long-term missing and unidentified persons cases</p>	<p>Active missing persons records</p> <p>Active unidentified persons records</p> <p>Active unclaimed persons records</p>	<p>Registered users, including members of the public, federal, tribal, state and local law enforcement agencies, medical examiners and coroners</p>
<p>NIBRS National Incident Based Reporting System</p> 	<p>DOJ Criminal Justice Information Services within the FBI</p>	<p>Detailed crime data including statistics on murder and violent crime</p>	<p>Annual and quarterly publications of national crime statistics including murder</p>	<p>Federal, tribal, state and local law enforcement agencies as part of Justice's Uniform Crime Reporting Program</p>
<p>NVDRS National Violent Death Reporting System</p> 	<p>Department of Health and Human Services (HHS) Centers of Disease Control and Prevention</p>	<p>Detailed violent death data including statistics on murder</p>	<p>Annual publication on national violent death statistics including murder</p>	<p>States enter information collected from death certificates, medical examiners and coroner reports, and law enforcement reports</p>

Source: GAO analysis of DOJ and HHS documentation and information for each database. | GAO-22-104045

Table for Figure 2: Key Federal Databases That Contain Information Related to Cases of Missing or Murdered American Indian and Alaska Native (AI/AN) Women

Database	Agency	Content of database	Relevant information for missing or murdered AI/AN women	Sources of information
NCIC: National Crime Information Center	Department of Justice (DOJ): Criminal Justice Information Services Division within the Federal Bureau of Investigation (FBI)	Information to help locate missing persons and identify unidentified persons, in addition to other criminal justice information	Active missing persons records Active unidentified persons records	Authorized users including federal, tribal, state and local law enforcement agencies, non-law enforcement criminal justice agencies and medical examiners and coroners
NamUs: National Missing and Unidentified Persons System	DOJ: National Institute of Justice within the Office of Justice Programs	Information and forensic resources to help solve long-term missing and unidentified persons cases	Active missing persons records Active unidentified persons records Active unclaimed persons records	Registered users, including members of the public, federal, tribal, state and local law enforcement agencies, medical examiners and coroners
NIBRS: National Incident Based Reporting System	DOJ: Criminal Justice Information Services within the FBI	Detailed crime data including statistics on murder and violent crime	Annual and quarterly publications of national crime statistics including murder	Federal, tribal, state and local law enforcement agencies as part of Justice’s Uniform Crime Reporting Program
NVDRS: National Violent Death Reporting System	Department of Health and Human Services (HHS): Centers of Disease Control and Prevention	Detailed violent death data including statistics on murder	Annual publication on national violent death statistics including murder	States enter information collected from death certificates, medical examiners and coroner reports, and law enforcement reports

Note: NVDRS uses the term “homicide” rather than “murder” in its definition of a “violent death.” Because any distinction between the two terms is not relevant to this report, we use the term “murder,” to be consistent with the terminology used by federal officials and tribal stakeholders who refer to missing or murdered AI/AN women.

Source: GAO analysis of DOJ and HHS documentation and information for each database. | GAO-22-104045

Considerations When Using Federal Databases to Identify the Number of Missing AI/AN Women

The data in NCIC and NamUs can be used to help quantify reported cases of missing AI/AN women in the U.S. However, comprehensive data are not available.

Department of Justice (DOJ) Tribal Access Program for National Crime Information

In 2015, DOJ established the Tribal Access Program to address unmet data needs of tribes, including tribal law enforcement agencies that did not already have access to the National Crime Information Center (NCIC) through a state law enforcement agency portal. From 2015 through June 2021, DOJ has granted access to NCIC to 98 tribes. DOJ officials said that they were unable to grant access to 13 tribes with law enforcement agencies, due to limited program funding, but said that they encouraged these tribes to reapply. The 2021 application period was open from July 1 through August 31, 2021. According to DOJ officials, additional tribes were selected in September 2021, which brought the total to 108 participating tribes.

Source: Department of Justice officials. | GAO-22-104045

The National Crime Information Center (NCIC). NCIC is an operational database whose primary purpose is to help authorized users manage and resolve cases rather than provide statistical data to track the total number of missing AI/AN women. While it is possible to query the system to obtain information on the number of missing persons records entered in NCIC, the database does not contain comprehensive information on the number of AI/AN women who have gone missing, for several reasons.⁴⁵ First, adults have the legal right to go missing in most cases, and there are no mandatory reporting requirements for missing adults under federal law only missing children under the age of 21.⁴⁶ Because there are no federal requirements to report missing adults who are 21 or older to NCIC, the collection of data on missing adults from any given law enforcement agency depends on the requirements applicable to that agency. For example, some agencies may only require a case to be entered into NCIC if it is suspected that the missing adult is in danger or has been taken against their will. Other agencies may require every reported adult missing persons case to be entered into NCIC. Further, access to NCIC is restricted to authorized agencies, and not every tribal law enforcement agency is authorized to access NCIC.⁴⁷ In addition, because NCIC is a law enforcement tool, not a statistical tool, each record in NCIC reflects a specific instance when a person has been reported missing and the incident was entered into the system, not the number of individual people who have gone missing. Therefore, data extracted from NCIC reflect the number of missing persons records in the database at a particular point in time, not the number of people who go missing over the course of a year or other period.

The National Missing and Unidentified Persons System (NamUs). NamUs serves as a general missing persons investigations resource for

⁴⁵The reasons this data source is not comprehensive as it pertains to AI/AN women also apply for other races and genders in the United States.

⁴⁶Specifically, federal law requires federal, state and local law enforcement agencies—but not tribal law enforcement agencies—to report missing children under the age of 21 to NCIC, and state and local law enforcement agencies must do so within 2 hours. See 34 U.S.C §§ 41307(a), 41308(3).

⁴⁷To gain access to NCIC, an agency must have authorization under federal law and obtain an Originating Agency Identifier. Tribal law enforcement agencies can request access to NCIC through DOJ's Tribal Access Program or through state systems. Those tribal law enforcement agencies without NCIC access rely on the Bureau of Indian Affairs or nearby state and local law enforcement agencies to enter missing persons records on their behalf, according to BIA officials.

law enforcement and the public and, as with NCIC, was not intended to generate statistical data. Some aspects of NamUs are only accessible to federal, tribal, and state and local law enforcement officials, who use it as an operational database to assist in managing and resolving cases.⁴⁸ However, NamUs also includes a public clearinghouse of records of missing persons, unidentified remains, and unclaimed persons, which members of the public can search and view. In addition, members of the public can submit information on a missing person to be included in NamUs.⁴⁹

As with NCIC, missing persons data in NamUs are not comprehensive.⁵⁰ In particular, NamUs is not as widely used across law enforcement agencies in missing persons cases as NCIC⁵¹ and, as a result, does not contain as many records as NCIC, including records of AI/AN women reported missing. For example, officials from federal law enforcement agencies we spoke with, including DOJ's Indian Country Special

⁴⁸In addition to maintaining the database of missing and unidentified persons, NamUs officials also provide forensic and analytical services, investigative support, and online training programs at no cost to law enforcement officials. Specifically, forensic services include DNA, fingerprint, and forensic odontology services. Analytical services include assistance to criminal justice agencies with indication of life for persons reported missing to NamUs, contact information for family members for DNA sample collections, and information regarding next of kin for death notifications.

⁴⁹Unlike with NCIC, any member of the public may register to use NamUs and access published case information. When cases are entered, a regional system administrator carries out a validation process by reviewing each case entered within their region to ensure the validity and accuracy of the information provided and determine whether the case may be published to the public website. Before any case may be published to the public website, the Regional System Administrator must confirm the validity of that case with the law enforcement agency, or other responsible official with jurisdiction, by obtaining a law enforcement agency case number or an NCIC number.

⁵⁰The reasons this data source is not comprehensive as it pertains to AI/AN women also apply for other races and genders in the U.S.

⁵¹NamUs is a separate system from NCIC that requires an additional step for law enforcement to input information to create a NamUs record. In addition, NamUs is used more for long-term unresolved cases (and about 95 percent of NamUs records are such cases). According to officials, many missing persons are found quickly and, while law enforcement may use NCIC routinely, even for quickly resolved cases, some law enforcement officials may not create another record in NamUs for every case.

Jurisdiction Unit and FBI regional offices, said they do not routinely use NamUs as a resource for missing persons cases.⁵²

In addition, because of statutory restrictions on access to NCIC data, missing persons records in NamUs and NCIC cannot be combined for a more complete data set. Specifically, access to NCIC is restricted by federal law to authorized users that meet the definition of a criminal justice agency.⁵³ Because many NamUs users do not meet this definition and are therefore prohibited from accessing NCIC, the two systems are completely separate.⁵⁴



In addition, while each of these databases has features relevant to AI/AN persons that could be useful in more fully understanding the nature of the MMIW crisis as it pertains to missing AI/AN women, these features vary across databases, as shown in figure 3.

⁵²DOJ officials noted that DOJ agencies, such as the FBI, are not usually the first responders to missing persons cases and are therefore not primarily responsible for decisions about whether to enter a case into NamUs or the entry of the records themselves. However, officials also noted NamUs can be used as a resource for missing persons cases, regardless of when an agency becomes involved, for example in long-term, unresolved missing persons cases.

⁵³See 28 U.S.C. § 534(a)(4), (f)(2). See also 28 C.F.R. § 20.3(g), which contains the regulatory definition of a “criminal justice agency.”

⁵⁴In June 2016, we recommended that DOJ evaluate the feasibility of sharing certain information among authorized users of NCIC and NamUs and implementing any legally and technically feasible options. In commenting on a draft of our report, DOJ officials stated that they did not believe DOJ had the legal authority to fulfill the recommendation because of the statutory restriction on NCIC access. However, we stated that this statutory restriction did not preclude DOJ from exploring information-sharing options, which could reveal opportunities that would comply with the statutory restriction. See GAO, *Missing Persons and Unidentified Remains*, [GAO-16-515](#) (Washington, D.C.: June 7, 2016). In June 2019, DOJ addressed our recommendation by posting an information letter on its law enforcement information-sharing portal to inform NCIC users that they can also include their case information in NamUs.

Figure 3: Select Features of Missing Persons Databases Relevant to American Indian and Alaska Native (AI/AN) Persons

Missing persons database	Content specific to AI/AN persons				Search functionality
	Narrative information	Tribal affiliation	Missing from tribal lands	Primary residence on tribal lands	Ability to enter and search multiple racial variables
NamUs National Missing and Unidentified Persons System 	There is a field for circumstances of disappearance where narrative information can be entered.	There is a specific variable for tribal affiliation.	There is a specific variable for if a person went missing from tribal lands.	There is a specific variable for if a person's primary residence is on tribal lands.	Yes. There is the ability to enter and search multiple racial variables.
NCIC National Crime Information Center 	There is a miscellaneous field where narrative information can be entered.	There is no variable for tribal affiliation. There is a citizenship field that can be used to document affiliation with a federally recognized tribe. ^a	There is no comparable variable for when a person goes missing from tribal lands (term used in NamUs) or Indian country. ^b	There is no comparable variable for if the primary residence of the missing person was on tribal lands (term used in NamUs) or Indian country. There is a field for the missing person's address.	No. Only one racial variable can be entered and searched.

