

# Missing and Murdered Indigenous Women Task Force

A report to the  
Minnesota Legislature



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# Acknowledgements

We would like to thank all of the members of the MMIW Task Force who committed their time and provided their expertise in this effort:

The legislation clearly specified the membership of the Task Force:

Category of appointee	Name and affiliation of Task Force member
<ul style="list-style-type: none"> <li>▶ Two members of the House (1 appointed by each of the Speaker and Minority Leader)</li> </ul>	<p>Representative Mary Kunesh-Podein** Minnesota House of Representatives</p> <p>Representative Barb Haley Minnesota House of Representatives</p>
<ul style="list-style-type: none"> <li>▶ Two members of the Senate (1 appointed by each of the Majority and Minority Leaders)</li> </ul>	<p>Senator Patricia Torres Ray Minnesota Senate</p> <p>Senator Paul J. Utke Minnesota Senate</p>
<ul style="list-style-type: none"> <li>▶ Two representatives from the following: Minnesota Chiefs of Police Association Minnesota Sheriffs' Association Bureau of Criminal Apprehension Minnesota Police and Peace Officers Association A peace officer who works for and resides on a federally recognized reservation</li> </ul>	<p>Drew Evans Superintendent Bureau of Criminal Apprehension</p> <p>Luke Hennen Scott County Sheriff Minnesota Sheriffs' Association</p>
<ul style="list-style-type: none"> <li>▶ One or more of the following: Minnesota County Attorneys Association United States Attorney's Office A judge or attorney working in juvenile court</li> </ul>	<p>Deidre Aanstad Assistant U.S. Attorney United States Attorney's Office in the District of Minnesota</p> <p>Judge Jeffrey Bryan Minnesota Second Judicial District</p> <p>Kim Mammedaty* Senior Assistant County Attorney, Hennepin County Minnesota County Attorneys Association</p>
<ul style="list-style-type: none"> <li>▶ One or more of the following: A county coroner or representative from the statewide coroners' association or a representative from the Minnesota Department of Health</li> </ul>	<p>Jon Roesler Epidemiologist Minnesota Department of Health</p>

Category of appointee	Name and affiliation of Task Force member
<ul style="list-style-type: none"> <li>▶ 1 representative from each of the 11 federally recognized tribes, with preference for individuals working with victims of violence or their families</li> </ul>	<p>Panda Whiteman Victim Services Coordinator Bois Forte Band of Chippewa</p> <p>Representative Roger Smith, Sr. District III RBC Member Fond du Lac Band of Lake Superior Chippewa</p> <p>Jacki Kozlowski Domestic Violence Advocate Grand Portage Band of Lake Superior Chippewa</p> <p>Brian Pottratz Human Trafficking Investigator Leech Lake Band of Ojibwe</p> <p>Debra Flute Assistant General Counsel Lower Sioux Indian Community</p> <p>Nicole Anderson* Commissioner of Health and Human Services Mille Lacs Band of Ojibwe</p> <p>Allison Stein Domestic Violence Advocate Prairie Island Indian Community</p> <p>Michelle Mountain Sexual and Domestic Assault Advocate Red Lake Nation</p> <p>Denise Prescott* Community Member</p>
<ul style="list-style-type: none"> <li>▶ 1 representative from each of the 11 federally recognized tribes, with preference for individuals working with victims of violence or their families (continued)</li> </ul>	<p>Beth Tepper (Alternate) Director of Education Shakopee Mdewakanton Sioux Community</p> <p>Chris Lee Police Chief Upper Sioux Community</p> <p>Tanya Vold Program Manager DOVE Program White Earth Nation</p>

Category of appointee	Name and affiliation of Task Force member
<ul style="list-style-type: none"> <li>▶ 4 or more representatives from the following:               <ul style="list-style-type: none"> <li>– Organization providing legal services to Indigenous women and girls</li> <li>– Organization that provides advocacy or counseling to Indigenous women and girls that have been victims of violence</li> <li>– Organization that provides services to Indigenous women and girls</li> <li>– Minnesota Indian Women’s Sexual Assault Coalition</li> <li>– Mending the Sacred Hoop</li> <li>– An Indian health organization or agency</li> <li>– An Indigenous woman who is a survivor of gender violence</li> </ul> </li> </ul>	<p>Alyxis Feltus Coalition Director Mending the Sacred Hoop</p> <p>Sheila Lamb* Advocate Life House</p> <p>Brook LaFloe Program Manager Women’s Foundation of Minnesota</p> <p>Nicole Matthews** Executive Director Minnesota Indian Women’s Sexual Assault Coalition</p> <p>Patina Park** Former President/CEO Minnesota Indian Women’s Resource Center</p> <p>Chris Stark Author and Researcher</p>

\* Steering Committee member

\*\* Chairs and Vice-Chairs

We would also like to thank all of the speakers who presented to the Task Force:

- ▶ Janell Twardowski, Minnesota Bureau of Criminal Apprehension
- ▶ Judge Marion Buller, Chief Commissioner for the Canadian Inquiry into Missing and Murdered Indigenous Women and Girls
- ▶ Bonnie Clairmont, Victim Advocacy Specialist, Tribal Law and Policy Institute
- ▶ Leah Lutz, Independent Consultant
- ▶ Caroline Palmer, Minnesota Department of Health’s Safe Harbor program
- ▶ Deidre Aanstad, Assistant United States Attorney, U.S. Attorney’s Office in the District of Minnesota (and a MMIW Task Force member)
- ▶ Sarah Ladd, Human Trafficking Child Protection Coordinator, Minnesota Department of Human Services
- ▶ SSA Ricky Wuori and ASAIC Don Newhouse, Minnesota Bureau of Criminal Apprehension’s Bemidji Office
- ▶ Dr. Quinn Strobl, Director of the Midwest Medical Examiner’s Office
- ▶ Chris Boeckers, MMIP Coordinator, Minnesota United States Attorney Office
- ▶ Michael Potter, Bureau of Indian Affairs

We would also like to thank the 32 key informants who participated in an interview for this report, and all of the other survivors, advocates, and researchers who have contributed knowledge to understanding and addressing the MMIW injustice.

Finally, a personal message to all of the survivors and family members of victims who took the time to contact the Task Force members and to provide your public comments. Your input and experiences helped shape the mandates (recommendations) that are included in this report. We do this work for you – to support your healing and to stop violence from happening to other Indigenous women, girls, and two spirit people.

We thank you. Chi'miigwech! Wopida tanka!



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November 9<sup>th</sup>, 2020

The Honorable Tim Walz  
Governor of the State of Minnesota  
and Members of the Legislature State Capitol  
Saint Paul, Minnesota 55155

Dear Governor Walz, Lieutenant Governor Flanagan, and Legislators:

The Department of Public Safety is pleased to submit the Missing and Murdered Indigenous Women (MMIW) report for your review. This report is compiled and published in accordance with Minnesota Session Laws Chapter 5, Section 28.

In 2019, the Missing and Murdered Indigenous Women's Task Force was created through unanimous bipartisan support of the Minnesota Legislature, and was coordinated by the Minnesota Department of Public Safety. Wilder Research also conducted considerable research in supporting the task force, and was able to compile data to create the most comprehensive picture of what is happening in Minnesota.

Indigenous women, girls, and two-spirit people are far more likely to experience violence, be murdered, or go missing compared to other demographic groups in Minnesota. While Indigenous people make up just 1% of the state's population, 9% of all murdered girls and women in Minnesota from 2010-2019 were American Indian.

Identifying the root causes of what is happening with Indigenous women is key to identifying solutions. The MMIW task force focused on issues and tasks identified in the legislation, including addressing the systemic causes, collecting and reporting data, addressing policy and practices within institutions, reducing and eliminating violence, and helping Indigenous women and girls heal from violence.

This report provides statistics to those in the criminal justice system, members of state government, and the public for their use in analyzing the MMIW injustices. The task force was able to identify root causes including; historical trauma and colonization, racism, and sexual objectification of Indigenous women and girls. Key findings include, but were not limited to, a need for a statewide protocol for investigations that include missing and murdered Indigenous women. Also ensuring rural and tribal law enforcement have adequate resources and training they need to conduct these investigations. The proposed mandates identified within this report are the steps needed to address and solve the MMIW injustices.

Sincerely,

Commissioner-Department of Public Safety

# Letter from Co-chairs

Dear Legislative Leaders, Governor Walz, and Lt. Governor Flanagan,

The Minnesota Missing and Murdered Indigenous Women Task Force acknowledges and addresses the historic, persistent, human, and Indigenous rights violations and abuses found within our state. With full bicameral support, signed into action by Governor Walz in 2019, this Task Force is intent on unearthing the root causes behind the historic violence against Indigenous women, girls, and two spirit (LGBTQQIA) people. This report to the Minnesota Legislature, which reflects the collaboration of 27 Task Force members and other key stakeholders, calls for systemic legislative and social changes to resolve the crisis that has devastated Indigenous communities across our state and this country for far too long.

This report to the Minnesota Legislature includes mandates that aim to reduce and end violence against Indigenous women, girls, and two spirit people in Minnesota. It will serve as a road map for the Commissioner of Public Safety, other state agencies, and organizations that provide legal, social, and other community services throughout Minnesota. Information presented in this report reflects the truths of survivors of violence, family members, community members, government agencies, and experts. It was compiled over more than a year of public hearings, community conversations, interviews with experts, and evidence gathering. It delivers 20 mandates for systemic and community change directed at government, institutions, social service providers, industries, and all Minnesotans.

These proposed mandates recognize and consider the multigenerational and intergenerational trauma and marginalization of Indigenous communities in the form of poverty; insecure housing and homelessness; and barriers to education, employment, health care, and cultural support. This report addresses specific colonial and patriarchal policies that have displaced women from their traditional roles in Indigenous communities and governance and diminished their status in society, leaving them vulnerable to violence.

The Minnesota Missing and Murdered Indigenous Task Force Report proposes initial transformative actions in the areas of health, security, justice, and culture. We begin the path to reform with recognizing that the historic violence against Indigenous communities is more than a criminal justice/public safety issue. It reiterates the importance of tribal, state, and county relationships, and the necessity for data sharing in terms of accessibility, accountability, and uniformity. The report also addresses the need to provide more help and resources to the Indigenous women, girls, and two spirit people who are at most risk of being murdered or experiencing violence and exploitation; these individuals are often significantly involved with child welfare, criminal justice, and other systems that therefore have an opportunity to help.

This historic report would not have been possible if not for the dedication, perseverance, and guidance of Nigel Perrote and Kathryn Weeks from the Department of Public Safety; Nicole MartinRogers, Virginia Pendleton, and their colleagues from Wilder Research; and Stephanie Autumn, independent consultant. Gratitude for the participation of all our Committee Chairs and members as well.

As Chair and Vice Chair of the Minnesota MMIW Task Force, we maintain that the Minnesota Legislature, Governor Walz and Lt. Governor Flanagan, the Commissioner of Public Safety, and all pertaining governmental agencies continue to collaborate and address this issue with a good heart to ensure the successful implementation of the mandates found within this report.

Respectfully,



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Representative Mary Kunesh-Podein  
Chair



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Nicole Matthews  
Vice Chair

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## Executive Summary

# Missing and Murdered Indigenous Women Task Force

## A report to the Minnesota Legislature

### THE MISSING AND MURDERED INDIGENOUS WOMEN (MMIW) INJUSTICE

Indigenous (American Indian, Native American) women, girls, and two spirit people are far more likely to experience violence, be murdered, or go missing than other demographic groups in Minnesota.



Although American Indian women and girls make up just **1% of the state's population**, from 2010 through 2018, **8% of all**



**murdered women and girls in Minnesota were American Indian.**



**From 27 to 54 American Indian women and girls in Minnesota were missing** in any given month from 2012 to 2020.

Throughout this report we refer to this issue as “the MMIW injustice.” This issue has recently begun to be recognized by the general public and policymakers, although Indigenous communities have been traumatized by this set of injustices for centuries.

The root causes of the MMIW injustice include colonization and historical trauma, racism, and sexual objectification of Indigenous women and girls. These root causes have led to increased systemic risk factors for experiencing violence and abuse among Indigenous women and girls, including poverty and lack of housing, involvement in the child welfare system and criminal justice system, being a victim of domestic violence, and being involved in prostitution and trafficking.

Once an Indigenous woman or girl goes missing or dies under suspicious circumstances, the investigation, prosecution, and sentencing processes that are supposed to serve justice often fail to provide equal and fair treatment for these Indigenous victims.