Source: GAO analysis of Department of Justice documentation and information. | GAO-22-104045

Figure 3: Select Features of Missing Persons Databases Relevant to American Indian and Alaska Native (AI/AN) Persons

Missing persons database	Content specific to AI/AN persons				Search functionality
	Narrative information	Tribal affiliation	Missing from triable lands	Primary residence on tribal lands	Ability to enter and search multiple racial variables
NamUs: National Missing and Unidentified Persons System	There is a field for circumstances of disappearance where narrative information can be entered.	There is a specific variable for tribal affiliation.	There is a specific variable for if a person went missing from tribal lands.	There is a specific variable for if a person's primary residence is on tribal lands.	Yes. There is the ability to enter and search multiple racial variables.
NCIC: National Crime Information Center	There is a miscellaneous field where narrative information can be entered.	There is no variable for tribal affiliation. There is a citizenship field that can be used to document affiliation with a federally recognized tribe./a/	There is no comparable variable for when a person goes missing from tribal lands (term used in NamUs) or Indian country./b/	There is no comparable variable for if the primary residence of the missing person was on tribal lands (term used in NamUs) or Indian country. There is a field for the missing person's address.	No. Only one racial variable can be entered and searched.

^aAccording to Bureau of Indian Affairs officials, the citizenship field is not always accessible to law enforcement through all state systems. In addition, as of June 10, 2021, the citizenship field includes a list of approximately 560 codes for Indian tribes but does not include a code for all 574 federally recognized Indian tribes.

^bAccording to Department of Justice officials, the location of the law enforcement agency that entered a missing persons report could be an indicator for the location where a person went missing. For example, if a tribal law enforcement agency creates a missing person entry in NamUs, this may indicate that the person went missing from tribal lands. Each entry does include the agency that entered the record (the Originating Agency Identifier); however, there are instances where a person missing from tribal lands may be entered by non-tribal law enforcement, and this would not be apparent, according to DOJ officials.

Source: GAO analysis of Department of Justice documentation and information. | GAO-22-104045

Considerations When Using Federal Databases to Identify the Number of Murdered AI/AN Women

Both NIBRS and NVDRS databases are federal databases used to report detailed annual or quarterly nationwide data on crime or violent deaths, respectively, and these statistics are used for evaluating trends and tracking national crime and violent death information, including for AI/AN women.⁵⁵ In recent years, both DOJ and CDC have expanded data

⁵⁵NIBRS and NVDRS do not contain information on missing persons, but both contain data on murdered persons. NIBRS also contains data on other crimes, including kidnapping, sexual offenses, and human trafficking.

collection efforts regarding these two databases. For example, DOJ completed a transition to collecting more detailed NIBRS data in January 2021. Similarly, CDC expanded its NVDRS data to include data from all 50 states, D.C., and Puerto Rico in 2018. However, comprehensive national data are not available in either database, for various reasons discussed later in this report. In addition, information potentially relevant to determining the nature of the MMIW crisis differs across the databases.

The National Incident-Based Reporting System (NIBRS). NIBRS contains detailed data on murder cases, as well as other crimes that could be potentially related to MMIW trends, such as kidnapping, human trafficking, and sexual offenses. However, the data are not comprehensive because only federal law enforcement agencies are required to report crime data to NIBRS.⁵⁶ Although tribal, state, and local law enforcement agencies can provide data to NIBRS, not all do so. In addition, although NIBRS has a location-type variable to record whether a murder occurred on tribal lands, NIBRS does not contain data on the tribal enrollment or affiliation of victims.

The National Violent Death Reporting System (NVDRS). While NVDRS contains data on murder, as seen in figure 2 above, these data are not comprehensive. This is because the system collects data from states, which only includes data from tribal lands if the tribal law enforcement agency participates, or if the death information is given to the vital registrar of that state.⁵⁷ Moreover, NVDRS does not contain information on tribal enrollment or affiliation of victims and does not specify if a death occurred on tribal lands.⁵⁸

Additional Considerations When Using Federal Databases to Identify the Number of Missing or Murdered AI/AN Women

In all seven selected locations, at least one law enforcement official or tribal stakeholder we interviewed noted additional considerations when

⁵⁶See 34 U.S.C. § 41303(c)(2).

⁵⁷NVDRS did not have participation from all 50 states, D.C., and Puerto Rico until the 2018 calendar year. According to CDC officials, states that are new participants are in the early stages of data collection, and data from these states are not yet available.

⁵⁸According to CDC guidance, a victim's place of residence is determined by the location noted on the death certificate, and an Indian reservation is coded as the state in which it is located.

using federal databases to identify the number of cases involving missing or murdered AI/AN women.⁵⁹ These considerations included underreporting of cases, misclassifications of race, and misclassifications of the manner of death. For example:

- **Underreporting.** According to both law enforcement officials and tribal stakeholders we spoke with, tribal community members may not report missing AI/AN women to law enforcement for reasons such as fear or mistrust of law enforcement, expectations that law enforcement will not respond to these cases, and uncertainty about which law enforcement agency should receive a missing persons report for cases that may border or cross jurisdictional boundaries. Federal reports have also noted undercounts of AI/AN persons in historic murder data, although there have been improvements to both DOJ and CDC systems.⁶⁰
- **Misclassifications of race.** Tribal and other stakeholders also said that racial misclassifications of AI/AN women may impact the identification of cases of missing or murdered AI/AN women in federal databases. Federal law enforcement officials told us that they make the best racial classification they can using information available to them, but their determinations may be inaccurate. In addition, according to CDC officials, the race of AI/AN individuals may be misclassified on death certificates, resulting in an undercount of AI/AN deaths, including murder, in national data.
- **Misclassifications of manner of death.** Tribal stakeholders also described instances where families believed the manner of death was misclassified as suicide or accidental death and was therefore not

⁵⁹We spoke with federal, tribal, and state and local law enforcement officials during the course of this work. Unless otherwise noted, we refer to them collectively as “law enforcement officials” for purposes of this discussion.

⁶⁰For example, in a 2014 DOJ Bureau of Justice Statistics report, officials stated that previous years of Uniform Crime Reporting Program data did not include murders occurring on Indian reservations, and an unknown proportion of more serious crimes on Indian reservations, including murder, were not reported to the Uniform Crime Reporting Program. In addition, the report stated that prior death reports from CDC may have undercounted AI/AN deaths by 20 to 30 percent. DOJ and CDC both have made improvements in recent years to their crime and death reports by implementing NIBRS and NVDRS data collection tools that allow them to capture more detailed murder data.

represented in murder data.⁶¹ While law enforcement officials we spoke with were not involved in these specific instances, they noted that in their experience, families may find it challenging to accept the suicide or accidental death of a loved one.

Selected Regionally Focused Data Collection Efforts

In addition to the existing federal databases we discussed above, other entities, such as researchers, tribes, and states, have conducted their own efforts to collect more comprehensive data on missing or murdered AI/AN women in selected geographic regions. For example, the Sovereign Bodies Institute, an advocacy and research organization, has created its own database for these cases, publishing findings from select regions, such as Northern California and the Northern Plains.⁶² Similarly, some tribal and state-level initiatives, such as those in Arizona, Washington, and Oregon, have attempted to gather comprehensive MMIW data specific to a tribe or state.⁶³ These efforts have used federal databases to the extent possible; for example, public researchers have used NamUs, a federal database that is accessible to registered members of the public. Some of these efforts have also used additional data collection methods, such as outreach to tribes for information on cases of missing or murdered women in their community. While these efforts do not show the extent of missing or murdered AI/AN cases nationwide, they provide information to understand the nature of cases of missing or murdered AI/AN women in these regions.

⁶¹For example, members of one tribal advocacy organization told us about a case of an AI/AN woman who went missing and was later found dead. According to the organization, law enforcement officials ruled the death accidental from hypothermia. The tribal advocacy organization noted that when the woman's body was returned to the family it was covered in bruises, which the family believed were not adequately explained to them and which they believed may have been the result of a crime.

⁶²The areas of the Northern Plains region discussed in the report are Montana, Nebraska, North Dakota, and South Dakota. Sovereign Bodies Institute, *Zuya Winyan Wicayu'onihan – Honoring Warrior Women: A study on missing & murdered Indigenous women and girls in states impacted by the Keystone XL pipeline* (2019); and *To' Kee Skuy' Soo Ney-Wo-Check'- I Will See You Again in a Good Way: Year 1 Progress Report: MMIWG2 of Northern California* (July 2020).

⁶³*Study Committee on Missing and Murdered Indigenous Women and Girls Final Report* (AZ: November 2020); Washington State Patrol, *Missing and Murdered Native American Women Report* (Retrieved from <https://operationladyjustice.usdoj.gov/data-research>); *Missing and Murdered Native American Women Report* (Retrieved from <https://operationladyjustice.usdoj.gov/data-research>); and U.S. Attorney's Office, District of Oregon. *Missing and Murdered Indigenous Women Report* (February 2021).

Implementation of New Laws and Data Analysis May Increase Understanding of the MMIW Crisis, but DOJ Does Not Have a Plan for Future Data Analyses

While the total number of missing or murdered AI/AN women is unknown, implementation of two new laws—Savanna’s Act and the Not Invisible Act—and data analysis present opportunities to increase understanding of the extent of the MMIW crisis. Although the new laws do not require data analysis, DOJ has taken some steps to initiate analysis of data related to cases of missing or murdered AI/AN women. However, DOJ does not have a plan for future data analyses.

Regarding the new laws, Savanna’s Act and the Not Invisible Act have requirements that may, depending on their implementation, improve data on missing or murdered Indians, including Indian women, as described in table 2 below. Implementation of these legal requirements is underway, and it is too early to tell what effect they will have.

Table 2: Requirements in Savanna’s Act and the Not Invisible Act of 2019 that May Improve Data on Missing or Murdered Indians

Savanna’s Act
Requires the Attorney General, in cooperation with the Secretary of the Interior, to consult with tribes on how to further improve tribal data relevance and access to databases.
Requires the Attorney General, in coordination with the Secretary of the Interior, to confer with tribal organizations and urban Indian organizations on how to further improve American Indian and Alaska Native (AI/AN) data relevance and access to databases.
Requires U.S. Attorneys to develop, in consultation with tribes and other relevant partners, regionally appropriate guidelines that include standards on the collection, reporting, and analysis of data and information on missing persons and unidentified remains.
Requires the Attorney General to provide training to law enforcement agencies regarding how to record the tribal enrollment information or affiliation, as appropriate, of a victim in federal databases.
Requires the Department of Justice’s annual Violence Against Women Tribal Consultations to include consultation on how to improve access to local, regional, state, and federal crime information databases and criminal justice information systems.
Requires the Attorney General to develop and implement a dissemination strategy to educate the public on the National Missing and Unidentified Persons System (NamUs).
Requires the Attorney General to conduct specific outreach to Indian tribes, tribal organizations, and urban Indian organizations regarding the ability to publicly enter information regarding missing persons through NamUs or other non-law-enforcement-sensitive portal.

Not Invisible Act of 2019

Requires the establishment of a joint Department of Justice-Department of the Interior commission to develop recommendations to the Secretary of the Interior and the Attorney General on actions the federal government can take to help combat violent crime against Indians and within Indian lands, including recommendations for tracking and reporting data on instances of missing persons, murder, and human trafficking on Indian lands and of Indians.