Finally, the system does not offer adequate culturally responsive healing resources for Indigenous victims/survivors, families, and communities.

### The MMIW Task Force

The Missing and Murdered Indigenous Women Task Force was created through unanimous bipartisan support from the Minnesota Legislature, and was coordinated by the Minnesota Department of Public Safety. On behalf of the Task Force, Wilder Research conducted extensive research, including reviewing published articles, summarizing laws and policies, accessing relevant data points from state data systems, interviewing 32 experts, and hearing public feedback during several open public comment sessions. The Task Force heard presentations on key aspects of the systems that are involved in the MMIW injustice. They deliberated extensively in subcommittees focused on systems, data, and community resources. This learning and collective expertise is reflected in this report.

# Missing & Murdered Indigenous Women

## Injustice in Minnesota

### Root causes

- Colonialism
- Racism
- Sexual objectification of Indigenous women and girls

### Demand

for Indigenous women & girls (sex and violence)

- Internet
- Extractive industries
- Entertainment: hotels and casinos, sporting events

Tribal-county-state relations and jurisdiction issues affect the investigation and prosecution of MMIW cases.

### Risk factors

for Indigenous women & girls to become MMIW

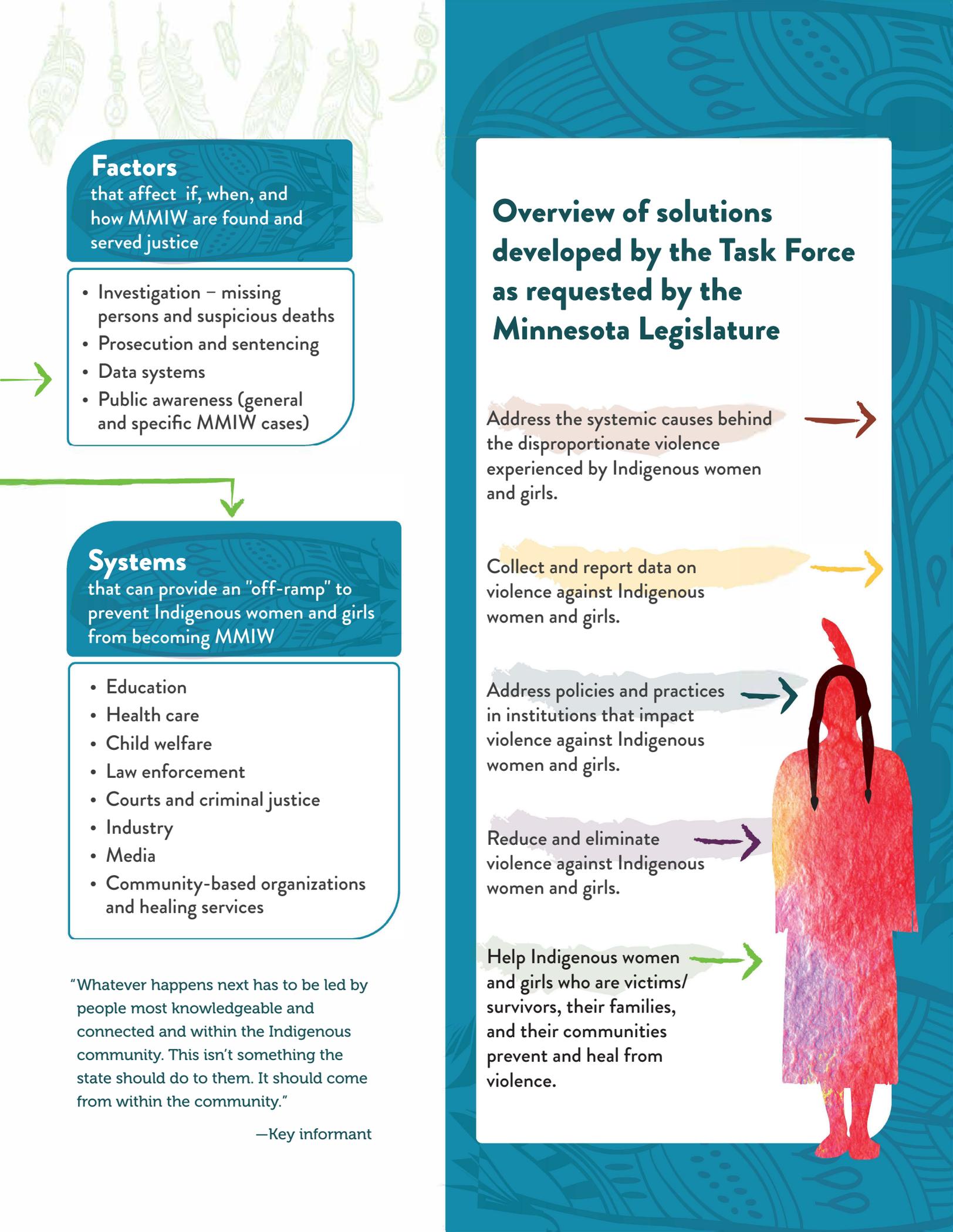
- Child welfare system involvement
- Domestic violence
- Incarceration
- Prostitution & trafficking

Indigenous women get murdered and go missing at a higher rate than other groups.

“Many of the women and children I meet need concrete services before we can do therapeutic work. They need a place to sleep, a warm meal, a place to shower. They have to ask themselves if they are willing to compromise their safety to have a roof over their head. They might be moving from abusive relationship to abusive relationship just to have a place to stay.”

—Key informant

“We need to change how systems respond to women when they come forward with experiences of violence. Make sure they are protected, honored, and heard.” —Key informant



## Factors

that affect if, when, and how MMIW are found and served justice

- Investigation – missing persons and suspicious deaths
- Prosecution and sentencing
- Data systems
- Public awareness (general and specific MMIW cases)

## Systems

that can provide an “off-ramp” to prevent Indigenous women and girls from becoming MMIW

- Education
- Health care
- Child welfare
- Law enforcement
- Courts and criminal justice
- Industry
- Media
- Community-based organizations and healing services

“Whatever happens next has to be led by people most knowledgeable and connected and within the Indigenous community. This isn’t something the state should do to them. It should come from within the community.”

—Key informant

## Overview of solutions developed by the Task Force as requested by the Minnesota Legislature

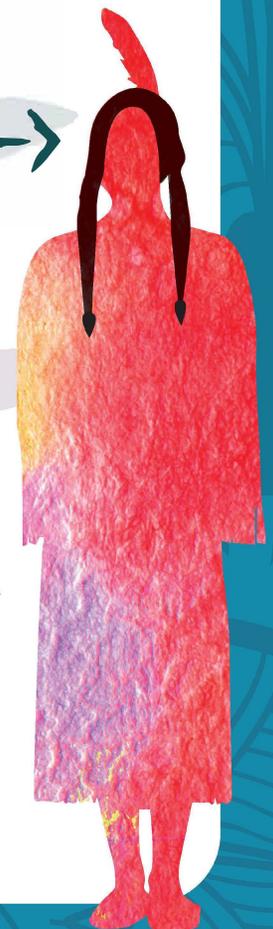
Address the systemic causes behind the disproportionate violence experienced by Indigenous women and girls.

Collect and report data on violence against Indigenous women and girls.

Address policies and practices in institutions that impact violence against Indigenous women and girls.

Reduce and eliminate violence against Indigenous women and girls.

Help Indigenous women and girls who are victims/survivors, their families, and their communities prevent and heal from violence.



# A Call to Action

## Mandates from the MMIW Task Force

The following mandates were thoughtfully crafted by the MMIW Task Force for the Minnesota Legislature, state agencies, tribes, and other stakeholders to address the MMIW injustice in our state. More information about these mandates can be found on pages 12-14 of the summary and 119-133 of the full report.

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- 1. Create an **MMIW Office** to provide ongoing attention to and leadership for this issue.
  - 2. Ensure adequate **funding and resources** to implement these recommendations.
  - 3. Address **systemic racism**.
  - 4. Focus on **eliminating poverty and meeting basic needs**.
  - 5. Produce an **annual MMIW report and dashboard** to provide an overview of the MMIW injustice and track changes over time.
  - 6. Ensure state and federal technical assistance and support is provided so tribes have access to and can fully participate in all relevant **data systems**.
  - 7. Support tribes to **exercise their sovereignty and increase their jurisdictional authority** to investigate, prosecute, and sentence perpetrators of violence against Indigenous women and girls.
  - 8. Advocate for the U.S. Congress to **pass the 2020 Violence Against Women Act**.
  - 9. **Expand Minnesota's Safe Harbor law** to all trafficking victims (not just those age 24 and younger).
  - 10. Increase **personnel and state resources** dedicated to addressing the MMIW injustice.
  - 11. Provide more training and resources, especially in Indian Country and greater Minnesota, to **conduct effective investigations of MMIW-related cases**.
  - 12. Ensure that all MMIW-related **deaths receive an autopsy and are investigated** by a coroner or medical examiner.
  - 13. Strengthen the **trauma-informed and victim-centered response** of law enforcement, courts, and the health care system to Indigenous sexual assault, trafficking, and violence survivors.
  - 14. Address the harm that the **child welfare system** has done to Indigenous families and communities.
  - 15. Provide age appropriate, culturally responsive, trauma-informed education on **healthy relationships and consent** to all students in Minnesota's K-12 schools.
  - 16. **Increase awareness** of MMIW issues and specific MMIW cases among the general public.
  - 17. **Prevent and reduce the harms of trafficking, sexual exploitation, and normalized violence** for Indigenous women and girls who are at the most risk of becoming MMIW.
  - 18. Require **sex trafficking awareness training and targeted prevention** to Indian Country, areas where extractive industries such as oil and mining camps are located, and casinos and hotels.
  - 19. Ensure that initiatives and decisions related to the MMIW injustice are **informed by Indigenous women and girls**, especially those who have lived experiences with violence and exploitation.
  - 20. Promote healing of perpetrators, survivors, relatives, and communities by supporting **culturally responsive, community-led efforts**.

# Key findings

The “Missing and Murdered Indigenous Women (MMIW) injustice” refers to the disproportionate share of violence and exploitation that Indigenous women, girls, and two spirit people experience in Minnesota; they are more likely to go missing or be murdered than people from other communities. The MMIW Task Force identified several causes of the MMIW injustice and developed solutions to address the specific issues identified. This summary provides an overview of the key findings and mandates. More detailed information can be found in the full report, Missing and Murdered Indigenous Women Task Force: A report to the Minnesota Legislature.

## KEY FINDING: ROOT CAUSES OF THE MMIW INJUSTICE IN MINNESOTA INCLUDE HISTORICAL AND ONGOING COLONIZATION, RACISM, AND SEXUAL OBJECTIFICATION OF INDIGENOUS WOMEN AND GIRLS

- ▶ **Colonization and historical trauma** – The practice of European colonizers sexually victimizing Indigenous women and girls as a part of the process of “patriotic” conquest is a major part of American history. Forcibly removing Indigenous children from their families and placing them in boarding schools and the child welfare system, along with the abusive tactics used to ensure the children did not speak their Indigenous languages or practice their cultural traditions, damaged Indigenous family structure and contributed to patterns of normalized violence for Indigenous women, girls, and two spirit people. Due to the impacts of colonization such as more frequent involvement in systems such as child protection and criminal justice, Indigenous people are at higher risk of violence and exploitation.
- ▶ **Racism** – Deep-rooted racism and stereotypes of Indigenous women are primary causes of the unequal response in Minnesota when an Indigenous woman, girl, or two spirit person goes missing or experiences violence compared to the response that is mobilized when a White woman or girl is in the same situation. Law enforcement response is not as swift or as thorough. The court system may not prosecute or fairly sentence perpetrators for crimes committed against Indigenous women. Other systems, such as education and health care, are not culturally responsive. These system failures can be attributed to both racism and bias that is built in to these systems, as well as among individuals in the system.
- ▶ **Sexual objectification of Indigenous women and girls** – With roots in colonial times, a common narrative that is reinforced by the contemporary media is that Indigenous women and girls are sexually available to fulfill the desires of men. This is a subtheme of the overarching “rape culture” in the U.S. and results in demand for sex with Indigenous women, girls, and two spirit people that can be paid for or taken by force, often without consequence.

These root causes put all Indigenous women, girls, and two spirit people at higher risk of experiencing violence, being exploited, going missing, and being murdered.

## KEY FINDING: JURISDICTIONAL COMPLEXITY AND LACK OF UNDERSTANDING IN TRIBAL-COUNTY-STATE RELATIONS CONTRIBUTE TO MMIW CASES FALLING THROUGH THE CRACKS

The relationships among tribes, counties, and the state are complex and, in many cases, problematic as they relate to the MMIW injustice. The cause of the tension is often long-standing and systemic, and may be attributable to individual relationships and interpersonal dynamics.

There is also a lack of understanding among some county law enforcement officers and officials, as well as tribal law enforcement, about tribal sovereignty and the laws that impact law enforcement and other systems that pertain to the MMIW injustice in Minnesota. Jurisdictional issues contribute to MMIW cases “falling through the cracks” in multiple ways, including confusion about who is responsible for investigating the crime and tribes not having the power to prosecute all crimes that occur on their land.

Concurrent jurisdiction in cases of missing persons and suspicious deaths in Indian Country can lead to confusion about which law enforcement agency is supposed to complete which steps in the investigation, especially if there is a poor relationship or lack of communication between these entities. Research suggests that murdered Indigenous women are less likely to be found or have their cases prosecuted. Improvements in systems that are supposed to respond to MMIW cases could increase the chances of Indigenous women and families in Minnesota receiving the justice they deserve.

In order to effectively prevent, investigate, and prosecute kidnapping, violence against, and murders of Indigenous women, girls, and two spirit people, all entities must work well together, communicate clearly and consistently, and have mutual understanding about roles and responsibilities. Strengthening tribal sovereignty and tribes’ capacity to address the MMIW injustice are incorporated into several of the mandates in this report.

There are some existing laws and policies that dictate how tribal governments and local, state, and federal authorities should interact with each other:

- ▶ **Public Law 280** – Enacted in 1953 without tribal consultation or consent, this law changed tribal criminal and civil jurisdiction from the federal government to the states in five states including Minnesota, effectively diminishing tribal sovereignty in prosecuting crimes. Two Minnesota tribes, Red Lake and Bois Forte, were exempt, meaning that the state has no jurisdictional authority to investigate or prosecute crimes that occur on these reservations.
- ▶ **Indian Civil Rights Act** – Enacted in 1968, this federal law was designed to balance the rights of individual American Indian tribal members against their tribal governments by applying part of the U.S. Bill of Rights to tribal governments. The Act limited the punishment tribes may impose; therefore, in practice, tribes often can only prosecute minor crimes committed on their lands.

- ▶ **Tribal Law and Order Act** – Enacted in 2010, this law aimed to increase tribal authority to prosecute crimes and to provide resources to improve public safety and justice systems in Indian Country. Two Minnesota tribes, White Earth and Mille Lacs, applied for and received concurrent federal jurisdiction for major crimes.
- ▶ **Joint powers agreements** – Minnesota Statutes 471.59 and 626.90-626.93 created a system of Joint Exercise of Powers and concurrent jurisdictional authority between tribal and county law enforcement agencies. It was initially created to address jurisdictional challenges created by the aforementioned laws, as well as to facilitate cooperation among agencies with concurrent jurisdiction. When the law was originally created, many tribal law enforcement agencies were newly created and did not have the capacity to provide all critical public safety functions. However, these agreements may no longer be needed for some tribes that have a fully functioning criminal justice system, and may create a situation where the county sheriff has an inordinate amount of power over a tribal law enforcement agency.
- ▶ **Executive Order 19-24** – In 2019, Governor Tim Walz signed this order to require active tribal consultation to identify tribes’ priority issues and support collaboration, with the goal of identifying mutually beneficial solutions for tribes and the state.

KEY FINDING: INDIGENOUS WOMEN, GIRLS, AND TWO SPIRIT PEOPLE ARE NOT AT INCREASED RISK OF VIOLENCE BECAUSE OF INDIVIDUAL “RISKY BEHAVIORS” OR “POOR CHOICES,” BUT RATHER BECAUSE SYSTEMIC RISK FACTORS SUCH AS POVERTY AND HOMELESSNESS, CHILD WELFARE INVOLVEMENT, DOMESTIC VIOLENCE, AND SEX TRAFFICKING AND PROSTITUTION PLACE THEM IN DANGEROUS SITUATIONS

Several factors put many Indigenous women and girls at higher risk of violence and exploitation, going missing, or being murdered.

- ▶ **Poverty and homelessness** – In Minnesota, American Indians are more likely than other racial groups to live in poverty. Not having a safe place to stay puts Indigenous people at risk of exploitation and violence. Material and emotional needs of Indigenous women, girls, and two spirit people may be met, at least in the short term, by traffickers or others who seek to exploit them.
- ▶ **Child welfare system involvement** – The child welfare system has contributed to the MMIW injustice in two primary ways. First, it has disrupted Indigenous family structures and functioning, contributing to the destruction of Indigenous culture and traditions, and resulting in intergenerational trauma. Second, it disproportionately removes Indigenous children from their families, placing them in foster care or other out-of-home care that puts them at increased risk of abuse and exploitation. Federal laws, such as the Indian Child Welfare Act, and state laws, such as the Minnesota Indian Family Preservation Act, impact how child welfare cases involving American Indian children are handled, but these laws are not implemented consistently across Minnesota counties and tribes.

- ▶ **Domestic violence** – Indigenous women, girls, and two spirit people who are experiencing domestic violence are at increased risk of becoming missing or murdered. Law enforcement and criminal justice systems currently do not respond adequately to investigate and prosecute domestic violence cases, and to sentence and rehabilitate offenders so they do not re-offend. Indigenous women may not feel safe reporting domestic violence and other abuse because they fear additional legal trouble or child protection issues for their family. Additionally, the most common entry into sex trafficking for women in Minnesota is through the “boyfriend method,” where an intimate partner uses violence, threats, coercion, or drugs and alcohol to control a girl or woman and force her into prostitution. The federal Violence Against Women Act (VAWA) aims to grant tribes more power to prosecute crimes related to domestic violence and offer protection for women in general.
- ▶ **Sex trafficking and prostitution** – Indigenous women, girls, and two spirit people are more likely than people from other racial groups to be trafficked, both because they are more likely to experience the risk factors listed above that make them vulnerable to predators, and because of gender- and race-based stereotypes that portray Indigenous women as highly sexualized and available for men. The perpetrators who exploit Indigenous women, girls, and two spirit people may also be aware of jurisdictional issues that may impede investigation and prosecution when Indigenous people are trafficked in Indian Country. A focus on entertainment and extractive industries is also warranted due to increased prostitution and trafficking activity at hotels and casinos; in areas with “man camps” (e.g., oil fields, mining sites); and large sporting events and other places where lots of men tend to congregate. Indigenous people who are being trafficked may not have access to adequate, trauma-informed, non-judgmental, culturally responsive services to help them escape from their abusers and heal from the many negative physical and emotional consequences of being exploited and abused.

#### KEY FINDING: INADEQUATE RESPONSE FROM LAW ENFORCEMENT AND SOCIAL SERVICES AGENCIES TO MISSING INDIGENOUS WOMEN, GIRLS, AND TWO SPIRIT PEOPLE IN MINNESOTA HINDERS THE CHANCES THAT WOMEN WILL BE GIVEN EFFECTIVE HEALING SERVICES OR FOUND ALIVE

Cases that involve missing or murdered Indigenous women, girls, and two spirit people are less likely to be properly investigated and solved when compared to similar cases not involving Indigenous victims. Rural and tribal law enforcement agencies often lack the resources and training they need to effectively conduct investigations and utilize relevant state and national data systems to report and track missing persons or investigate crimes. Bias against Indigenous women and girls, compounded and reinforced by systemic risk factors, including criminal background, history with child protection, involvement in prostitution, or drug and alcohol use, also affects how individual MMIW cases are handled by law enforcement, prosecutors and judges, health care and other service providers, and the media.

Minnesota statute 299C.565 indicates that the local law enforcement agency that has jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing persons report as soon as someone reports them as missing. The law enforcement agency is not supposed to refuse to take a report for any reason, except in cases where the law enforcement agency has direct knowledge of the whereabouts and welfare of the person. While promptly taking a report is state law under the Minnesota Missing Persons Act (Brandon's Law, Minnesota Statutes 299C.53), that law is not always followed by all law enforcement agencies when Indigenous women go missing in Minnesota.

Resources available in urban areas like Duluth and the Twin Cities, such as providers who are trained to conduct Sexual Assault Nurse Examiner (SANE) exams or forensic interviewers trained to interview victims using a trauma-informed approach, often do not exist in rural areas. Challenges inherent in Minnesota's rural geography such as long driving distances and lack of cell phone coverage also impede responding to calls for help and conducting investigations. Distrust in law enforcement and a lack of understanding about the investigation and prosecution process makes some Indigenous people wary of working with law enforcement, which can hinder investigations.

Finally, the lack of standardized policies and protocols across the state for investigating a missing adult leads to inconsistencies and subjective decisions around when investigations should start and how they should be carried out. There are compassionate and knowledgeable professionals within these systems who work hard to seek justice for Indigenous victims and communities; however, there is a need for consistent accountability that does not rely on the goodwill and willingness of individual actors in the system to do what is right.

## KEY FINDING: DEATHS OF INDIGENOUS WOMEN, GIRLS, AND TWO SPIRIT PEOPLE FROM MINNESOTA ARE NOT ALWAYS THOROUGHLY INVESTIGATED

Investigations are challenged by insufficient resources and training among law enforcement, especially rural and tribal agencies. In addition, Minnesota's patchwork system of coroners and medical examiners leads to inconsistencies in how and when autopsies are conducted. Indigenous communities may also object to autopsies on religious grounds.

In public comments to the Task Force from victims and their family members and key informant interviews with experts who work on various aspects of the MMIW injustice, the issue was raised that the deaths of some Indigenous people are mistakenly ruled as suicides and overdoses when they may have been caused by violence. Many Indigenous families report that they do not receive adequate communication about the status of the investigation or clarity and closure with a final ruling that aligns with their understanding of the circumstances surrounding their relative's death. This is despite the fact that all coroners in Minnesota are required to have a family communication plan.

## KEY FINDING: PERPETRATORS OF MMIW CRIMES ARE NOT CONSISTENTLY PROSECUTED AND SENTENCED

Due to federal laws, tribal courts are limited in their ability to prosecute MMIW crimes. The Indian Civil Rights Act, the Tribal Law and Order Act, and the Violence Against Women Act all require tribes to include various due process provisions, including providing defendants with effective, licensed legal counsel and having a judge with sufficient legal training to preside over a criminal trial and licensed to practice law. The Minnesota court system is comprised of 87 district courts, 12 tribal courts, and the Minnesota Chippewa Tribe Court of Appeals. This leads to jurisdictional gaps that perpetrators can manipulate in order to avoid prosecution. Building a criminal case requires significant resources and can prompt disagreements as to which entity is responsible for leading and funding prosecution. In addition, issues from investigations carry over into challenges with prosecution. When prosecutors know that critical components of a thorough investigation do not exist, it can lead to MMIW cases not being brought to trial at all.

There are many reasons that perpetrators of MMIW crimes are not prosecuted, including: weak evidence from investigations; lack of resources to prosecute; lack of trust in the judicial system among the Indigenous community leading to uncooperative victims and witnesses; jurisdictional issues; and a fundamental lack of regard for and negative stereotypes about Indigenous women. Perpetrators of MMIW crimes may be given light punishments because of a lack of resources to build a strong case, as well as because of lenient or biased judges or prosecutors.

This pattern of not holding perpetrators accountable is well known by victims, victims' families, and Indigenous communities, leading to a lack of trust and cooperation by Indigenous people with the prosecution process. Victims may also have experienced a tremendous amount of trauma; the trauma victims experience can contribute to difficulty in recalling and discussing experiences. Victims and families may feel re-traumatized by the prosecution process (having to retell their story multiple times to unsympathetic audiences, being questioned about the details of the incident, etc.)

## KEY FINDING: RACISM LEADS TO LACK OF MEDIA COVERAGE OF MMIW CASES; EXISTING COVERAGE REINFORCES STEREOTYPES AND STIGMA

Minnesota's media plays a crucial role in the MMIW injustice. Many key informants described inconsistent reporting or lack of coverage when Indigenous women, girls, and two spirit people go missing or are murdered; they attributed this to institutional racism in the media. For cases that are covered, the language used to describe the victim or crime may reinforce stereotypes and stigma of Indigenous people, such as referencing the victim's use of drugs and alcohol or their criminal history.