Source: GAO analysis of data-related requirements in Savanna's Act (25 U.S.C. §§ 5703, 5704, 34 U.S.C. § 20126(b)(4)) and the Not Invisible Act of 2019 (Pub. L. No. 116-166, § 4, 134 Stat. 766, 767-770). | GAO-22-104045

In addition, Savanna's Act contains a provision to increase data on missing or murdered Indians reported in DOJ's annual *Indian Country Investigations and Prosecutions* report to Congress. This annual report, required by the Tribal Law and Order Act of 2010, covers only federal data.⁶⁴ However, beginning in fiscal year 2022, Savanna's Act requires the Attorney General to include in this annual report known statistics on missing or murdered Indians throughout the U.S. available to DOJ—including information on age; gender; and tribal enrollment information or affiliation, if available—and the current number of open cases and total number of closed cases per state over a 10-year period.⁶⁵ For the purpose of compiling accurate data for this annual report, the Attorney General must request all tribal, state, and local law enforcement agencies to submit, to the fullest extent possible, all relevant information they collect on missing or murdered Indians.⁶⁶ If the statistics in the annual report to Congress are not comprehensive, the Attorney General must explain why and make recommendations on how to improve the collection of data on missing or murdered Indians.⁶⁷ As of June 2021, DOJ officials stated they are in the planning stage for meeting this data collection and reporting requirement and are considering using data from NCIC and NIBRS to satisfy it.

Although the new laws do not require data analysis, DOJ has taken some steps to initiate analysis of data related to cases of missing or murdered AI/AN people—including women. However, this effort is in its early stages, and it is unclear whether DOJ will continue analyses in future

⁶⁴Specifically, the annual report must include FBI information regarding decisions not to refer an Indian country criminal investigation for prosecution and U.S. Attorney information regarding decisions to decline or terminate a prosecution of an Indian country criminal case. See Pub. L. No. 111-211, tit. II, § 212, 124 Stat. at 2268 (2010) (codified as amended at 25 U.S.C. § 2809(b)). The annual report is not required to include BIA information regarding decisions not to refer an Indian country criminal investigation for prosecution.

⁶⁵25 U.S.C. § 5705(a)(1)-(2).

⁶⁶25 U.S.C. § 5705(b)(1). Savanna's Act authorizes the use of grants from existing grant programs to assist state, local, and tribal governments in compiling and reporting the data for DOJ's annual report. 34 U.S.C. §§ 10452(a)(12), 10461(b)(24).

⁶⁷25 U.S.C. § 5705(a)(4).

years and in what form. On November 26, 2019, the President established the Task Force on Missing and Murdered American Indians and Alaska Natives, which aims to enhance the operation of the criminal justice system and address the concerns of tribal communities regarding missing and murdered AI/AN people, particularly women and girls. The task force—known as Operation Lady Justice—is co-chaired by DOJ and DOI. It includes a number of specific efforts, such as developing model law enforcement protocols for these cases and establishing a team to review cold cases. As of May 2021, DOJ officials stated that a working group of the Operation Lady Justice task force is in the process of analyzing existing data to better understand the extent of the MMIW crisis, including characteristics of cases of missing or murdered AI/AN women, including the age and gender of victims.⁶⁸ For example, as part of this work, officials participating in Operation Lady Justice are reviewing the 2020 NCIC Missing Person and Unidentified Person Statistics report, published on the Operation Lady Justice website. This report includes more detailed single-year statistics on the total number of missing persons entries by race, gender, and age than had been published in prior reports.⁶⁹ DOJ officials also noted that they are working with DOI and Department of Health and Human Services officials to gather, review, and interpret data that are currently available related to cases of missing or murdered AI/AN women. As part of this effort, agency officials stated that they are also identifying what data gaps currently exist and ways to address those gaps. Although these efforts are positive steps informing the federal response to the MMIW crisis as part of the greater missing and murdered Indigenous persons (MMIP) crisis, efforts to analyze both missing persons and murder data are still underway, and Operation Lady Justice is set to terminate in November 2021, unless otherwise directed by the President. As of August 2021, DOJ officials stated that they do not have a formal plan for how they might continue DOJ’s data analysis efforts on an ongoing basis after the termination of Operation Lady Justice’s current effort.

Federal and nonfederal stakeholders discussed the value of ongoing data analysis in addressing cases of missing or murdered AI/AN people—

⁶⁸In task force working groups, DOJ and DOI worked jointly to develop model protocols and procedures for investigating new and unsolved cases of missing or murdered individuals in AI/AN communities, including best practices for law enforcement response, data sharing, and better use of databases. The task force will terminate on November 26, 2021—2 years from the date that the President signed Executive Order 13898, which established it—unless otherwise directed by the President.

⁶⁹See <https://operationladyjustice.usdoj.gov/data-research>.

including women—in their community. DOJ officials said that data analysis would give a clearer understanding of cases involving missing or murdered AI/AN women and the underlying causes of these cases. Tribal officials and law enforcement in one community discussed their own challenges with understanding the true extent of the crisis in their community because of, for example, a lack of data collection. As a result, the community developed a working group and its own missing and murdered database to analyze the number of missing or murdered cases in the community and to inform policy development to address the crisis. Furthermore, according to DOJ officials, understanding the context of where murders against AI/AN persons occur and who the perpetrators are can help in utilizing effective violence prevention strategies. Understanding this information and the reasons individuals go missing also helps tribal communities work on prevention, intervention, and law enforcement response.

Analysis of law enforcement data pertaining to missing or murdered AI/AN women is aligned with DOJ's strategic goals and objectives related to promoting public safety and *Standards for Internal Control in the Federal Government*. Specifically, according to DOJ's fiscal year 2018 – 2022 Strategic Plan, the agency acknowledges the need to identify areas with high concentrations of violent crime to help determine the most appropriate ways to address violent crime and promote safe communities.⁷⁰ Furthermore, according to the *Standards for Internal Control in the Federal Government*, an agency should identify the information requirements needed to achieve the agency's objectives and should process the data into quality information to make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks. These standards also state that to achieve an entity's mission, management should clearly define what is to be achieved, who is to achieve it, how it will be achieved, and the time frames for achievement—in other words, key planning elements.⁷¹

⁷⁰Department of Justice, *Department of Justice Strategic Plan for 2018 – 2022*, (Washington, D.C.: November 2017). In particular, as part of objective 3.1, Strategy 4—to reduce violent crime and promote public safety—DOJ states it will identify offenders who are committing crimes in locations with the highest violent crime rates, and ensure that they are prosecuted in the jurisdiction—federal, state, local, or tribal—that will provide the most appropriate and immediate sanction.

⁷¹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

Developing a plan for ongoing analyses of existing and future data could provide DOJ and other stakeholders with information to better understand the nature of the MMIW crisis and how it is changing over time. This could include, for example, trends in the geographic concentration of cases across the U.S., the distribution of cases inside and outside Indian country, demographic characteristics such as age or gender, open and closed cases, and correlations between missing persons or murder cases with other crimes (e.g., human trafficking and domestic violence). In addition, as discussed above, requirements in new laws may, depending on their implementation, increase and improve data on missing or murdered Indians, including Indian women. By developing a plan to conduct ongoing analyses to understand the evolving nature of the MMIW crisis, DOJ would be better positioned to identify emerging trends and areas of concern related to the MMIW crisis where more federal attention and resources might be needed.

DOJ and DOI Have Taken Steps to Address the MMIW Crisis, but Better Planning Could Help Effectiveness

DOJ and DOI Investigate Cases of Missing or Murdered Indian Women and Provide Other Investigative Assistance

Department of the Interior (DOI) Bureau of Indian Affairs (BIA) Office of Justice Services Protocols for Missing Persons Cases in Indian Country

Recognizing the critical need for an immediate and consistent federal response to reports of missing persons in Indian country, DOI's BIA Office of Justice Services, with assistance from the Department of Justice established missing persons protocols for Indians in Indian country in February 2021 as part of the Operation Lady Justice task force, according to BIA officials. Prior to this, the agencies' investigative response was guided by separate missing persons policies and procedures. The new missing persons protocols offer more detailed guidance for Indian country investigations and create more consistency between the Federal Bureau of Investigation and the Bureau of Indian Affairs in how they approach these investigations. These protocols also provide guidance for tribal police in responding to missing persons cases.

Sources: Department of the Interior and Department of Justice officials and documentation. | GAO-22-104045

FBI and BIA conduct investigations into cases of missing or murdered Indian women in Indian country, and provide other assistance—such as victim assistance specialists—related to such cases.⁷² The agencies' investigations are guided by written policies as well as decisions made by FBI or BIA law enforcement officers based on the facts and circumstances of a particular case.⁷³ Unless otherwise noted, the information that follows is based on these agency policies and information from interviews with BIA and FBI officials.

- *Missing persons investigations.* BIA and tribal police investigate missing persons cases in Indian country,⁷⁴ although the FBI becomes involved if there is reason to believe a crime—such as murder, kidnapping, or human trafficking—has occurred. Generally, BIA or tribal law enforcement procedures for missing persons investigations include taking the initial missing persons report, entering information into the appropriate databases, and following up on investigative leads. According to BIA Office of Justice Services' protocols for cases involving a missing Indian woman inside Indian country,⁷⁵ BIA or tribal police officers should accept a missing persons report from a family member or friend at any time, regardless of whether the woman has only been missing for a short time.

After the initial report is documented and it is determined that the woman should be considered missing, BIA must enter all appropriate information regarding the missing woman into NCIC and all appropriate state missing persons clearinghouses, regardless of whether a crime is believed to have been committed.⁷⁶ If the missing woman is considered endangered, BIA or tribal supervisory personnel

⁷²As noted earlier, the murder of an Indian woman is a federal crime under the General and Major Crimes Acts only if committed in Indian country. See 18 U.S.C. §§ 1152-1153. Murders that occur outside Indian country are investigated by state or local police. FBI and BIA officials told us that their agencies may assist with these investigations, if requested.

⁷³Tribal police who have assumed responsibility from BIA for law enforcement in a self-determination contract or self-governance compact are encouraged to adopt the BIA Law Enforcement Handbook as their standard operating procedures manual, understanding that some minor modifications might be necessary, according to the 2015 *BIA Law Enforcement Handbook*.

⁷⁴As noted earlier, in Indian country, in addition to FBI and BIA, tribal law enforcement entities may also investigate cases involving missing or murdered Indian women.

⁷⁵According to DOJ officials, these protocols were developed with DOJ input.

⁷⁶BIA recommends that entries be made within 8 hours of receiving minimum data required to enter information into NCIC for missing persons over 21.

are to consider activating adult-related broadcast alerts in the area. According to BIA officials, decisions about whether a missing woman is endangered are made on a case-by-case basis in the field and include consideration of factors such as age, health, and weather conditions (e.g., extreme cold). According to FBI officials, the FBI does not become involved in a missing persons investigation unless there is reason to believe a federal crime has occurred.⁷⁷ Indications of a possible crime may include video evidence showing the use of force against the missing woman; information from social media about the woman's last known location or contacts; and blood or other physical evidence suggestive of a crime where the missing woman was last seen, according to BIA officials.

- *Murder investigations.* FBI and BIA may investigate the murder of an Indian woman in Indian country jointly or individually, although BIA or tribal law enforcement officers are usually the first responding officers. Decisions about which agencies will take the lead on the investigation are determined by agency policy or in the field, on the basis of resource decisions at the local level, according to FBI and BIA officials with whom we spoke. For example, in some field locations, the roles of FBI and BIA are formally defined in the operating procedures of the applicable U.S. Attorney's Office in Indian country. Alternatively, one field location's operation guide says it does not define specific roles but rather allows FBI and BIA to determine, on a case-by-case basis, which agency will take the lead.

⁷⁷BIA or tribal supervisory personnel are required by policy to notify FBI if there is reason to suspect that a federal crime caused or contributed to the disappearance of the missing person. If the missing person is older than 18 years old and there is no federal criminal act suspected, BIA or tribal supervisory personnel should still notify the FBI if the person is considered endangered, according to the BIA Office of Justice Services missing persons protocols, developed with DOJ input.

Determining Whether Federal Jurisdiction Exists in Indian Country for a Murder Case

Before a federal investigation begins in a murder case in Indian country, the Federal Bureau of Investigation (FBI), the Bureau of Indian Affairs (BIA), and the U.S. Attorneys' Offices determine whether there is federal jurisdiction for the crime. According to FBI's policy, BIA can usually supply information to determine jurisdiction, including the boundaries on Indian country and the tribal enrollment of Indian persons involved in a case. If there are any further questions about jurisdiction, both FBI and BIA should discuss the facts of the case with the applicable U.S. Attorney's Office.

Sources: GAO analysis of Department of Justice and Department of the Interior documentation. | GAO-22-104045

According to both FBI and BIA policies, FBI, BIA, or tribal law enforcement officials involved in the investigation are expected to conduct investigative activities, including interviewing witnesses, reviewing results from the crime scene, identifying and apprehending suspects, and preparing the case for court. Both FBI and BIA agents are responsible for ensuring that the facts of the case are sufficiently gathered to be referred for prosecution as soon as practical. Also, as discussed above, FBI and BIA are required to record case information into NIBRS.⁷⁸

In both missing persons and murder investigations in Indian country, FBI and BIA take steps to coordinate, and each agency has specialized expertise that the other agency may request. For example, FBI agents may request that BIA provide additional law enforcement personnel or share their cultural expertise about a tribal community. Alternatively, BIA officials may call FBI agents for technical or expert assistance, such as mobile phone tracing. According to the *FBI Indian Country Policy Guide*, FBI agents are encouraged to jointly investigate all Indian country cases with BIA or tribal police when practical or logical—given BIA's and tribal police's knowledge of the local culture and community. FBI and BIA also coordinate investigations with tribal police and may also coordinate with state and local law enforcement, depending on the facts of a case. For example, investigative leads may extend across multiple jurisdictions—requiring, for example, the collection of evidence or the service of a warrant in one jurisdiction for a case being prosecuted in another jurisdiction.

FBI and BIA policies also recognize the importance of a multidisciplinary and community response for missing persons investigations and state that law enforcement should fully document which outside parties should be coordinated with during an investigation. Decisions about the frequency and manner of coordination are made on a case-by-case basis because coordination needs depend on the facts and circumstances of the case and available resources, according to BIA officials.

In addition to conducting missing persons and murder investigations, FBI and BIA take other steps to assist with the investigative process.

- *Victim services.* FBI and BIA both have victim assistance specialists who can provide operational support during both missing persons and murder investigations in several ways, according to FBI and BIA

⁷⁸See 34 U.S.C. § 41303(c)(2).

policies. For example, agency victim assistance specialists can coordinate interviews with family members or witnesses, provide support during interviews, help with information collection and dissemination,⁷⁹ and serve as a liaison between the families and law enforcement officials investigating the case. According to the BIA Office of Justice Services' protocols regarding missing persons cases, the lead investigative agency should involve victim assistance specialists at the earliest opportunity that is appropriate. If the federal law enforcement agency leading the investigation does not have a victim assistance component, it may request this resource from the other federal law enforcement agency or from a tribal, state, or local jurisdiction. These protocols recognize the importance of providing updates to family members on the status of investigations. However, the manner or frequency of these updates is decided on a case-by-case basis, according to BIA officials.

- *Assistance in nonfederal investigations.* Both FBI and BIA officials told us they may provide assistance upon request to tribal, state, or local law enforcement agencies in their missing persons or murder investigations. For example, BIA officials told us that they have helped state and local law enforcement agencies search for missing persons outside Indian country. FBI officials told us that they can provide assistance with forensics and search-and-rescue efforts to state and local law enforcement agencies. In instances where tribal police have assumed responsibility for law enforcement from BIA in self-determination contracts or self-governance compacts, FBI may assist tribal police with an investigation.

Tribal Stakeholder and Federal Perspectives on Federal Law Enforcement's Approach to Cases of Missing or Murdered Indian Women

Tribal stakeholders in seven selected locations—officials from tribal governments, a tribal organization serving several tribes, and tribal law enforcement agencies; and representatives from victim service providers and tribal advocacy organizations—with whom we spoke shared their perspectives about federal law enforcement agencies' approach to

⁷⁹For example, victim assistance specialists can help gather photographs or distribute informational posters.

investigating cases of missing or murdered Indian women.⁸⁰ For example, tribal stakeholders shared their views about federal law enforcement agencies' response to cases; communication with families regarding active and unresolved cases of missing or murdered relatives; and staffing challenges in investigating these cases. We did not independently verify statements made by the tribal stakeholders we interviewed. While these interviews are not generalizable and may not be indicative of all tribal stakeholder viewpoints on this topic, they provided us with perspectives on the law enforcement actions to respond to or assist with missing or murdered Indian women cases. In some cases, federal officials we spoke with commented on the same issue. We summarize these perspectives below and provide additional information on tribal stakeholders' perspectives in appendix I.⁸¹

- *Federal response.* Tribal government officials in four of six selected locations where there is federal jurisdiction in Indian country and tribal stakeholders said that they directly experienced or were told of indifference and untimely actions in response to a report of a missing or murdered Indian woman. A family member with whom we spoke stated that valuable time was lost to potentially find their relative alive because it seemed as though the federal law enforcement agency did not take the missing persons report seriously enough, which delayed the start of their search. In three locations, two with federal jurisdiction and one with state jurisdiction, tribal stakeholders related positive examples of the federal response to, or assistance with cases of missing or murdered Indian women, including assistance with forensic analysis in these cases.

⁸⁰By "federal law enforcement agencies," we are referring to BIA's Office of Justice Services within DOI and FBI within DOJ. Whether we asked about how federal agencies investigate cases of missing or murdered Indian women, or how they assist with state or local investigations, depended on whether the relevant tribe was subject to federal or state jurisdiction, or both. In one of the seven states, the tribes associated with the location are subject to state criminal jurisdiction. In the other six locations, the tribes are subject to federal criminal jurisdiction, although two of these six are also subject to state criminal jurisdiction to some extent. This report does not include tribal stakeholders' perspectives on how state or local law enforcement agencies respond to cases of missing or murdered Indian women because it was not within our scope of work to address these issues, only how federal law enforcement agencies respond to, or assist with, such cases.

⁸¹The interviews we conducted were semistructured in format. While some tribal stakeholders focused on particular perspectives described below, others did not discuss the same perspective. If a tribal stakeholder did not discuss a perspective, we reached no conclusions about whether they agreed or disagreed with statements made by other tribal stakeholders.

Tribal government officials and stakeholders in the six locations where there is federal jurisdiction in Indian country also spoke about historic and systemic racism and prejudice against AI/AN people, and women in particular, that they believed negatively impacted the urgency with which federal law enforcement officials addressed and responded to cases of missing or murdered Indian women. Additionally, tribal government officials and stakeholders told us that these experiences and the perceived dismissiveness of families' reports of missing relatives created a sense that it was futile to report incidents of missing persons, making some members reluctant to report such cases.

- *Federal communication with victims and families.* Tribal government officials in four of six selected locations where there is federal jurisdiction in Indian country and tribal stakeholders said that federal law enforcement officials often do not adequately communicate the status of the investigation of a missing or murdered relative with victims' families. In the seventh location, where the tribes are subject to state criminal jurisdiction, tribal stakeholders said they expect that a BIA cold case office that opened in 2020 will be helpful in communicating with families about unresolved cases of missing or murdered relatives. Tribal officials also identified examples of positive approaches that federal officials used to communicate the status of cases to families and tribes, including regular meetings between tribal and federal prosecutors.
- *Federal staffing.* Tribal government officials and tribal stakeholders we met with in five of six selected locations where there is federal jurisdiction in Indian country said they have either directly experienced or were told by community members that inadequate staffing of federal law enforcement agencies—including police officers, agents or investigators, and victim advocates—has exacerbated challenges with the federal law enforcement response to cases of missing or murdered Indian women and communication with victims and families.

Tribal Leaders' Concerns Related to Missing or Murdered Indian Women Discussed During the Department of Justice's Annual Government-to-Government Violence Against Women Tribal Consultation

In 2017, the Department of Justice reported on the agency's government-to-government Violence Against Women Tribal Consultation held in 2016. Many tribal leaders testified in this consultation that the disappearance and deaths of Indian women are not taken seriously enough, and that increased awareness and a stronger response from federal, state, and local law enforcement agencies are critical to saving Indian women's lives. They noted the possibility that missing Indian women may have been trafficked, and they also provided examples of abusers who murdered their partners after engaging in a pattern of escalating violence for which they were not held accountable. Tribal leaders also raised concerns that cold cases are not given sufficient priority.

Source: Department of Justice, Office on Violence Against Women. 2017 Update on the Status of Tribal Consultation Recommendations. (Washington, D.C.: Oct. 3, 2017). | GAO-22-104045

Federal officials we spoke to acknowledged that concerns exist related to the federal response and communication related to the MMIW crisis. FBI officials discussed challenges when coordinating with federal and tribal partners that are unaware of the resources that the FBI can deploy in investigations of missing or murdered Indian women, despite the agency's efforts to communicate this information. BIA officials explained that tribal communities may be uncertain when they can report cases of missing relatives to law enforcement. DOJ and DOI officials identified several efforts being taken, described later in this report, which they hope will address some of these concerns. Additionally, regarding communication, FBI officials told us that the agency plans to improve outreach to tribal communities regarding when to report a case of a missing person to the FBI. DOJ and DOI officials also explained that one role of agency victim assistance specialists is to help with communication with families, including providing status updates on investigations and trials.

Regarding understaffing concerns raised by tribal stakeholders, federal law enforcement officials acknowledged federal staffing challenges. For example, law enforcement officials from some BIA district offices stated that they are resource-challenged and noted reasons, including recruitment and retention difficulties. According to 2020 staffing data provided by four BIA districts that align with our selected locations, the districts experienced vacancies representing one-third to one-half of all agents who could be assigned to address or assist in cases of missing or murdered Indian women. Two other BIA districts were fully staffed for these positions in 2020, according to BIA's staffing data. FBI officials stated that staffing levels in Indian country were consistent between 2015 and 2020 and, while staffing levels fluctuate according to promotions, retirements, and transfers, the agency's Indian Country Special Jurisdiction Unit remains in constant contact with the numerous FBI field offices to ensure that temporary disruptions in staffing levels are expeditiously addressed.

DOJ and DOI Have Efforts Underway to Address the MMIW Crisis but Do Not Have Plans for Implementing Statutory Requirements Whose Deadlines Have Passed

DOJ and DOI have several efforts underway to address aspects of the MMIW crisis (see table 3), including joint agency efforts, such as Operation Lady Justice. In addition, DOJ and DOI have other efforts ongoing to meet requirements in Savanna's Act and the Not Invisible Act,

but the agencies have missed some statutory deadlines (see table 4). Depending on how they are implemented, these efforts have the potential to address some concerns raised by tribal stakeholders about the federal response and communication related to the MMIW crisis. However, it is too early to tell what the results of these efforts have been because they have not yet been fully implemented.