## KEY FINDING: INACCESSIBLE AND FRAGMENTED DATA SYSTEMS IMPEDE INVESTIGATIONS AND IDENTIFICATION OF MMIW

A major impediment to investigating and identifying MMIW cases effectively is that some tribes may not have access to state and national databases for MMIW cases. Additionally, due to challenges in racial misidentification and incomplete reporting into a number of fragmented data reporting systems, it may be more difficult to match an unidentified body to a missing person case in Indian Country.

None of the following databases captures all MMIW cases. To understand the true extent of the MMIW injustice, data must be compiled from across multiple systems. Underreporting and misreporting in many of these systems leads to an underrepresentation of the MMIW injustice overall. A more coherent and comprehensive data system would allow stakeholders to learn more about the causes and potential solutions to the problem.

- ▶ **National Crime Information Center (NCIC)** – The Minnesota Bureau of Criminal Apprehension ensures all tribes have access to the FBI’s NCIC data system, the primary missing persons database used by law enforcement. Minnesota State Statute 229C.53 states that law enforcement agencies must enter reports of a missing person under age 21 within two hours. However, the same requirement does not apply for people over the age of 21, unless they are in danger. All tribal law enforcement agencies in Minnesota have direct access to the NCIC data system, except for the Grand Portage Band of Lake Superior Chippewa, which works with the BCA to enter their data. Data from the NCIC is what informs the Minnesota Missing and Unidentified Persons Clearinghouse, a tool to assist in the recovery of missing children and adults in the state of Minnesota.
- ▶ **National Missing and Unidentified Persons System (NamUs)** – NamUs is the U.S. Department of Justice’s federal missing persons database. NamUs is accessible to law enforcement, medical examiners, coroners, and the general public, although some information is protected and only available to criminal justice users. Medical examiners and coroners can add profiles for unidentified cases, but not all unidentified cases are added to the database. Because it is open to the public (whereas NCIC is not), some families have been able to find their own missing loved ones using NamUs.
- ▶ **The Sovereign Bodies Institute MMIWG2 Database** – The MMIWG2 database is the only Indigenous-led database. It logs cases of missing and murdered Indigenous women, girls, and two spirit people, from 1900 to the present. Recognizing that information on Indigenous women in other databases is often incomplete, this database augments data from missing persons websites with direct outreach, media posts, social media, and historical archives. The database includes many MMIW cases that are not included in other missing persons database systems.

## CALLS TO ACTION: MANDATES FROM THE MMIW TASK FORCE

The Minnesota Legislature included five requirements for the MMIW Task Force. The calls to action and mandates respond directly to each of these five requirements.

**Requirement #1: Examine systemic causes behind violence that Indigenous women and girls experience, including patterns and underlying factors that explain why disproportionately high levels of violence occur against Indigenous women and girls, including underlying historical, social, economic, institutional, and cultural factors which may contribute to the violence.**

- ▶ **Mandate 1:** With tribal consultation, create an **MMIW Office** to hold the MN Legislature and state agencies accountable for implementing the mandates in this report and develop ongoing recommendations to address the MMIW injustice; facilitate further research; evaluate progress toward implementation and impact of MMIW-related efforts; facilitate technical assistance for local and tribal law enforcement agencies during active MMIW cases; conduct and report on the results of case reviews for select MMIW cases; review sentencing guidelines for MMIW-related crimes; coordinate these efforts with MMIW stakeholders, tribes, and organizations from urban and statewide American Indian communities; and work with relevant DPS divisions to maintain communication and coordinate, as relevant, with federal and state efforts.
- ▶ **Mandate 2:** Ensure adequate **funding and resources** are made available to implement these recommendations.
- ▶ **Mandate 3:** Address **systemic racism in all systems that interact with Indigenous women and girls** (education, health care, housing, child welfare, law enforcement, criminal justice, etc.) by **hiring more Indigenous staff**, by providing **training and education** to reduce bias among professionals working in these systems, and by **demanding accountability** to eliminating bias.
- ▶ **Mandate 4:** Focus on **eliminating poverty and meeting basic needs** of Indigenous women, girls, and two spirit people, and their communities, both in greater Minnesota and urban areas.

**Requirement #2: Examine appropriate methods for tracking and collecting data on violence against Indigenous women and girls, including data on missing and murdered Indigenous women and girls.**

- ▶ **Mandate 5:** The MMIW Office or another entity should produce an **annual MMIW report and dashboard** that will use data from state data systems to provide an overview of the MMIW injustice, to track how the issue changes over time, and to see how the MMIW statistics change relative to various programs, initiatives, and systemic changes.
- ▶ **Mandate 6:** Ensure state and federal **technical assistance and support is provided so tribes have access to and can fully participate in all relevant data systems.**

**Requirement #3: Report on policies and institutions such as policing, child welfare, coroner practices, and other governmental practices that impact violence against Indigenous women and girls and the investigation and prosecution of crimes of gender violence against Indigenous people.**

- ▶ Mandate 7: Support tribes to **exercise their sovereignty and increase their jurisdictional authority** to investigate, prosecute, and sentence perpetrators of violence against Indigenous women and girls.
- ▶ Mandate 8: Coordinate with legislators, tribes, and the National Congress of American Indians to advocate for the U.S. Congress to sign the **2020 Violence Against Women Act (VAWA)** and to strengthen tribes' use of VAWA funds.
- ▶ Mandate 9: **Extend Safe Harbor law to all trafficking victims** (not just youth age 24 and younger).
- ▶ Mandate 10: Increase **personnel and state resources** dedicated to addressing the MMIW injustice, including the American Indian Human Trafficking Child Welfare Liaison and the Ombudsperson for American Indian Families.
- ▶ Mandate 11: Provide more training and resources to professionals, especially in Indian Country and greater Minnesota, to **conduct effective investigations of MMIW-related cases** and to ensure all current guidelines and best-practice recommendations are being followed consistently.
- ▶ Mandate 12: Ensure that all MMIW-related **deaths receive an autopsy and are investigated** by a coroner or medical examiner.
- ▶ Mandate 13: Strengthen the **trauma-informed and victim-centered response of law enforcement, courts, and the health care system** to Indigenous survivors of sexual assault, trafficking, and violence.
- ▶ Mandate 14: **Address the harm that the child welfare system has done to Indigenous families and communities** by making reforms and providing guidance and training to staff of local and tribal child welfare agencies accordingly.

**Requirement #4: Report on measures necessary to address and reduce violence against Indigenous women and girls.**

- ▶ Mandate 15: Provide **education on healthy relationships and consent** to all students in Minnesota's K-12 schools and tribal schools. The curriculum should be age appropriate, culturally responsive, trauma-informed, and include topics such as inappropriate sexual contact, intimate partner violence, and trafficking and sexual exploitation.
- ▶ Mandate 16: Draw on existing Indigenous community organizations to **increase awareness of MMIW issues and specific MMIW cases** among the general public.

- ▶ Mandate 17: **Prevent and reduce the harms of trafficking, sexual exploitation, and normalized violence** for Indigenous women and girls who are involved in the child welfare system and/or the criminal justice system since they are at most risk of becoming MMIW.
- ▶ Mandate 18: Require **sex trafficking awareness training and targeted prevention** to Indian Country, areas where extractive industries such as oil and mining camps are located, and casinos and hotels; partner with and hold companies accountable.

**Requirement #5: Examine measures to help victims, victims' families, and victims' communities prevent and heal from violence that occurs against Indigenous women and girls.**

- ▶ Mandate 19: Ensure that any initiatives, programs, and decisions related to the MMIW injustice are **informed by Indigenous women and girls**, especially those who have lived experiences with violence and exploitation.
- ▶ Mandate 20: Promote healing of perpetrators, survivors, relatives, and communities by supporting **culturally responsive, community-led efforts**.

# Introduction

## Scope and severity of the MMIW injustice in Minnesota

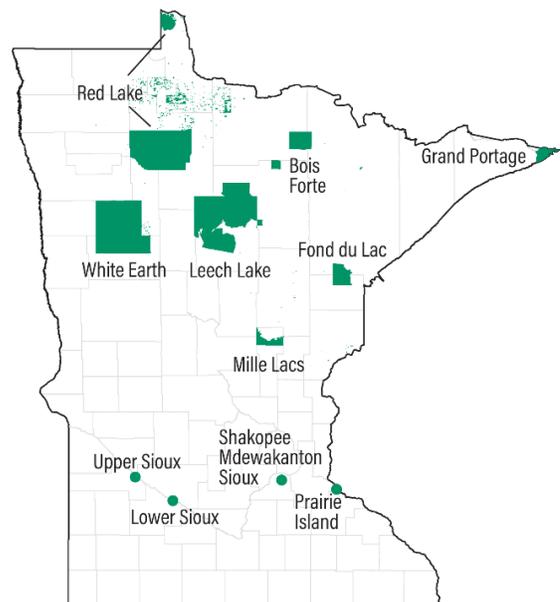
MMIW stands for Missing and Murdered Indigenous Women, but in this report encompasses women, girls, and two spirit people<sup>1</sup>. In Minnesota, like the rest of the United States, North America, and other parts of the world, there is an “MMIW injustice” -- a disproportionate share of Indigenous<sup>2</sup> women and girls who are missing or murdered and experience other forms of violence and exploitation.

Nationally, 84% of Indigenous women have experienced some form of violence in their lifetimes (NCAI Policy Research Center, 2018). In Minnesota, Indigenous women constitute 8% of all female homicides. They are seven times more likely than White women to be murdered (Pham, 2020). This statistic masks the higher rates of murder against Indigenous women in certain counties in Minnesota, namely Hennepin, Ramsey, Beltrami, and Cass counties (Pham, 2020). Indigenous women and girls are subject to high rates of childhood sexual assault, domestic violence, and rape according to

researchers and advocates alike (Abinanti et al., 2020; Amnesty International, 2008; Farley et al., 2011; NCAI Policy Research Center, 2018; Rosay, 2016).

The MMIW injustice extends across Minnesota, including Indian Country (tribal reservations and federal trust lands; Figure 1), the Twin Cities and Duluth, and other parts of Minnesota.

### 1. Tribal nations that share Minnesota geography



<sup>1</sup> “Two spirit” may now be included in the umbrella of Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ), but the term does not always mean someone who is American Indian and gay. Traditionally, Native American two spirit people were male, female, and intersexed individuals who combined activities of both men and women with traits unique to their status as two spirit people. In most tribes, they were considered neither men nor women; they occupied a distinct, alternative gender status. For more information, see: [Indian Health Service \(https://www.ihs.gov/lgbt/health/twospirit/\)](https://www.ihs.gov/lgbt/health/twospirit/).

<sup>2</sup> In this report, we use the terms “Indigenous” and “American Indian” interchangeably to refer to peoples who were the original inhabitants of this geographic area, before colonization. It includes people who are enrolled members of American Indian tribes and their descendants. When we report data from state and federal data systems, we use the term American Indian even when the data system uses the term Native American, which is also interchangeable for the purposes of this report.



Community gathering and protest on July 27, 2020, when the U.S. Department of Justice opened the MMIW cold case office in Bloomington, MN.

American Indians make up 2% of the state’s population, and American Indian women and girls comprise 1% of the state’s population (Minnesota Compass, 2019).<sup>3</sup> There are a total of 62,639 American Indian women and girls in Minnesota (Minnesota Compass, 2019).

In any given month, about 15% of the female missing persons cases in Minnesota are American Indian women and girls. The Minnesota Bureau of Criminal Apprehension (BCA) reports via the Federal Bureau of Investigation’s (FBI) National Crime Information Center’s (NCIC) database that from 2012 through March 2020 there were between 27 and 54 actively missing American Indian women in Minnesota in any given month. As of December 2019, there were 34 active missing American Indian females age 17 and younger and 4 age 18 or older listed in NCIC (Bureau of Criminal Apprehension, 2012-2020a). These numbers are likely an undercount; past research has documented that missing Indigenous women can be racially misclassified as White, or they may not be entered into a national database as a missing person (Abinanti et al., 2020). Even so, this percentage clearly

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<sup>3</sup> These percentages reflect the proportion of people in Minnesota who identify their race as American Indian alone or American Indian in combination with other races (Minnesota Compass, 2019). The percentage of people who identify as American Indian alone is 1%, and less than 1% of the state’s population are women who identify their race solely as American Indian.

demonstrates that American Indian females are overrepresented among missing persons in Minnesota.

Although American Indian women and girls constitute 2% of Minnesota's female population, 9% of the women and girls murdered in Minnesota from 2010-2019 were American Indian (Bureau of Criminal Apprehension, 2010-2019; U.S. Census Bureau, 2020). Compared to White women, who make up 83% of the Minnesota adult female population and who constituted 62% of female homicides during the same time frame, American Indian women are overrepresented.