Table 3: Select Department of Justice and Department of the Interior Efforts to Address the Missing and Murdered Indigenous (MMIW) Women Crisis, as of June 19, 2021

<p>Department of Justice (DOJ) Missing and Murdered Indigenous Persons (MMIP) Initiative</p>	<p>The initiative includes three key components:</p> <ol style="list-style-type: none"> 1. MMIP Coordinators. In 2020, DOJ hired 11 coordinators for a 12-month term to work with U.S. Attorneys' Offices and tribes in Alaska, Arizona, Michigan, Minnesota, Montana, Nevada, New Mexico, Oklahoma, Oregon, Utah, and Washington. The coordinators are to work closely with federal, tribal, state, and local agencies to develop common protocols and procedures for responding to reports of missing or murdered American Indian and Alaska Native (AI/AN) people. These coordinators are also responsible for ensuring that lead law enforcement agencies in missing AI/AN persons investigations are aware of available federal resources. According to Executive Office for United States Attorneys officials, if these coordinator positions are not extended beyond their 12-month term (each will end over the course of 2021, depending on their start dates), other individuals in U.S. Attorneys' Offices would likely absorb these duties. 2. Federal Bureau of Investigation (FBI) Specialized Resources. Upon request by a tribal, state, or local law enforcement agency, the FBI provides expert assistance for missing persons cases through specialized resources, such as, rapid deployment teams, mobile phone record analysis and social media analysis. 3. Comprehensive Data Analysis Plan. In 2019, DOJ announced that it would conduct in-depth analyses of federally supported databases and analysis of data collection practices to identify opportunities to improve missing persons data. Included in this effort is FBI collaboration with stakeholders on the National Crime Information Center to identify new functionality and create new fields of data for the entry of a missing person record in the database.
<p>Federal Missing and Murdered AI/AN Task Force (Operation Lady Justice) (DOJ-DOI-Department of Health and Human Services task force)</p>	<p>On November 26, 2019, the President established the Task Force on Missing and Murdered American Indians and Alaska Natives, which aims to enhance the operation of the criminal justice system and address the concerns of tribal governments regarding missing and murdered AI/AN people, particularly women and girls. The task force—known as Operation Lady Justice—is co-chaired by DOJ and DOI. In task force working groups, DOJ and DOI worked jointly to develop model protocols and procedures for investigating new and unsolved cases of missing or murdered individuals in AI/AN communities, including best practices for law enforcement response, data sharing, and better use of databases. DOJ and DOI also initiated their own efforts—DOJ's Tribal Community Response Plans and DOI's Missing and Murdered Unit—which are discussed below. The task force will terminate on November 26, 2021—2 years from the date that the President signed Executive Order 13898 which established it—unless otherwise directed by the President.</p>
<p>Tribal Community Response Plans (initiated as part of Operation Lady Justice; led by DOJ)</p>	<p>Tribal Community Response Plans. Beginning in 2020, six U.S. Attorneys' Offices started working with 10 tribes in Alaska, Michigan, Minnesota, Montana, Oklahoma, and Oregon and law enforcement stakeholders in these states to create and pilot individualized Tribal Community Response Plans. These plans are intended to develop tribe-specific guidelines to ensure effective response and action when a tribal member goes missing, and focus on law enforcement agency response; victim support services; use of media and community messaging; and integrating community-based tribal organizations into the response. According to DOJ officials, once finalized, these model plans can be used as templates for other tribes that wish to develop their own Tribal Community Response Plans.</p>

DOI Missing and Murdered Unit (initiated a joint project of the Attorney General’s MMIP Initiative and Operation Lady Justice)

DOI Missing and Murdered Unit. In 2021, the Department of the Interior (DOI) established the Missing and Murdered Unit within the Bureau of Indian Affairs (BIA) to address unsolved and active MMIW and MMIP cases. In 2020, as part of Operation Lady Justice, BIA initially opened seven “cold case offices” and assigned 10 criminal investigators to seven offices in Alaska, Arizona, Minnesota, Montana, New Mexico, South Dakota, and Tennessee. Criminal investigators in these offices have engaged in several tasks including gathering information on active and unsolved missing persons and murder cases, investigating cases, coordinating with stakeholders, analyzing current missing-person protocols, and developing missing-person response guidelines. According to BIA officials, DOI plans to add 10 agents and two additional locations. According to Operation Lady Justice officials, DOJ will work with the DOI leadership to determine whether and how to continue these teams past the projected end of the Operation Lady Justice task force in November 2021.

Source: GAO analysis of executive order, agency documents, and interviews with agency officials. | GAO-22-104045

In addition to the above efforts, Savanna’s Act and the Not Invisible Act enacted a number of new requirements for DOJ and DOI related to missing or murdered Indians, some of which remain unfulfilled past their statutory deadlines, as shown in table 4.⁸²

Table 4: Selected Requirements in Savanna’s Act and the Not Invisible Act of 2019, Statutory Deadlines, and Status of Implementation

Statutory requirement and deadline	Status of implementation
Savanna’s Act	
By April 8, 2021, the Attorney General was required to develop and implement a dissemination strategy to educate the public about the National Missing and Unidentified Persons System (NamUs).	As of June 17, 2021, DOJ officials told us they have established a new contract for the NamUs program with a specific task area that focuses on marketing and communication. This task area will be used to design a dissemination strategy by December 2021, but DOJ officials did not have a plan or time frame for implementation of the dissemination strategy.
By April 8, 2021, the Attorney General was required to conduct specific outreach to Indian tribes, tribal organizations, and urban Indian organizations regarding the ability to publicly enter information regarding missing persons through NamUs or other non-law-enforcement-sensitive portal.	As of June 10, 2021, DOJ had not conducted any outreach, and officials did not have a time frame for when it would occur. ^a
By October 10, 2021, U.S. Attorneys must incorporate regionally appropriate guidelines to respond to cases of missing or murdered Indians into their offices’ policies and procedures. ^b U.S. Attorneys are to develop these regionally appropriate guidelines in consultation with Indian tribes and other relevant partners, such as the Federal Bureau of Investigation and the Bureau of Indian Affairs.	As of June 17, 2021, U.S. Attorneys had not begun development of the regionally appropriate guidelines—including consultations with Indian tribes and other relevant partners—and had less than four months before the October 10, 2021 statutory deadline to incorporate the developed guidelines into their offices’ policies and procedures. ^c

Not Invisible Act of 2019

⁸²DOJ also missed an April 8, 2021 deadline in Savanna’s Act to consult with tribes and confer with tribal organizations and urban Indian organizations on how to improve tribal data relevance and access to databases. See 25 U.S.C. § 5703(b)(1)-(2). However, DOJ subsequently conducted the consultation on June 17 - 18, 2021. DOJ officials informed us that they also scheduled confer sessions with tribal organizations and urban Indian organizations from July through September, 2021, and that five such organizations attended the June 17 – 18, 2021 consultation.

Statutory requirement and deadline	Status of implementation
By February 7, 2021, the Secretary of the Interior, in coordination with the Attorney General, was required to establish and appoint all members to a Joint Commission on Reducing Violent Crime Against Indians. The commission is to make recommendations to the departments by April 10, 2022 on actions the federal government can take to help combat violent crime against Indians and within Indian lands	On March 22, 2021, DOI developed a plan with interim steps for completing the process of forming the commission. On August 5, 2021, the Department of the Interior (DOI) published a <i>Federal Register</i> notice identifying criteria for selecting the nonfederal commission members and soliciting nominations for those positions. ^d DOI updated its draft plan on September 14, 2021 but did not include milestone dates for all interim steps and, as of October 15, 2021, DOI had not appointed any members of the commission.

Source: GAO analysis of select requirements in Savanna’s Act (25 U.S.C. §§ 5703(c), 5704(c)(1)); the Not Invisible Act of 2019 (Pub. L. No. 116-166, §§ 2(1), 4, 134 Stat. 766, 767-770 (2020)) and agency implementation information. | GAO-22-104045

^aAlthough the requirement remains unfulfilled past its April 8, 2021 statutory deadline, DOJ officials said that NamUs and National Institute of Justice staff have provided training and outreach to American Indian and Alaska Native communities through more than 50 events and webinars since 2017.

^bSavanna’s Act also requires federal law enforcement agencies to incorporate the regionally appropriate guidelines into their agency policies and protocols but does not establish a deadline for doing so. 25 U.S.C. § 5704(c)(2).

^cBecause the October 10, 2021 statutory deadline occurred shortly before we issued this report, it was not possible for us to determine whether U.S. Attorneys had met or missed this deadline.

^d86 Fed. Reg. 42871 (Aug. 5, 2021). The deadline for submitting nominations to DOI was September 20, 2021. In addition, on July 31, 2021, DOI announced it would hold four consultations with tribes during August and September 2021 to solicit input on the formation of the commission and what the commission should consider when developing recommendations.

As shown in table 4, both agencies have missed some statutory deadlines and have not fulfilled the related statutory requirements. For example, DOJ has not fulfilled two requirements of Savanna’s Act—each of which were due on April 8, 2021—including a requirement to develop and implement a dissemination strategy to educate the public about NamUs. DOJ officials told us they have a new contract for the NamUs program that will be used to design a dissemination strategy by December 2021, but they did not have a plan or timeframe for implementation of the dissemination strategy. In addition, DOI has not established and appointed members to the Joint Commission on Reducing Violent Crime Against Indians, in coordination with DOJ.⁸³ The Not Invisible Act set a deadline of February 7, 2021 for establishing the commission and appointing all required members, but as of October 15, 2021, no appointments have yet been made. On August 5, 2021, DOI published a *Federal Register* notice identifying criteria for selecting the non-federal commission members and soliciting nominations for these

⁸³See Pub. L. No. 116-166, § 4(a)-(b), 134 Stat. at 767-768. The Not Invisible Act states that the commission shall be composed of members who represent diverse experiences and backgrounds that provide balanced points of view, including, among others, federal, state, local and tribal law enforcement officials, as well as Indian survivors of human trafficking and family members of missing or murdered Indian people (at least two each).

positions by September 20, 2021.⁸⁴ In addition, DOI officials told us the agency continues to work with DOJ to identify federal and nonfederal members for the commission, and provided a draft plan with interim steps for completing the process of forming the commission. However, the plan did not include milestone dates for all interim steps or identify when DOI would complete the required appointments, which may result in less time for the commission to develop recommendations on actions the federal government can take to help combat violent crime against Indians and within Indian lands, by its statutory deadline of April 10, 2022.⁸⁵

Officials from DOJ told us that the change in executive administration and agency leadership at both DOJ and DOI has adversely impacted the agencies' ability to meet the deadlines in Savanna's Act and the Not Invisible Act. While DOJ officials told us that they are moving as quickly as possible to address the statutory requirements, DOJ has not developed any plans for how or when it will implement those requirements that remain unfulfilled past their statutory deadlines. DOI, on the other hand, has drafted a plan that lays out the process for establishing the Joint Commission and appointing all members. However, the plan's milestone dates for later stages in the process are "to be determined," and the time frame for completing the work is unknown. Standards for Project Management state that managing a project involves developing a plan with specific actions and milestone dates.⁸⁶ By developing plans, including milestone dates, for completing unfulfilled requirements whose deadlines have passed, both agencies can provide more assurance that they will meet their respective legal responsibilities as expeditiously as possible. For DOJ, fulfilling the outstanding requirements of Savanna's Act would better position it to meet its strategic goal to reduce violent crime and promote public safety; and support tribal partners in making communities safe. For DOI, establishing and appointing all members to the Joint Commission on Reducing Violent Crime Against Indians, in coordination with DOJ, would enable the commission to commence work and fulfill its statutory duty of recommending actions the federal government can take to help combat

⁸⁴86 Fed. Reg. 42871 (Aug. 5, 2021).

⁸⁵The commission must make the recommendations publicly available and also submit them to the Attorney General, the Secretary of the Interior, and specified congressional committees by April 10, 2022. See Pub. L. No. 116-166, § 4(c)(2)(B), 134 Stat. at 769.

⁸⁶Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, 6th ed. (2017). *PMBOK* is a trademark of the Project Management Institute, Inc.

violent crime against Indians and within Indian lands. Developing a plan with milestones—one that reserves as much time as possible for the commission to develop its recommendations—would provide greater assurance that the recommendations are well-developed and would better position DOI and DOJ to derive value from the commission’s work.

Conclusions

Violence against AI/AN women is a crisis in the U.S., according to tribal leaders, federal officials, and multiple other stakeholders, and DOJ and DOI have an important role to play in promoting public safety for all people, including AI/AN women, both inside and outside Indian country. While the full extent of the MMIW crisis remains unknown, cases of missing or murdered AI/AN women continue to occur across jurisdictional boundaries throughout the U.S., necessitating coordinated action among federal, tribal, and other partners. Implementation of data-related requirements in new laws and ongoing data analysis present opportunities to increase understanding of the scope of the MMIW crisis. This includes the requirement in Savanna’s Act that DOJ include known statistics on missing or murdered Indians in the U.S. available to DOJ in an annual report to Congress. Although the statute does not require DOJ to conduct data analyses, DOJ has taken some initial data analysis steps. However, it lacks a plan for conducting the ongoing analysis necessary to make observations about the nature of the MMIW crisis and how it is changing over time. Developing a plan for conducting ongoing analyses of data on missing or murdered AI/AN women on a regular basis, particularly as more data are gathered pursuant to Savanna’s Act, will better position DOJ to meet the public safety goals of its strategic plan by identifying emerging MMIW trends and areas of concern where more federal attention and resources might be needed.

New requirements in Savanna’s Act and the Not Invisible Act have the potential to address some concerns raised by tribal stakeholders about the federal response to the MMIW crisis, but this potential depends on implementation. In addition, the statutory deadlines for certain requirements have passed, and it is not clear when the agencies will fulfill their respective requirements. Developing plans with milestone dates would help guard against further delays and better position the agencies to achieve their missions by implementing the unfulfilled requirements in Savana’s Act and the Not Invisible Act.

Recommendations for Executive Action

We are making a total of four recommendations, including three to the Department of Justice and one to the Department of the Interior. Specifically:

The Attorney General should develop a plan—including key steps, who will achieve them, and by when—for accomplishing ongoing analyses of data in existing federal databases and future data that may be gathered to identify relevant trends in cases of missing or murdered American Indian and Alaska Native women and areas of concern. (Recommendation 1)

The Attorney General should develop a plan, including milestone dates, to develop and implement a dissemination strategy to educate the public about the National Missing and Unidentified Persons System (NamUs). (Recommendation 2)

The Attorney General should develop a plan, including milestone dates, to conduct specific outreach to Indian tribes, tribal organizations, and urban Indian organizations regarding the ability to publicly enter information regarding missing persons through NamUs or other non-law enforcement sensitive portal. (Recommendation 3)

The Secretary of the Interior, in coordination with the Attorney General, should finalize its draft plan establishing and appointing all members to the Joint Commission on Reducing Violent Crime Against Indians, as required by the Not Invisible Act of 2019, and include milestone dates for all steps in the process. (Recommendation 4)

Agency Comments

We provided a draft of this report to DOJ, DOI and HHS for review and comment. DOJ and HHS told us that they had no comments on the draft report, but provided technical comments that were incorporated as appropriate. We received written comments from DOI that are reprinted in appendix II. DOJ and DOI concurred with our recommendations. In its comment letter, DOI referred to its March 2021 plan to establish and appoint all members to the Joint Commission on Reducing Crime Against Indians. DOI further stated that the agency had received nominations for federal members of the Joint Commission and is currently in the process

of reviewing nominations for nonfederal members. By finalizing its plan including milestone dates for all steps in the process, DOI will help guard against further delays so that the Joint Commission can begin its work as quickly as possible.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 4 days from the report date. At that time, we will send copies to the appropriate congressional committees; the Attorney General; the Secretaries of the Interior, and Health and Human Services; and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact us at (202) 512-8777 or goodwing@gao.gov, or (202) 512-3841 or ortiza@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff members who made key contributions to this report are listed in appendix III.



Gretta L. Goodwin, Director
Homeland Security and Justice



Anna Maria Ortiz, Director
Natural Resource and Environment

List of Requesters

The Honorable Brian Schatz
Chairman
Committee on Indian Affairs
United States Senate
The Honorable Lisa Murkowski
Vice Chairman
Committee on Indian Affairs
United States Senate

The Honorable Raúl M. Grijalva
Chairman
Committee on Natural Resources
House of Representatives

The Honorable Teresa Leger Fernández
Chair
Subcommittee for Indigenous Peoples of the United States
Committee on Natural Resources
House of Representatives
The Honorable John Barrasso, M.D.
United States Senate

The Honorable Maria Cantwell
United States Senate

The Honorable Catherine Cortez Masto
United States Senate

The Honorable Steve Daines
United States Senate

The Honorable John Hoeven
United States Senate

The Honorable Jerry Moran
United States Senate

The Honorable Tina Smith
United States Senate

List of Requesters Continued

Letter

The Honorable Jon Tester
United States Senate

The Honorable Matt Cartwright
House of Representatives
The Honorable Ed Case
House of Representatives

The Honorable Ruben Gallego
House of Representatives

Appendix I: Tribal Stakeholders' Perspectives on Federal Agencies' Response to Missing or Murdered Indian Women

We spoke with tribal government officials, tribal council members, a tribal organization serving several tribes, or tribal law enforcement agencies in locations in seven states: Alaska, Arizona, Minnesota, Montana, New Mexico, South Dakota, and Washington to obtain tribal stakeholders' perspectives on how federal law enforcement agencies have investigated cases of missing or murdered Indian women or assisted with state or local investigations of these cases.¹ We did not independently verify statements made by the tribal stakeholders we interviewed. While the information obtained through these interviews is not generalizable and may not be indicative of all tribal stakeholder viewpoints on this topic, the interviews provided us with perspectives on the law enforcement actions to investigate cases of missing or murdered Indian women or to assist with state or local investigations.

Tribe A

Population range: fewer than 10,000 enrolled members

Reservation land area range: less than 100 square miles

Criminal jurisdiction: federal and state criminal jurisdiction; tribal jurisdiction over Indians²

¹Whether we asked about federal investigations of missing or murdered Indian women, or federal assistance to state or local investigations, depended on whether the relevant tribe was subject to federal or state jurisdiction, or both. In one state, the tribes associated with the selected location are subject to state criminal jurisdiction. In the other six selected locations, the tribes are subject to federal criminal jurisdiction, and two of the six are also subject to state criminal jurisdiction to some extent.

²In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes. See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-123 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants with certain rights and protections. 25 U.S.C. § 1304(d).

Primary law enforcement agency serving the tribe: tribal law enforcement agency

Federal response

- **Federal and tribal law enforcement coordination.** The tribal police official we met with said that tribal police lead criminal investigations on the reservation and have not experienced any challenges in coordinating with federal law enforcement agencies. This official said that tribal police officers hold special law enforcement commissions that enable them to assist in enforcing federal crimes in Indian country. The official said that tribal police can assist federal law enforcement agencies with investigations that start outside the reservation but later lead to evidence or suspects inside the reservation.
- **Missing and Murdered Indigenous Persons (MMIP) Coordinator.** Tribal officials suggested that it is helpful for families and the community to have a permanent dedicated point of contact with whom to coordinate on MMIP issues, such as the Missing and Murdered Indigenous Persons Coordinator for the U.S. Attorney's Office. One tribal official noted that the Missing and Murdered Indigenous Persons Coordinator for the U.S. Attorney's Office in their district, who began in May 2020, has been especially helpful in ensuring that community members' concerns are heard and brought to the attention of the federal government and would like this coordinator position to continue beyond the 12-month term, which began in May 2020.³ According to officials in the Executive Office for United States Attorneys, if the coordinator positions are not extended beyond their 12-month term ending in 2021, other individuals in U.S. Attorneys' Offices would likely absorb these duties.

³The Department of Justice hired 11 MMIP coordinators to work with U.S. Attorneys' Offices and tribes in Alaska, Arizona, Montana, Oklahoma, Michigan, Utah, Nevada, Minnesota, Oregon, New Mexico, and Washington. Among other things, the coordinators are to work closely with federal, tribal, state, and local agencies to develop common protocols and procedures for responding to reports of missing or murdered American Indian and Alaska Native (AI/AN) people. MMIP coordinators are also responsible for ensuring that tribal, state, or local law enforcement agencies in missing AI/AN persons investigations are aware of available federal resources.

Other perspectives

- **Tribal access to federal databases.** A tribal police official said their police dispatch center has access to the National Crime Information Center (NCIC) law enforcement database.⁴ Another tribal official said that access to law enforcement databases, such as NCIC, is important so that tribal law enforcement are not at a disadvantage in terms of information availability compared with other law enforcement agencies.

Tribe B

Population range: 10,000 to 20,000 enrolled members

Reservation land area range: 500 to 1,000 square miles

Criminal jurisdiction: federal criminal jurisdiction; tribal jurisdiction over Indians⁵

Primary law enforcement agency serving the tribe: tribal law enforcement agency

Federal response

- **Federal coordination with tribal law enforcement.** According to tribal officials, federal law enforcement agencies' coordination with the tribe related to missing or murdered Indian women cases has generally been positive. Specifically, federal law enforcement has provided valuable assistance in homicide investigations, taking a lead role on some investigations at a time when the tribal police had a limited number of detectives, and also providing other investigative support services, such as forensics. The Missing and Murdered Unit—established by the Bureau of Indian Affairs (BIA) as part of the

⁴NCIC is an operational database, whose primary purpose is to assist authorized users in managing and resolving cases, including missing persons cases. Data stored in NCIC are criminal justice agency information, and access to that data is restricted by statute to authorized users, including federal, tribal, state and local law enforcement agencies, and other entities that meet the definition of a “criminal justice agency,” such as parole officers, medical examiners, and coroners. See 28 U.S.C. § 534(a)(4), (f)(2) and 28 C.F.R. § 20.3(g).

⁵In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes. See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-123 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants with certain rights and protections. 25 U.S.C. § 1304(d).

Operation Lady Justice efforts—is establishing an office to reopen and investigate area unresolved cases of missing or murdered Indian women, which the tribe sees as a positive development.⁶ In addition to working with federal law enforcement partners, the tribal police department has established memorandums of understanding with the county and surrounding cities. With respect to prosecutions, the tribal prosecutor's office meets regularly with their counterpart U.S. Attorney's Office to discuss ongoing cases, including murder cases involving Indian women that may lead to federal prosecution. Tribal officials stated that other meetings offer an opportunity for coordination between the prosecutors' offices and other agencies, such as tribal police and social services agencies.