For many years, Indigenous activists, families, and communities who have experienced this problem first-hand have been advocating and raising awareness about this issue. However, only recently has the broader community, including the media, policymakers, and the general public, started to become aware of the MMIW injustice in Minnesota.

## **Minnesota's Task Force on Missing and Murdered Indigenous Women**

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In September 2019, the Missing and Murdered Indigenous Women Task Force (MMIW Task Force) was convened by the Minnesota Department of Public Safety at the request of the Minnesota Legislature (Laws of Minnesota 2019, 1st Spec. Sess. chapter 5, article 2, section 28). The Task Force's objectives, according to the legislation, are to:

- ▶ Examine systemic causes behind violence that Indigenous women and girls experience, including patterns and underlying factors that explain why disproportionately high levels of violence occur against Indigenous women and girls, including underlying historical, social, economic, institutional, and cultural factors which may contribute to the violence
- ▶ Examine appropriate methods for tracking and collecting data on violence against Indigenous women and girls, including data on missing and murdered Indigenous women and girls
- ▶ Report on policies and institutions such as policing, child welfare, coroner practices, and other governmental practices that impact violence against Indigenous women and girls and the investigation and prosecution of crimes of gender violence against Indigenous people
- ▶ Report on measures necessary to address and reduce violence against Indigenous women and girls

- ▶ Examine measures to help victims, victims' families, and victims' communities prevent and heal from violence that occurs against Indigenous women and girls

This report summarizes the Task Force's work to address each of these areas and provides mandates for the Minnesota Legislature, Minnesota state agencies, and other entities that are responsible for solving the MMIW injustice in Minnesota.

## The Task Force's process

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The Minnesota Department of Public Safety (DPS) contracted with Wilder Research to conduct the research and prepare the final report on behalf of the MMIW Task Force. DPS also contracted with Stephanie Autumn, an independent consultant, to facilitate the Task Force and its subcommittees. The Wilder Research team and the Task Force facilitator worked collaboratively with DPS to design and facilitate the Task Force meetings and to carry out the work between meetings.

The Task Force had three in-person, full-day meetings prior to the COVID-19 pandemic and met virtually 10+ times for shorter periods. In between the full Task Force meetings, subcommittees met to move the work forward. The Task Force received public comments from interested community members, including survivors and family members of victims, related to the MMIW topic and the mandates. Public comments were received at the Task Force meetings, during two separate sessions dedicated to that purpose, and via an online form.

Overall, the activities and processes used by the Task Force throughout the past 16 months were designed to ensure that we identified the most critical issues that contribute to the MMIW injustice in Minnesota. We also prioritized the solutions that are most likely to successfully address the problems and ultimately reduce or eliminate the MMIW injustice in Minnesota. The Task Force's ideas about the MMIW injustice and solutions, as presented in this report, were vetted with experts across Minnesota's state agencies and other key stakeholders.

See the Appendix for more details about the Task Force's process.

## DATA SOURCES

Wilder Research was contracted by DPS to conduct research to support the MMIW Task Force's work. This research includes three main sources of information: a literature review, key informant interviews, and data obtained from state agencies.

The purpose of the literature review was to learn more about the scope and nature of the MMIW injustice and to identify potential solutions. The literature review included articles provided by DPS and Task Force members, as well as a search of peer-reviewed academic journal articles and media stories, reports published by advocacy organizations, and other sources. We used key search terms, including: Indigenous/American Indian/Native American women and girls, missing, murdered, trafficking, child welfare. Wilder Research staff reviewed the sources and cited them, as relevant, throughout this report. The sources were also made available to Task Force members. Some of the ways that systemic issues lead to the MMIW injustice are identified in the literature; this was helpful in our review of Minnesota-specific data and issues. In addition, some of the solutions identified in the literature helped to inform the Task Force’s mandates. See the Appendix for a full list of all references.

Wilder Research worked with DPS, Ms. Autumn, and the Task Force to develop interview questions and to identify key informants who could speak to the MMIW injustice in Minnesota and more generally. This included advocates, professionals who work in various areas of the system, researchers, database owners, and other experts. Wilder Research completed 32 interviews with respondents around Minnesota and Turtle Island (North America) to ask what contributes to the MMIW injustice and to identify solutions. We also asked about data sources and concerns about the data we currently have available with regard to the MMIW injustice. Wilder Research scheduled and conducted all of the interviews, which were transcribed and made available to the Task Force members. See the Appendix for the list of key informants and interview questions.

Last, with the assistance of DPS staff, Wilder Research obtained data and statistics to help us understand the scope and extent of the MMIW injustice in Minnesota and related risk factors and experiences among Indigenous women and girls from the Bureau of Criminal Apprehension, Minnesota Courts, the Department of Human Services, and the Department of Health. These data are presented throughout this report to illustrate the extent of the MMIW injustice, when known, and to highlight gaps in data available that could help us better understand and address the MMIW injustice.

## LIMITATIONS

There are some limitations of this research. First, as highlighted throughout this report, there are many places where data do not exist to help us learn more about or address the MMIW injustice; this report offers some recommendations to address these gaps in the data.

Second, while we interviewed 32 experts with a variety of expertise and opinions of the MMIW injustice and solutions, their thoughts could vary from others who we did not speak with for this project.

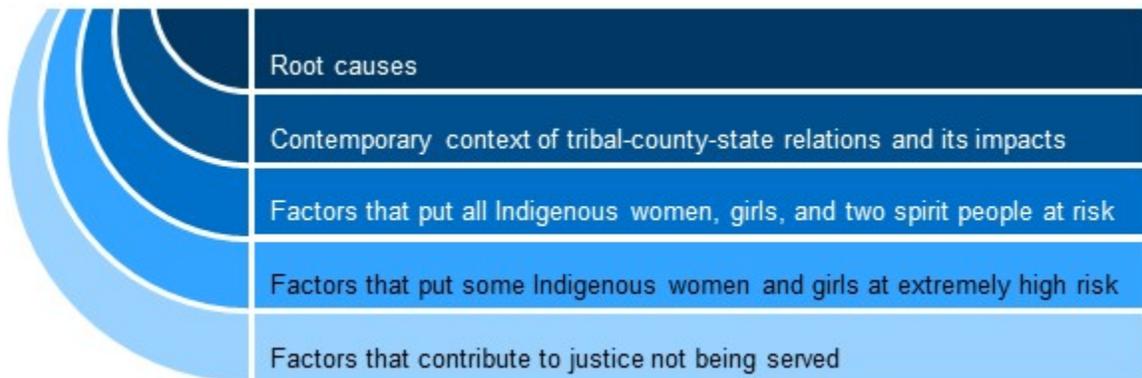
Third, this report primarily presents data, challenges, and solutions specific to Indigenous women and girls. It is important to note that two spirit, lesbian, gay, bisexual, transgender, queer, and other gender or sexuality nonconforming (2SLGBTQ+) Indigenous people, and Indigenous men and boys, also experience a disproportionate share of violence (Rosay, 2016), and these problems are all related to the root causes described below. Unfortunately, very little data exist about the overrepresentation of 2SLGBTQ+ Indigenous peoples among those that experience violence.

Finally, it is important to acknowledge the enormity of the MMIW injustice and the relatively limited time and resources the Task Force had to address it. As one MMIW Task Force member said, **“Trying to fix 528 years in 18 months. That is a large task. This isn’t something that is new. It is like an onion with many layers.”** This report does not provide adequate information to fully address the MMIW injustice in Minnesota. Therefore, some of the mandates recommend continuing this work. It is going to take many years of focused and sustained efforts and collaboration across systems to change the systems, policies, and practices that contribute to the MMIW injustice in Minnesota.

## How to use this report

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Readers should think of the MMIW injustice as a series of layers (like an onion). The root causes of the MMIW injustice are the inner layer. Next is the contemporary context of tribal-county-state relations and how this impacts the MMIW injustice. The factors in our society that put all Indigenous women, girls, and two spirit people at risk of becoming MMIW form the next layer. Then come the factors that put some Indigenous women and girls at extremely high risk of becoming MMIW. Finally, we must understand the factors that contribute to justice not being served for Indigenous women and girls once they become MMIW as the outer most layer. The report is organized in this manner, with major sections for each of these topics.



After reviewing all of the factors that cause the MMIW injustice, readers will have solid underpinnings to understand the Call to Action that the MMIW Task Force has developed to solve the MMIW injustice in Minnesota.

Some readers may be most interested in a particular aspect of this issue, such as the role of the child welfare system or health care system. Readers are encouraged to dig in to the sections that are most relevant to their work, and to think about how their individual role in the system and the system as a whole can play a part in addressing the MMIW injustice.

# Current violence against Indigenous women and girls is rooted in colonization, historical trauma, racism, and the sexual objectification of Indigenous women and girls

Understanding the root causes of the MMIW injustice provides the critical context needed to effectively address the issue. This report provides a brief snapshot of these issues. Other sources provide a much more complete and nuanced explanation of how these root causes have directly and indisputably contributed to the MMIW injustice in our state, nation, and world (Farley et al., 2011; Holmes & Hunt, 2017; Little, 2018; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019a; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019b; National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019c; Pierce, 2009; Stark, 2020; Stark & Hudon, 2020).

We cannot go back in time 500 years to address all of the harms and injustices done to Indigenous women and girls and their communities throughout this country's history, nor is that within the scope of this 18-month Task Force's role. However, the Task Force acknowledges that many contemporary, systemic issues that cause the MMIW injustice have roots that can be traced back to colonization and historical trauma, racism, and the sexual objectification of Indigenous women and girls.

## Colonization and historical trauma

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*"There is a fundamental difference between an Indigenous way of looking at the world, where we believe we are related to everything, and the normalization of Whiteness, where they believe everything is an economic resource. We see a tree as a relative; they see a tree as lumber. We see the Earth as mother; they see it as real estate. There is a fundamental difference in our being. We have been associated with things that are in the way and, as such, we are disposable."*  
(Public comment)

Indigenous peoples of Turtle Island (North America) have experienced genocide and had their culture, language, and way of life threatened since Christopher Columbus and his peers set foot on this land. The history of colonization and forced assimilation of Indigenous peoples of North America by European settlers was the start of a long history of troubled and oppressive tribal-U.S. government relations, as well as the start of a pattern of victimization of Indigenous women and girls.



Community gathering and protest on July 27, 2020, when the U.S. Department of Justice opened the MMIW cold case office in Bloomington, MN.

Importantly, violence against Indigenous women is most likely to be perpetrated by a non-Indigenous person. Nearly all Indigenous women (97%) who had experienced some form of violence in their lifetimes reported an interracial perpetrator; comparatively, about one-third (35%) reported experiencing violence by an Indigenous perpetrator (Rosay, 2016).

During the early periods of interaction between the newly formed U.S. government and Indigenous peoples in North America, “child welfare” was not a topic of much concern. The U.S. government and many settlers used warfare against Indigenous peoples, including women, children, and babies, with the goal of total elimination of these populations. The approach of the U.S. government toward Indigenous children and families changed from warfare to assimilation in the latter part of the 19<sup>th</sup> century (Little, 2018).

A key component of this assimilation approach was Indian boarding schools, which were designed to “kill the Indian, save the man” in the words of Captain Richard Henry Pratt who started the Carlisle Indian School in Pennsylvania (Northern Plains Reservation Aid, n.d.). The more than 150 Indian boarding schools around the U.S., including the 16 in Minnesota, forcibly removed Indigenous children from their families and used abusive tactics to ensure the children did not speak their Indigenous languages or practice their cultural traditions. The children were forced to adopt their colonizers’ language, culture, and religion. Boarding schools were also places where physical, emotional, and sexual abuse were common (Gunderson, 2019; Little, 2018; Pember, 2019).

Today, American Indian children in Minnesota are more likely to be in out-of-home foster care placements than children of other races (Minnesota Department of Human Services, 2020c). Many Indigenous community members and advocates believe that the child welfare system is designed to systemically dismantle American Indian families and communities (Crofoot, 2005; Cross et al., 2000; Simmons, 2014).

*“Colonization is the taking of resources and land, and the taking of children. It is still happening. Minnesota has the worst disparities for removing Native children from communities.” (Researcher, key informant)*

The legacy of boarding schools and the modern day child welfare system contribute to Indigenous women and girls being sex trafficked and involved in prostitution. Research suggests that more than two-thirds of Indigenous women engaged in prostitution in Minnesota had family members that attended boarding schools (Farley et al., 2011), an indicator of how common this intergenerational trauma is for Indigenous women. Research has also found that children who are in out-of-home placements are more at risk of being trafficked (Choi, 2015) and that children who are trafficked are very likely to have experienced prior abuse (Havlicek et al., 2016). In this way, colonization continues to impact Indigenous families and communities.