Federal communication

- **Federal communication with the tribe on cases of missing or murdered Indian women.** Tribal officials stated that while communication with federal law enforcement agencies has generally been good, it is always helpful for tribal officials, victims, and families to have even more open communication with federal law enforcement. For example, tribal officials noted that it can sometimes be difficult for tribal officials and tribal law enforcement to get information about the status of cases of missing or murdered Indian women, and the extent of information being provided about a case can vary depending on which federal official they contact.

Other perspectives

- **Federal funding for victim service and prevention resources.** Tribal victim service representatives said they work closely with federal victim service advocates to provide updates to families on the status of cases as well as a variety of forms of assistance to victims and their families. Victims' families have extensive and sometimes basic needs (e.g., food and shelter), and additional victim service resources from the federal government and other sources would always be helpful. For example, tribal officials stated that there is a need for better access to housing and shelters for at-risk community

⁶On November 26, 2019, the President established the Task Force on Missing and Murdered American Indians and Alaska Natives, which aims to enhance the operation of the criminal justice system and address the concerns of tribal communities regarding missing and murdered AI/AN people, particularly women and girls. The task force—known as Operation Lady Justice—is co-chaired by the Departments of the Interior and Justice and will terminate on November 26, 2021, unless otherwise directed by the President. See Exec. Order No. 13898, 84 Fed. Reg. 66059 (Dec. 2, 2019).

members, such as those trying to escape domestic violence in their home.

- **Tribal understanding of federal data on cases of missing or murdered AI/AN women.** According to tribal officials, it is difficult to define the magnitude of the crisis of missing and murdered AI/AN women in the region and doing so will require working with other communities and jurisdictions.
- **Federal law enforcement training for tribal law enforcement.** According to tribal law enforcement officials, federal training offered to tribal law enforcement out of state requires tribal police to be absent from their duties to ensure public safety for approximately 3 months. Stakeholders we met with noted that while there is no cost to attend this training, it is difficult for their small tribal police department to absorb this temporary loss of personnel, and offering more in-state trainings would be helpful.
- **Federal information sharing in tribal prosecutions.** According to tribal officials, obtaining evidence from federal agencies for use in prosecuting crimes in tribal courts is sometimes difficult. Specifically, tribal officials told us that to access evidence collected by federal law enforcement agencies in a case, tribal prosecutors must make a formal request for the evidence, and the federal law enforcement agency's process for reviewing these requests can be time consuming and cause delay in tribal court. Tribal officials also said that it can be challenging to get federal agents to testify as witnesses at trials in tribal courts, as the federal law enforcement agency has sometimes refused tribal requests for federal agent witnesses who have moved to different offices.

Tribe C

Population range: 20,000 to 50,000 enrolled members

Reservation land area range: 1,000-2,000 square miles

Criminal jurisdiction: federal criminal jurisdiction, tribal jurisdiction over Indians⁷

⁷In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes. See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-123 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants certain rights and protections. 25 U.S.C. § 1304(d).

Primary law enforcement agency serving the tribe: tribal law enforcement agency

Federal response

- **Federal response to missing or murdered Indian women cases.** Tribal council members said that they believe systemic racism and discrimination against Indian women may be a factor in the timeliness of the federal response to cases involving missing or murdered Indian women.
- **Federal coordination and information sharing with tribal law enforcement.** The closest FBI or BIA agents are located up to 2 hours away from parts of the reservation. While this delays an immediate case response, tribal officials told us that these federal agents' distance from the reservation also makes it more difficult for them to become familiar with the reservation and the tribal community. To address this concern, tribal law enforcement officers help familiarize federal law enforcement with the reservation by hosting "ride-alongs" with tribal patrol officers. In addition, tribal law enforcement officials said that while they routinely share case information with federal law enforcement agencies, federal agencies do not generally share ongoing case information with them.

Federal communication

- **Federal communication with victims' families.** Tribal council members said that federal law enforcement agencies' communication with families related to cases of missing or murdered women has been inadequate. The tribal council receives calls from family members who ask them to contact federal law enforcement agencies on their behalf to find out the status of their relative's case.

Staffing

- **Federal funding and resources for tribal law enforcement.** Tribal council members and tribal law enforcement officials cited a lack of staffing and funding for tribal police to adequately address cases of missing or murdered Indian women in their community. For example, the tribal law enforcement agency has only 25 tribal police officers to patrol over 1 million acres of land, which results in a lack of timely response to reports of missing persons or possible murders. Tribal law enforcement officials said that federal funding to address the MMIW crisis would be better directed to support tribal agents leading actual investigations into cases of missing or murdered Indians rather

than to federal staff hundreds of miles away working on special MMIP initiatives. In addition, tribal law enforcement officials said that while the tribal law enforcement agency has received training from federal law enforcement agencies on general policing and report writing, it would be helpful to receive training on missing or murdered Indian women cases from federal law enforcement.

Other perspectives

- **Federal funding and resources for victim services.** Tribal council members identified several areas where additional funding and resources from federal partners or others are needed to more adequately address the cases of missing or murdered Indian women in their community. For example, tribal council members related stories of suspicious deaths of community members who were living in violent home situations, noting that additional shelters and victim advocates are needed to help at-risk individuals find safer living situations. Tribal council members also said that it would be helpful to have additional mental health counselors and training from federal partners or others for tribal victim advocates and government leaders about how to help victims and their families and generally address the crisis of missing or murdered AI/AN women in their community. Given the sometimes long response time from federal and tribal law enforcement, tribal council representatives noted that they would like federal law enforcement assistance in establishing and maintaining a community policing program like “neighborhood watch,” along with training to help the community understand how to preserve a crime scene and document suspected criminal activity.

Tribe D

Population range: 200,000 to 500,000 enrolled members

Reservation land area range: over 5,000 square miles

Criminal jurisdiction: federal jurisdiction; tribal jurisdiction over Indians⁸

Primary law enforcement agency serving the tribe: tribal law enforcement agency

⁸In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes. See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-123 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants with certain rights and protections. 25 U.S.C. § 1304(d).

Federal response

- **Federal response to missing or murdered Indian women cases.** Tribal law enforcement officials said that federal law enforcement's response, investigation, and support for missing persons and murder cases has been outstanding in their experience. The federal law enforcement agency that serves this tribe has shared its written policies with the tribal law enforcement agency, and these policies adequately define the agencies' respective roles and investigative responsibilities for jointly investigated cases. Additionally, both federal and tribal law enforcement policies and procedures are continuously updated to keep up with changing case law, according to tribal law enforcement officials. Federal law enforcement also assists tribal law enforcement when investigations extend beyond the boundaries of the reservation (e.g., by helping track down leads in other cities and states) and provides access to other resources needed for investigations (e.g., extracting information from road cameras, mobile phone records, and social media accounts). Tribal law enforcement officials said that their officers have attended federally-sponsored trainings, which they find extremely helpful in learning how to improve their response to missing persons and murder cases.

Although tribal law enforcement described their working relationship with federal law enforcement as positive, tribal government officials offered a different perspective. Tribal government officials said that federal law enforcement officials are reluctant to investigate and prosecute cases involving Indian women. They said that there is a resulting perception that nonnative men view Indian country as a consequence-free zone because of the low level of response, investigation, and prosecution and that Indian women feel undervalued, with little law enforcement protection. For example, tribal officials said that some analysts estimate that less than 10 percent of actual assaults are reported because victims view reporting as futile because they believe, given past experience, that the federal government will not prosecute the case. According to tribal officials, there is also a perception in the community that law enforcement views of a victim influence the priority they place on these cases. Specifically that due to prejudice against AI/AN people and certain life circumstances—for example, individuals with a lower socioeconomic status or educational attainment, individuals with a history of drug or alcohol use, and single parents—some law enforcement devalue or blame the victim and make that person a lower priority for law enforcement compared to other victims.

- **Federal engagement with the tribe to address cases of a missing or murdered Indian woman.** Tribal officials stressed the need for the federal government to engage with the community to develop culturally appropriate solutions to address the crisis of missing and murdered Indian women, including solutions that consider important aspects of tribal culture, such as family and community. For example, according to tribal officials, in this community, mutually agreed-upon conflict resolution approaches by directly affected parties and their families is part of the healing process. Specifically, in a domestic violence resolution in this tribal community, the couple's immediate and extended family will participate in a resolution, and the family will be watching over the couple to ensure that the resolution is followed. This mutually agreed-upon solution and approach helps restore those involved in the conflict back to productive members of their family, community, and the tribal nation, according to these officials.

Federal communication

- **Federal communication with tribal law enforcement.** Tribal law enforcement officials said that there is constant communication with federal law enforcement about the status of joint investigations. They explained that a federal task force that focuses on targeting murder and violent felony assaults, including those stemming from domestic violence, has been the foundation for this cross-jurisdictional coordination and outstanding relationship between tribal law enforcement and federal law enforcement.

Staffing

- **Federal funding for tribal law enforcement.** Tribal law enforcement officials said that more federal resources, including funding and personnel, could improve the federal response to the crisis of missing and murdered Indian women. Tribal law enforcement officials said that more federal funding is also needed to increase the tribal police department's capacity to respond to all cases, including those of missing and murdered women, and to build a crime analysis program. Tribal law enforcement officials also said that funding for additional victim and witness advocates is needed to assist victims and witnesses.

Other perspectives

- **Determining jurisdiction over cases of missing or murdered Indian women.** Tribal officials told us that identifying which law

enforcement agency has jurisdiction to respond to a murdered or missing Indian woman can be unclear to the community, particularly for families who live in areas bordering Indian country.

- **Cultural and geographic barriers affecting law enforcement response.** Tribal law enforcement officials also said that cultural barriers and the remoteness of some tribal communities can create challenges for law enforcement in responding to missing persons cases or murder cases. In addition, tribal law enforcement officials said that the tribe's language cannot be translated word for word into English and that there are no street addresses to navigate when locating a witness to interview. Tribal officials also said that the remoteness of tribal communities can also slow both tribal and federal law enforcement response. Some communities may be 60 or more miles from the nearest law enforcement office, where there may only be one officer patrolling hundreds, and sometimes thousands, of square miles.
- **Federal investigation and prosecution of violence against Indian women.** Tribal officials stated that domestic and other types of violence against Indian women could lead to them going missing or being murdered. Additionally, these officials noted that federal law enforcement should more fully investigate and prosecute kidnapping and violent crimes, such as rape, against Indian women by non-Indian perpetrators. Sex trafficking and exploitation of Indian women could be reduced in an environment where perpetrators are held accountable, according to tribal officials.
- **Data on missing or murdered AI/AN women, and tribal access to data.** According to tribal government and law enforcement officials, the true extent of the crisis of missing and murdered AI/AN women is unknown because relevant data on missing or murdered AI/AN women are generally not collected or are underreported. Tribal government officials said that there has not been a coordinated effort to collect data and compile that data in a way that is actionable to the tribal community, and AI/AN victims have been racially misclassified in existing databases. Solutions to the MMIW crisis need to be driven by the parties most affected, but this is difficult to do without accurate data, according to tribal law enforcement officials. Tribal law enforcement officials further explained that if they had their own criminology department to study crime, criminal behavior, and crime trends, they could better understand the nature of the MMIW crisis and develop approaches to address it.
- **Technology and infrastructure challenges.** Tribal law enforcement officials told us that limited internet connectivity poses challenges to

accessing federal databases through the Tribal Access Program. Additionally, they told us that tribal law enforcement's computer equipment is outdated, not all officers and detectives have access to a computer, and funding is not available to purchase upgraded equipment.