The education system could play a major role in prevention efforts and identification of children who are at-risk of or being trafficked, but key informants in general reported that schools were currently falling short of this ideal. Interviewees said that a necessary starting place is to acknowledge how education has been used as a weapon against Indigenous communities and to acknowledge the wrongs committed through the education system, especially boarding schools.

*“Our children need to be taught about MMIWG from a young age – kindergarten up until college. Communities need to be made aware of sexual abuse, colonization, and the effects of boarding schools.” (Sex trafficking advocate, key informant)*

*“We need more education on historical trauma, residential schools, and boarding schools, which were government funded and designed for a purpose. People don’t have that general knowledge. It better explains and tells the story. There also needs to be education on how culture and tradition, dance, songs, and ceremonies can bring people together to help move forward in a better way. People see it as one sided. They see terrible things and think that’s how it will continue. There is a way to bridge the gap and make sure healing happens, but they need access to those resources.” (Direct service provider, key informant)*

As one speaker at a public comment session said: *“Historical trauma isn’t historical if it is happening today,”* in acknowledgement that trauma and racism continues to be perpetuated against Indigenous women and girls in Minnesota.

*“In a way, they become invisible. When they are alive and possibly asking for help – a lot of the time when we see women they are in a crisis, such as dealing with chemical health, mental health on a continuum, homelessness, issues of domestic violence, or trafficking. And, during this time of crisis, there is not consistently a meaningful response to what their needs are or a meaningful response to connect with them in a respectful and human way. If there was an opportunity for meaningful healing and connection, which is also culturally relevant, to connect them to their children in that continuum, things would look different than they do in reality. But, because they are so invisible, they are vulnerable and more susceptible to go missing or be murdered. Women later identified as missing or murdered are women we see every day, because there is not a meaningful or humane response to where they are at that time. Then the trajectory of what happens is horrific.” (Child welfare, key informant)*

## Racism

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*“I do think racism is a key root cause. Marginalized groups as a whole are not valued in this society. They are seen as commodities.” (Advocate, key informant)*

Racist beliefs about the inferiority of Indigenous peoples by European colonizers has been a constant threat to Indigenous peoples’ way of life. Deep-rooted racism and stereotypes of Indigenous women are primary reasons cited by key informants for the unequal response in Minnesota when an Indigenous women or girl goes missing or experiences violence compared to the response that is mobilized when a White woman is in the same situation.

Racism directly impacts the MMIW injustice by influencing the extent to which attention and resources are devoted by law enforcement, courts, industries, media, health care, and education systems to take on individual cases or the MMIW injustice as a whole. “It was just another drunk Indian” or “she was a known prostitute” are not legitimate excuses for

not pursuing justice for every single Indigenous woman and girl who experiences violence, goes missing, or is murdered. Yet, in our research, we heard that these stigmas and stereotypes do still influence the response to MMIW cases in Minnesota.

*“You see it over and over. No one even notices. Who will look for her? Who will care? At a base level. And, there is an expectation that she's just a runaway or on a bender. People don't notice or look. The right people don't look or notice. It's not as sexy as the pretty blonde girl; that's sexy. But, when it's a poor brown person, she is not seen as worthy of the attention it might take to find her. It feels like it's probably racism and the same thing. They won't put as many resources into it, evidence isn't as likely.” (Attorney, key informant)*

## Sexual objectification of Indigenous women and girls

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*“Generations of people who have grown up seeing Tiger Lily and Pocahontas, and all you learn about Native women and girls are that they are exotic, sexy, and ready to jump in bed. They see [in the media] that they [Indigenous women] are easy to use and abuse, and that's how they'll see them in real life.” (Missing persons database director, key informant)*

Sexual objectification and exploitation of Indigenous women and girls stems from colonization and contributes directly to the MMIW injustice. Although the sexual objectification of Indigenous women and girls has its roots in early colonial times, this theme has carried through to modern society and is reinforced by the media. From Disney movies to hardcore porn, a common narrative portrays Indigenous women and girls as sexually available (willing or unwilling) victims who need saving. This sexualized image of Indigenous women and girls has resulted in demand among men for sex with Indigenous women and girls, which often goes along with an opportunity to abuse and brutalize them (Farley et al., 2011; Martin et al., 2017).

The practice of sexually victimizing Indigenous women and girls as a part of the process of “patriotic” conquest is a part of our history. Pre-colonization, women and two spirit people were central to the community; they were respected and served in leadership roles in many Indigenous cultures (Abinanti et al., 2020). Columbus and his counterparts made violence and sex trafficking of Indigenous girls and women a central component of the colonization of the Americas (Abinanti et al., 2020; Stark, 2020). This interplay of sexual exploitation and economic exploitation carries through to present times, with extractive industries located on or near tribal lands.

*“There is a connection between sexual assault, abuse, and trafficking. Their perceived value of women, that they are disposable. Usable and disposable.” (Direct service provider, key informant)*

# Tribal-county-state relations

*“We've seen traffickers using jurisdictional gaps between tribal sovereignty and state and federal government, exploiting loopholes in the legal system to move people around. They can evade detection and prosecution. ... People who are trafficking American Indian women and girls play on jurisdictional legal differences between tribal sovereign law and state and federal law.”(Researcher, key informant)*

In order to effectively investigate and prosecute kidnapping of, violence against, and murders of Indigenous women and girls, tribes, counties, state, and federal agencies must work well together, communicate clearly and consistently, and have mutual understanding about roles and responsibilities. Existing laws and policies dictate how tribal governments and local, state, and federal authorities should interact with each other. These laws affect law enforcement, courts, child protection, education, and a range of other issues that impact the MMIW injustice. Interpersonal dynamics are involved in creating and maintaining positive and effective inter-agency interactions.

The relationships between tribes and the state of Minnesota and its counties are complex and, in many cases, problematic as they relate to the MMIW injustice. Our interviews, readings, and Task Force meetings uncovered many instances of jurisdictional gaps that make some crimes, such as assault, rape, domestic violence, and murder, difficult to prevent, investigate, and prosecute. Research also documented strained relationships between tribes and counties/the state that share jurisdiction.

As key informants shared:

*“There's a hesitancy sometimes because of past tensions to not reach out to other jurisdictions, not to call the local sheriff or BCA for assistance as quickly as possible. There is a history of tensions between tribal law enforcement and adjacent agencies. It could be because of pride; they want to take care of their own issues, and not look like they need help. The delay is the biggest issue. Everyone who has worked homicides or missing persons knows that you have to get on them right away. The longer you delay, the more you lose evidence and ability to track someone.” (Law enforcement, key informant)*

*“There are also all these other factors of economic oppression and poverty being forced on reservations where our sovereignty has been threatened. Our ability to hold people accountable who come onto our land is threatened. We don't have control over all the crimes that are committed. We were stripped of that authority. That increases our vulnerability to more crimes.” (Victim advocate, key informant)*

According to the informants and other materials we reviewed, the cause of the tension can be long-standing and systemic and, in other cases, may be attributable to individual relationships. There is also a lack of understanding among some county law enforcement officers and officials, as well as tribal law enforcement, about tribal sovereignty and the laws that impact law enforcement and other systems that pertain to the MMIW injustice in Minnesota.

## Relevant federal and state laws and policies

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International human rights standards and guidance, such as the United Nations' Declaration on the Rights of Indigenous Peoples (UNDRIP), provides an overarching framework for all levels of governments to consider as it relates to issues such as the MMIW injustice (United Nations, 2007). Federal, state, county, and tribal governments all have a role in investigating and prosecuting crimes in Indian Country. Which entity or entities have jurisdiction depends on:

- ▶ WHERE the incident took place
- ▶ WHAT type of law was violated
- ▶ WHO the victim was (Indigenous or non-Indigenous)
- ▶ WHO the perpetrator was (Indigenous or non-Indigenous)

Three federal laws create jurisdictional overlap between state and federal government and among tribes in Minnesota: Public Law 280, the Indian Civil Rights Act of 1968, and the Tribal Law and Order Act of 2010.

**One of the most important federal laws that impacts the role of states and tribes in criminal and civil legal issues is Public Law 280 (PL 280), enacted in 1953.**

PL 280 changed criminal and civil jurisdiction for tribes from the federal government to the state government in the five states of Minnesota, Wisconsin, Nebraska, Oregon, and California (Alaska was added when it became a state in 1958). PL 280 did not end the tribes' inherent civil and criminal jurisdiction; it created concurrent state jurisdiction.

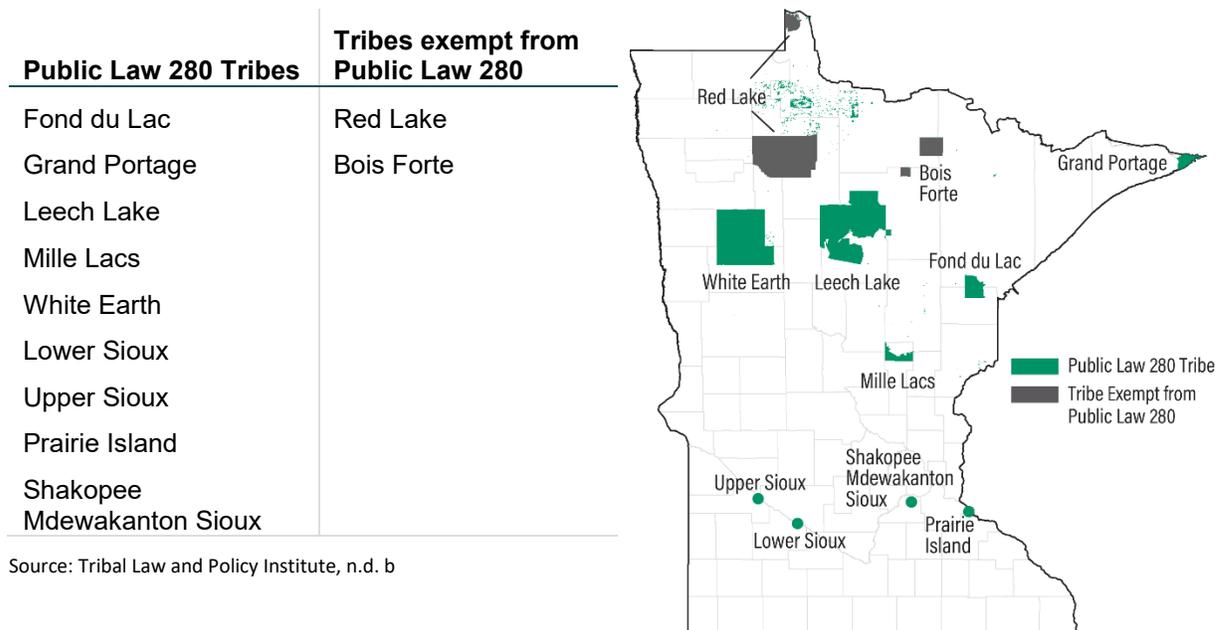
PL 280 specifically addresses state court jurisdiction over actions involving American Indians, not Indian tribes. The law applies to state laws, but does not cover local or municipal laws, which are not applicable on Indian reservations. It also does not cover regulatory issues or trust property (Gardner & Pecos Melton, n.d.; Mullen, 2014a; Tribal Law and Policy Institute, n.d. b).

PL 280 is controversial because there was no tribal consultation or consent involved, and because the federal government did not allocate any resources to the states for this increased jurisdictional responsibility (Gardner & Pecos Melton, n.d.).

*“A common Indian perception in many Public Law 280 states is that state law enforcement claims that they have no authority whenever the Indian Nation asks them to intervene (‘legal vacuum’ lawlessness), but that state law enforcement claims that they have this authority whenever the Indian Nation does not want them to intervene (‘abuse of authority’ lawlessness). Obviously, this situation can present many problems for Indian Country crime victims” (Gardner & Pecos Melton, n.d., p. 6-7).*

Of the 11 tribes in Minnesota, Red Lake Nation was the only tribe to be exempted from PL 280 in the original law (Mullen, 2014a). In 1973, Bois Forte Band of Lake Superior Chippewa was granted a retrocession. This means that both of these tribes maintain their concurrent jurisdiction with the federal government, and the state does not have authority to investigate or prosecute crimes that occur on these reservations, unless both the offender and victim are non-Indian (Mullen, 2014a).