Tribe E

Population range: 10,000 to 20,000 enrolled members

Reservation land area range: 500-1,000 square miles

Criminal jurisdiction: federal jurisdiction; tribal jurisdiction over Indians⁹

Primary law enforcement agency serving the tribe: Bureau of Indian Affairs (BIA)-Office of Justice Services

Federal response

- **Federal response to cases of a missing or murdered Indian woman.** One family of a missing woman who was later found deceased said that the federal law enforcement agency's untimely response and investigation of her disappearance resulted in time being lost to potentially find her alive. This family said they were told by federal law enforcement officials that they had to wait 48 hours to file a missing persons report with the federal law enforcement agency. According to federal policy, there is no formal waiting period before federal law enforcement will accept a missing persons report. The victim's family also said that federal law enforcement officers were dismissive of their concerns for their relative's safety. For example, the victim's family was told by federal law enforcement officers that she was likely out with friends "partying" and would eventually return home.

Federal communication

- **Federal communication with victims' families.** One family said that they did not receive adequate communication from the cognizant federal agency about the investigation of their daughter's murder. Specifically, a family member told us that the federal law enforcement agent on her relative's case was on leave, during which time the

⁹In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes. See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-123 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants with certain rights and protections. 25 U.S.C. § 1304(d).

family had no knowledge of whether the case had been assigned to another officer and whether any progress was being made on the investigation. When the officer on leave eventually contacted the family, the missing woman's body had already been found by a community-led search and rescue team.

Staffing

- **Federal staffing to respond to cases of missing or murdered Indian women and funding for tribal policing resources.** According to a tribal law enforcement official, the federal agency providing law enforcement services has been chronically understaffed. Tribal community members explained that this resulted in less attention on each individual investigation, including missing persons and murder investigations, which requires family members and the community to step in. For example, tribal officials said that the tribe's emergency services organization is the designated lead organizer for volunteer-led search-and-rescue efforts and uses social media to relay missing persons information to the community in the absence of help from federal law enforcement. In addition, tribal leaders said that there is a continuous shortage of federal law enforcement officers on the reservation because most officers prefer to work in more populated regions. Furthermore, they told us that open positions are often filled with detailees working short rotations of only a few months at a time, which gives them no time to establish a rapport with the community and leads to a lack of continuity of officers in the region. An additional concern included slow evidence processing in federal labs, with evidence results sometimes taking over a year, which can significantly delay investigations. Tribal community members also noted that the federal law enforcement agency does not have a jail on the reservation and must coordinate jail services with a nearby city.

Other perspectives

- **Determining jurisdiction over missing or murdered Indian women cases.** One victim's family said that they report missing relatives to multiple police departments, since multiple law enforcement agencies work in the area and community members may be uncertain which agency will ultimately lead an investigation.

Tribal Organization F

Population range: N/A – no reservation or trust land

Reservation land area range: N/A – no reservation or trust land

Criminal jurisdiction: state jurisdiction

Primary law enforcement agency serving the tribe: State or local law enforcement agencies

Federal assistance for state or local investigations

- **Federal assistance for state or local investigations of missing or murdered Indian women.** Tribal organization officials, victim service providers, and representatives from local advocacy organizations stated that the federal law enforcement agency has been helpful in providing assistance in missing Indian person cases. Tribal organization officials also said that the establishment of a new federal office to investigate unresolved cases of missing or murdered Indian women was well received by the community. Tribal organization officials reported that the MMIP Coordinator working in the U.S. Attorney's Office is also helpful. They also support making this position permanent and would like to have a designated point of contact with the FBI, BIA, and the U.S. Attorney's Office.

Other perspectives

- **Available data on missing or murdered AI/AN women.** Tribal organization officials said that the lack of data on AI/AN women who are missing or murdered adversely affects the ability of tribal and federal enforcement agencies to track trends in these cases, prioritize resources, and develop a coordinated approach to addressing the MMIW crisis. In particular, tribal organization officials stated that there is confusion about which database to use, whether it be the state missing persons clearinghouse or NamUs. Tribal organization officials stated that clarification about and coordination among databases is needed.
- **Federal funding for community education on victim resources.** Tribal organization officials noted that the organization would like victim service providers and law enforcement agencies, including federal law enforcement, to provide education and other resources to help educate tribal members about their potential vulnerability to certain crimes. Specifically, tribal organization officials told us that AI/AN individuals who leave rural villages to move to urban, nontribal areas are at higher risk of becoming victims of violent crime, including human trafficking, which they stated is a serious concern related to

the MMIP crisis. Tribal organization officials also stated that preventative education at the local and state level, among tribal members, local leaders and businesses is a priority. Tribal organization officials emphasized that, in implementing Savanna's Act and Not Invisible Act, DOJ should take particular care to explicitly recognize the MMIP vulnerability of AI/AN people traveling to and from Indian country and those who go missing outside of Indian country.

Tribe G

Population range: 10,000 to 20,000 enrolled members

Reservation land area range: 1,000-2,000 square miles

Criminal jurisdiction: federal criminal jurisdiction and, in certain circumstances, state criminal jurisdiction; tribal jurisdiction over Indians¹⁰

Primary law enforcement agency serving the tribe: Tribal law enforcement agency

Federal response

- **Federal response to cases of missing or murdered Indian women, and information sharing with the tribe.** According to tribal officials, federal law enforcement officers assisting with investigations generally respond to crime scenes in a timely manner, despite the size of the reservation. In addition, tribal police officials said that federal law enforcement officials communicate with them daily and on a weekly basis. For example, prior to COVID-19, U.S. Attorney's Office officials at this location met monthly with the tribe to discuss the status of prosecutions and still communicate updates on each case via phone and email, according to tribal officials. While federal assistance thus far has been helpful, the tribe would appreciate additional support, including having a federal office nearby for unresolved cases of murdered or missing Indian persons, as well as training for victim service providers on how to help families with a relative who has gone missing or been murdered.

¹⁰In addition, the Violence Against Women Reauthorization Act of 2013 recognized and affirmed tribes' inherent power to exercise criminal jurisdiction over non-Indians for certain domestic and dating violence crimes. See Pub. L. No. 113-4, tit. IX, § 904, 127 Stat. 54, 120-123 (2013) (codified at 25 U.S.C. § 1304(b)(1)). In order to exercise this special domestic violence criminal jurisdiction, Indian tribes must provide defendants with certain rights and protections. 25 U.S.C. § 1304(d).

Other perspectives

- **Determining jurisdiction over missing or murdered Indian women cases.** Several agencies may coordinate to determine which agency has jurisdiction for an investigation, according to tribal officials. Tribal officials said that there may be initial uncertainty over which law enforcement agency is supposed to take a case but that law enforcement officials coordinate to resolve this uncertainty efficiently and with minimal delay.
- **Tribal access to federal databases and use by the community.** Tribal officials said that it is helpful for tribal law enforcement to be able to enter missing persons cases reported by family or friends into the National Crime Information Center (NCIC) law enforcement database.¹¹ The tribal police department has access to the NCIC database through the state law enforcement agency and can contact local law enforcement to help with tribal access to other federal databases. Tribal officials also said that the National Missing Persons and Unidentified Remains System (NamUs)—which allows the public, including family and community members, to enter data about a missing persons case and view missing persons information—is helpful because families feel involved in the investigation.
- **Federal funding for mental health resources for crime victims.** According to the tribe's behavioral health specialist, victims of violent crimes, such as domestic violence and human trafficking need to be able to access mental health services both during and after the prosecution of their case. The tribal victim service provider said that for the past 2 years, the community has been working to establish a community crisis response team that would include a representative from tribal court, tribal law enforcement, a community member, and prosecutors so that all relevant information can be collected to help all victims, including sexual assault, domestic assault, and human trafficking victims. However, the victim service provider would like federal assistance to train victim service providers on using evidence-based approaches to address victims' trauma.

¹¹NCIC is an operational database, whose primary purpose is to help authorized users in managing and resolving cases, including missing persons cases. Data stored in NCIC are criminal justice agency information, and access to that data is restricted by statute to authorized users, including federal, tribal, state and local law enforcement agencies, and other entities that meet the definition of a "criminal justice agency," such as parole officers, medical examiners, and coroners. See 28 U.S.C. § 534(a)(4), (f)(2) and 28 C.F.R. § 20.3(g).

Appendix II: Agency Comments from the Department of the Interior



THE DEPUTY SECRETARY OF THE INTERIOR
WASHINGTON

OCT 15 2021

Gretta L. Goodwin
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Anna Maria Ortiz
Director, Natural Resources and the Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Goodwin and Ms. Ortiz,

Thank you for providing the Department of the Interior (Department) an opportunity to review and comment on the draft Government Accountability Office (GAO) report entitled, "Missing or Murdered Indigenous Women: New Efforts Are Underway but Opportunities Exist to Improve the Federal Response" (GAO-22-104045SU). We appreciate GAO's review of the federal response to the missing or murdered American Indian and Alaska Native (AI/AN) crisis.

The GAO issued one recommendation to the Department as part of its overall findings. Below is the response to the specific recommendation, including the steps the Bureau of Indian Affairs – Office of Justice Services (BIA-OJS) has taken or will be taking to address the concern raised:

Recommendation 5: "The Secretary of the Interior, in coordination with the Attorney General, should develop a plan, including milestone dates, to establish and appoint all members to the Joint Commission on Reducing Violent Crime Against Indians, as required by the Not Invisible Act of 2019."

Response: Concur. Indian Affairs formed a Not Invisible Act Team in March of 2021 to immediately establish a plan. On March 22, 2021 a plan, including milestone dates, to establish and appoint all members to the Joint Commission on Reducing Violent Crime Against Indians was established. Indian Affairs has received nominations for Federal members of the Commission and is currently in the process of receiving nominations for non-Federal members of the Commission.

**Appendix II: Agency Comments from the
Department of the Interior**

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If you should have any questions or need additional information, please contact Jason O'Neal at Jason.Oneal@bia.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tommy P. Beaudreau', with a large, stylized flourish at the end.

Tommy P. Beaudreau

Text of Appendix II: Agency Comments from the Department of the Interior

Gretta L. Goodwin

Director, Homeland Security and Justice

U.S. Government Accountability Office 441 G Street, NW

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If you should have any questions or need additional information, please contact Jason O'Neal at Jason.Oneal@bia.gov.

Sincerely,

Tommy P. Beaudreau

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact:

Gretta L. Goodwin at 202-512-8777 or goodwing@gao.gov or
Anna Maria Ortiz at 202-512-3841 or ortiza@gao.gov

Staff Acknowledgments:

In addition to the contact named above, Tonnyé Conner-White (Assistant Director), Paige Gilbreath (Assistant Director), Michelle Loutoo (Analyst-in-Charge), Hiwotte Amare, Farah Angersola, Ben Crossley, Christine Davis, Elizabeth Dretsch, Lauren Ostrander, Caroline Prado, Kevin Reeves, and Jeanette Soares made key contributions to this report.