## 2. Public Law 280 and non-Public Law 280 tribes in Minnesota



**The Indian Civil Rights Act of 1968 was designed to balance the rights of individual American Indians against tribal governments by applying parts of the United States government’s Bill of Rights to tribal governments.**

The Act limited the punishment tribes may impose; therefore, in practice, tribes often can only prosecute minor crimes committed on their lands (Mullen, 2014a; Tribal Law and Policy Institute, n.d. c).

**The Tribal Law and Order Act of 2010 (TLOA) aimed to increase federal accountability, enhance tribal authority, and authorize additional funding to improve public safety and justice systems in Indian Country** (Tribal Law and Policy Institute, n.d. d).

Because Minnesota is a PL 280 state, criminal jurisdiction is often handled by state and county prosecutors (Mullen, 2016). TLOA allows tribes in Minnesota to apply for concurrent federal criminal jurisdiction and aims to increase the resources available to tribes for investigation and prosecution of crimes that happen in Indian Country (Mullen, 2016). Another objective of TLOA was to increase federal communication with Indian Country by requiring reporting when the U.S. Attorney’s Office declines to prosecute cases, because declinations tend to be much higher on reservations than off reservations (Tribal Law and Policy Institute, n.d. d). TLOA also gives tribes the rights to access and input data into federal crime databases.

A section of TLOA focuses on sexual assault and domestic violence. TLOA does not change the tribe’s criminal jurisdiction over non-Indians. Tribes have very limited jurisdiction over non-Indians; however, the Violence Against Women Act (VAWA) provides some exceptions in cases of domestic or intimate partner violence (Sacco, 2019).

After a tribe has obtained concurrent federal jurisdiction via TLOA, the state’s criminal jurisdiction does not change, but the federal government also has jurisdiction over the crimes covered by the Major Crimes Act and the General Crimes Act, including MMIW-related crimes (Tribal Law and Policy Institute, n.d. d).

Therefore, there are three different types of jurisdictional overlap with the state and federal government among tribes in Minnesota, as shown in Figures 3, 4, and 5.

3. Criminal jurisdiction on Fond du Lac, Grand Portage, Leech Lake, Lower Sioux, Upper Sioux, Prairie Island, and Shakopee Mdewakanton Sioux Reservations

<b>Victim</b>	<b>American Indian offender</b>	<b>Non- American Indian offender</b>
Indian	State and Tribe	State <sup>a</sup>
Non-Indian	State and Tribe	State <sup>a</sup>
Other: License offenses; status offenses; government victim	State and Tribe	State

<sup>a</sup> The Violence Against Women Act (VAWA) exceptions, which allow tribes to prosecute domestic violence crime, are explained in the tribal jurisdiction section below.

4. Criminal jurisdiction on Red Lake and Bois Forte Reservations

<b>Victim</b>	<b>American Indian offender</b>	<b>Non-American Indian offender</b>
Indian	Federal (major crimes only) or Tribe (major and minor crimes)	Federal
Non-Indian	Federal (major crimes only) or Tribe (major and minor crimes)	State
Other: License offenses; status offenses; government victim	Tribe	State

5. Criminal jurisdiction on White Earth and Mille Lacs Reservations

<b>Victim</b>	<b>American Indian offender</b>	<b>Non-American Indian offender</b>
Indian	State, Federal, and Tribe	State and Federal
Non-Indian	State, Federal, and Tribe	State and Federal
Other: License offenses; status offenses; government victim	State or Tribe	State

Source: Mullen, 2014b

## Challenges in tribal-county-state relations that impact the MMIW injustice in Minnesota

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**A combination of federal and state laws and strained relationships between tribes and counties reduces tribes' sovereignty to address the MMIW injustice and limits the effectiveness of investigating and prosecuting MMIW cases.**

### **Informants called for accountability from the state to investigate and prosecute MMIW cases.**

*"I think as long as the U.S. government is going to say their agencies, whether that is federal, state, county, or local, but not tribal, as long as we live under this system and as long as they claim jurisdiction, they need to exercise it against their own people [when they commit crimes against Indigenous women]. I'd like to see rigorous comprehensive legislation that creates accountability measures for police when they are corrupt or negligent." (Missing persons database director, key informant)*

*"For a missing Indigenous murdered woman, to build a criminal case takes a tremendous amount of resources. Who's got that? ... Everyone agrees we should prosecute, but there is disagreement about how much money to spend and whose money it should be. It is problematic for digging into any of these issues, and who is in charge. For the tribal police and the White police, working from their own perspectives, there is a question as to whose rules apply. It is political. So then we find the perpetrator and he is Native. Then there is a fight between if it should be heard in tribal or county court, and it slows down by a year and a half. Traditional court is faster than tribal due to more resources, more people, and more training." (Forensic assessment clinician, key informant)*

### **Perpetrators who seek to victimize Indigenous women, girls, and two spirit people may be aware of and exploit jurisdictional issues.**

*"All criminal justice issues in Indian Country are fraught. Jurisdictional issues always arise, whether it is shoplifting or sex trafficking. It is a challenge for a tribal nation to take ownership and protect their people when they are limited. If they can't do anything or don't have the finances, it puts people at risk. It emboldens the predator to target Indian Country." (Professor, key informant)*

**Joint powers agreements between tribal and county law enforcement agencies are intended to facilitate collaboration across agencies, but, in practice, may limit tribes' jurisdictional authority.**

Joint powers agreements (Minnesota Statutes 2019, sections 471.59 and 626.90-626.93) were originally created to address jurisdictional challenges posed by applicable laws, to facilitate cooperation among agencies with concurrent jurisdiction, and to augment the resource capacity of newly formed tribal police departments.

There is debate about whether joint powers agreements are still needed today. While the agreements were formed in part to help fledgling tribal police departments and to ensure adequate law enforcement resources would be available in those jurisdictions, today many of the tribal police departments in the state have grown their human and resource capacity. Some tribes feel the agreements lead to county sheriffs having an inordinate amount of power over tribal agencies, and it can create barriers for tribes to collaborate with one another.

However, decisions about whether joint powers agreements continue should consider what impact that will have on tribal law enforcement agencies' access to resources. Key informants mentioned the lack of resources needed to address the MMIW injustice and the question of which agency's limited resources should be used in any particular case.

## **Strengths and opportunities in Minnesota regarding tribal-county-state relations and the MMIW injustice**

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**The primary strengths of current tribal-county-state relationships are specific efforts to address MMIW-related issues across tribes and a growing awareness of the MMIW injustice and tribal sovereignty among state agency staff and state leaders.**

Several recent state-led efforts to build relationships and increase understanding about the MMIW injustice can contribute to longer-term solutions. For example, Safe Harbor (described more in the Sex Trafficking section), has partnered with some or all of the tribes to collaboratively address MMIW issues. One informant noted the positive impact of efforts of the Metro Transit Police Department to partner with and build relationships with the urban American Indian community. Another informant mentioned the Safe Trails Task Force in Bemidji as an example of an effective cross-agency working group. The Safe Trails Task Force unites the FBI with other federal, state, local, and tribal law enforcement agencies in a collaborative effort to combine limited resources and increase investigative

coordination in Indian Country to target violent crime, drugs, gangs, and gaming violations (Federal Bureau of Investigation, n.d.).

A key informant who works for the state described her growing understanding and respect for tribal sovereignty and how that impacts her work with tribes and Indigenous communities:

*"I think what is important to understand for me is that tribal nations are sovereign nations. This means a different type of interaction, work, or process. Just like any government agency, there are steps and procedures that take time but need to be followed. That is important to building respect and understanding on both sides. It takes time and effort, but you get true collaboration and build materials and resources that speak to the community because they're built by community. We can do more to promote that and build paths of collaboration. It is always going to be time consuming and labor intensive. If we can build these pathways... thinking of a garden, you are walking a path that gets smoother each time, as opposed to if you wait and it overgrows." (Public Health Supervisor, key informant)*

Similarly, another key informant who works in advocacy for sex trafficking victims described how cross-agency teams and collaboration between sexual assault response teams and tribes in parts of Minnesota is leading to better information sharing and establishing agreements about procedures, roles, and responsibilities of the participating entities. Other informants noted that effective interagency collaboration requires continuous, ongoing efforts by those involved, using culturally based approaches.

### **Minnesota requires tribal consultation regarding the MMIW injustice and other issues that impact tribes and Indigenous peoples.**

In 2019, Minnesota Governor Tim Walz signed Executive Order 19-24, rescinding Executive Order 13-10. This new Order requires state agencies to “recognize the unique legal relationship between the State of Minnesota and the Minnesota Tribal Nations, respect the fundamental principles that establish and maintain this relationship, and accord Tribal Governments the same respect accorded to other governments” (p. 2). It requires *active tribal consultation* to identify the tribes’ priority issues and support collaborative working relationships with “the goal of identifying mutually beneficial solutions.”

### **Ultimately, strengthening tribal sovereignty and building tribes’ capacity to address the MMIW injustice was suggested as a key solution by several key informants.**

Strengthening tribal sovereignty could include advocating for increasing tribes’ jurisdictional authority, which can only be done by congressional action. Another route is through

increasing their law enforcement and prosecutorial capacity through increasing resources to tribal police departments and courts, in particular as it relates to crimes associated with MMIW. It also includes finding other ways to more effectively engage tribal nations and culturally based community resources, service providers, and advocates in defining solutions and determining the response to a particular case or the MMIW injustice in general.

*"Tribes have such limited capacity, which leads to vulnerability. Not to say that returning jurisdiction to tribes means things will change. Unfortunately, tribal communities have adopted problematic assumptions from American law. They will blame victims. Tribal courts have assimilated to be punitive and victim blaming. Those are not traditional views. Returning jurisdiction doesn't guarantee anything. Activists, though, could then go to tribal council and say, 'Now we don't have excuses, we have to develop laws and policies that will get at the root of the problem.'" (Professor, key informant)*



Ceremonial signing of the MMIW Task Force legislation, September 2019, MN Humanities Center.

# Factors that put Indigenous women, girls, and two spirit people at higher risk

Poverty, the child welfare system, domestic violence, and sex trafficking and prostitution are central risks in the web of mutually reinforcing factors that make Indigenous women, girls, and two spirit people more vulnerable to violence and exploitation. As this section of the report details, American Indian children in the state of Minnesota are disproportionately represented in out-of-home placements in the child welfare system; Indigenous women experience high levels of domestic violence; and Indigenous women, girls, and two spirit people are over-represented in prostitution and sex trafficking. Indigenous women are not vulnerable to MMIW because of individual “risky behaviors,” but because of these systemic risk factors that consistently place them in dangerous living, work, and social situations.

## Poverty and lack of affordable housing

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*“When you think about poverty and how American Indian people were deprived of land and exposed to racism, the legacies of boarding schools, all of those historical forces lead to much higher rates of poverty.” (Researcher, key informant)*

*“Housing is a crisis generally, especially in the Native community, access to safe and stable housing. That is a huge child protection issue. We see families punished in the child welfare system, and kids removed due to unsafe or unstable housing. Or we see a delay in reunification due to lack of stable housing. We need more of it.” (Researcher, key informant)*

In Minnesota, American Indians are more likely to live in poverty than people from other racial groups (Minnesota Compass, n.d. d). Thirty-four percent of American Indians live in poverty in Minnesota, compared to 27% of Black and 7% of White Minnesotans (Minnesota Compass, n.d. d). Poverty can be linked to the other root causes of the MMIW injustice: racism and colonization. Indigenous peoples had everything taken from them, individually and systematically, by the U.S. government as settlers from Europe moved in. Due to systemic racism and discrimination, American Indian people continue to experience worse outcomes in Minnesota with regard to education (Minnesota Compass, n.d. c), employment (Minnesota Compass, n.d., f), health care (Minnesota Compass, n.d. g), law enforcement (Gorsuch & Rho, 2019), and criminal justice (Minnesota Sentencing

Guidelines Commission, 2020; Prison Policy Initiative, 2004), and homelessness (Pittman et al., 2020).

Data from Wilder Research’s 2018 Minnesota Homeless Study and Minnesota Reservation Homeless Study suggest that American Indian women, girls, and transgender/two spirit people comprise 16% of Minnesota’s homeless population (Wilder Research, 2018). Being hungry or cold, or not having a safe place to stay, puts Indigenous women, girls, and two spirit people at risk of exploitation and violence (Martin et al., 2014). Further, when Indigenous women, girls, and two spirit people exit incarceration or when they are in out-of-home placements, they are also more vulnerable to being exploited due to unmet material and relational needs and the financial and emotional manipulation that traffickers often use to recruit and entrap their victims.

*“Not surprisingly, the path to exploitation is through vulnerabilities that are extorted. As poverty, homelessness, isolation, and lack of education proved to be [risk] factors, so, too, are they found in recruitment [into prostitution].” (Native Women’s Association of Canada, 2014b, p. 15).*

## Child welfare system involvement

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*“Data show that foster care is a grooming step into prostitution. It is a step toward youth homelessness and runaways. It’s a trigger to all the things that lead to MMIW or MMIR (Missing and Murdered Indigenous Relatives) in general. A lot comes from that point. If that was a healthy, supportive system it would be doing prevention.” (Advocate, key informant)*

The modern child welfare system has contributed to the MMIW injustice in two primary ways. First, the child welfare system disproportionately removes Indigenous children from their families, placing them in foster care or other out-of-home care. This has impacted Indigenous family structures and functioning and contributed to intergenerational trauma. Second, children in the child welfare system are at increased risk of abuse and exploitation. Research indicates that survivors of sex trafficking often have a history of involvement with the child welfare system (Martin et al., 2017).

Contemporary issues with the child welfare system mirror the cultural genocide, forced assimilation, and rampant abuse inflicted on Indigenous children in America’s boarding school system. Boarding schools damaged the American Indian family structure and ripped apart the fabric of Indigenous communities. Although the boarding school era ended in the mid-1900s, large numbers of Indigenous children continue to be taken out of their

family homes and communities through foster care and adoption. Indigenous grandparents and parents who were raised in boarding schools or foster care may struggle with their own mental health and sobriety. American Indians in Minnesota have the highest suicide rate and drug overdose rate (Pham, 2020). Due to the trauma of not being raised by their own parents and in their own culture, they may struggle to effectively parent their own children, creating a normalization of violence and intergenerational cycle of abuse.

In addition, the child welfare system was designed to reflect White values and child rearing practices and to devalue Indigenous child rearing practices. Many factors lead to American Indian children being more likely than children of any other racial group to be removed from their family home through out-of-home placement via the county-state child protection system.

## RELEVANT CHILD WELFARE LAWS AND POLICIES

**The Indian Child Welfare Act (ICWA), the Minnesota Indian Family Preservation Act (MIFPA), and other laws were established to undo the harms that the boarding schools and child welfare system have caused Indigenous families and communities for generations and to “protect the best interests of Indian children.”**

The Indian Child Welfare Act of 1978 (ICWA) recognizes the special relationship between the U.S. government and Indian tribes and its members, as well as the vital importance of children to American Indian tribes. It also acknowledges that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions.

During intake, child welfare agency staff should always inquire to the child’s American Indian lineage (Minnesota Department of Human Services, 2020b). If the agency has reason to believe a child is American Indian, ICWA/MIFPA procedures and practices should be implemented. ICWA states that the placement preferences established by each Tribe in their Tribal code and laws should be followed in making placement decisions of Indigenous children. ICWA requires child welfare staff to make “active efforts” to support American Indian children remaining in their homes and active efforts to support reunification. In addition, placement decisions should involve the family and tribe, and traditional helping and healing systems of the tribe should be acknowledged (Indian Child Welfare Act, 1978). Out-of-home placements and adoptions of American Indian children require efforts to place the child with a member of their extended family, a member of their tribe, or another American Indian family. Through ICWA, the federal government

may also make grants to Indian tribes to establish and operate child and family services programs.

MIFPA (Minnesota Statutes 2019, sections 260.751-260.835) requires that the local child welfare agency notify the child's tribe(s) in the event that a child welfare case is opened for an American Indian child. In addition, this law requires that "active efforts" are used to involve the child's tribe and reflect social and cultural values, conditions, and way of life of the child's tribe(s) prior to and during an out-of-home placement, and to return the child to their family as soon as possible (Minnesota Statutes 2019, section 260.755).

The Native American Children's Safety Act of 2016 ensures that the local child welfare agency conducts a criminal background check on potential foster care parents for American Indian children. The Indian tribes that have jurisdiction over these placements are required to periodically recertify all foster care providers.

The federal Family First Law was signed into law in 2018 in response to the opioid epidemic and focuses on keeping children safe at home with their families. The law allows money to be redirected from out-of-home placements to services that address parents' mental health challenges, substance abuse treatment, and in-home parent skill-based programs (Children's Defense Fund, 2018). Minnesota is in the process of implementing these changes.

**Child welfare agencies in Minnesota are responsible for responding to reports of missing and runaway youth who are in their care, as well as those suspected of being involved in sex trafficking** (Minnesota Statutes 2019, section 260C.212).

In Minnesota, suspected sex trafficking of a child is a mandated report, even if the alleged trafficker is a non-caregiver/household member (Minnesota Department of Human Services, 2020b). Child welfare agencies are responsible for investigating claims of sex trafficking and notifying local law enforcement, if applicable.

One type of early intervention in sex trafficking of a child is improving responses when youth run away from out of home placements such as foster care or residential treatment. On September 29, 2014, President Obama signed into law the Preventing Sex Trafficking and Strengthening Families Act, which aims to protect and prevent children and youth in foster care from becoming victims of sex trafficking (Minnesota Department of Human Services, 2020a). This law states that local child welfare agencies are not supposed to discharge a child who has run away from foster care or close the child's case until "diligent efforts have been exhausted to locate the child."

The Minnesota Department of Human Services offers guidance to foster care parents and child protection investigators and supervisors about sex trafficking and the process for conducting an investigation (Minnesota Department of Human Services, 2018). Foster care providers are required to report any missing youth immediately, or within 24 hours, to the child’s caseworker and local law enforcement (Minnesota Department of Human Services, 2020a). If a caseworker suspects that a child is being sex trafficked, the agency is responsible for providing services to the child to address any trafficking-related needs. The Minnesota Department of Human Services developed a screening tool for child welfare agencies to use when a report is made to child protection intake; it assists workers in identification, case assignment, and next steps in assisting the alleged victim (Minnesota Department of Human Services, 2019a).

**Minnesota’s Safe Harbor law protects youth who are being sex trafficked or involved in prostitution, and provides additional resources and services to help them escape trafficking** (for more information on Safe Harbor, see the Prostitution and Sex Trafficking section of this report).

DHS guidelines state that it is best practice to connect youth trafficking victims with a Safe Harbor Regional Navigator as soon as possible so they can be connected to resources and supports for healing (Minnesota Department of Human Services, 2018). The child welfare agency should also refer victims of sex trafficking and sexual exploitation for medical and mental health evaluations as soon as possible. Safe Harbor Regional Navigators can help provide referrals to where these evaluations are available across the state.

When making placement decisions on where the victimized youth should stay, Minnesota’s child welfare agencies are supposed to place children in the least restrictive environment (e.g., living at home with community-based services, family arrangement outside of home independent of child welfare agency) to most restrictive environment (e.g., therapeutic foster care, residential treatment, hospitalization). Safe Harbor shelter and housing programs are placement options that offer specialized services for youth who experienced sex trafficking or sexual exploitation, and therefore may be good options for these youth.

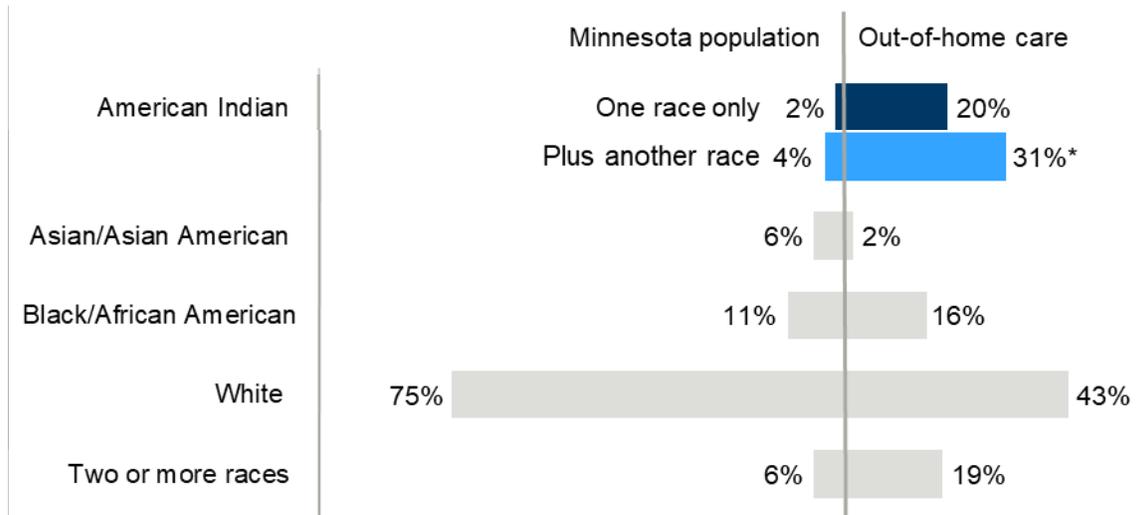
## DATA

**American Indian children are more likely to be in out-of-home placement than children of other races in Minnesota.**

According to the Minnesota Department of Human Services, there were 15,289 youth in out-of-home care in Minnesota. Of these, 31% identified at least one of their races as American Indian. This is a clear overrepresentation of American Indian youth considering only 2% of

children under the age of 18 in Minnesota identify their race fully as American Indian (4% identify their race as American Indian in combination with other races) (Figure 6).

6. Comparison of the race of children in Minnesota to the race of children in out-of-home care in Minnesota, 2019



Source: Minnesota Department of Human Services, 2020c

\*Note: 20% of children in out-of-home care were identified as American Indian (one race only) an additional 11% were identified as American Indian plus another race, so American Indian children who are of two or more races are shown in both places in this chart.

In 2019, 4,673 American Indian youth in Minnesota were in an out-of-home care placement for at least one day (Minnesota Department of Human Services, 2020c). Considering the total population of American Indian youth in Minnesota in 2019 was 45,108 (Minnesota Compass, 2019), this suggests that approximately 10% of all American Indian youth in the state experienced an out-of-home placement in 2019 (Minnesota Department of Human Services, 2020c).

Data from the 2018 Minnesota Child Maltreatment Report states that across all types of abuse and neglect, American Indian children are 18.1 times more represented in out-of-home placements than White children (Minnesota Department of Human Services, 2019b).

**Although children are placed in out-of-home placements to protect them from abuse and neglect, rates of maltreatment in out-of-home placements are troublesomely high for children of all races in Minnesota, including American Indian youth.**



Ten percent of American Indian youth experienced an out-of-home placement in 2019 (Minnesota Compass, 2019; Minnesota Department of Human Services, 2020c).



American Indian children are 18.1 times more likely to go into out-of-home placements than White children (Minnesota Department of Human Services, 2019b).



601 American Indian children ran away from their out-of-home care between 2015 and 2019 (Minnesota Department of Human Services, 2020c).

Between 2015 and 2019, 14% of American Indian children in out-of-home placement experienced maltreatment that was reported during their placement (compared to 15% of children of other races who were in out-of-home placement during the same period) (Minnesota Department of Human Services, 2019b). It is important to note that the maltreatment may have been from their placement, but it may also have been maltreatment by parents or other caregivers that was reported while in placement. Similar percentages of American Indian children had reported experiences of physical abuse (10%) and sexual abuse (6%) compared to children of other races (11% and 6%, respectively). Similar percentages of American Indian children were reported to have experienced sexual exploitation/prostitution (0.2%) as children of other races (0.2%), or sex trafficking (0.1% and 0.2%, respectively). In terms of absolute numbers, this means nine American Indian children in out-of-home care were reported as having been sexually exploited/involved in prostitution between 2015 and 2019, and nine were reported as having been sex trafficked types).

Six percent of American Indian children ran away at least once from their out-of-home care, compared to 4% of children from other races (Minnesota Department of Human Services, 2019b). This means 601 American Indian children ran away from their out-of-home care between 2015 and 2019 (Minnesota Department of Human Services, 2020c).

Seventy-seven percent of American Indian children returned from running away, and 23% did not return (Minnesota Department of Human Services, 2019b). This was slightly lower than the percentage of children of other races who returned from running away (80%).

**Since 2017, American Indian children were 5.8 times more likely to be reported as victims of trafficking compared to White children** (Minnesota Department of Human Services, 2020b).

Since May 2017, federal and state human trafficking laws require child protection to investigate all reports of known or suspected sex trafficking of minors. In the three-year period between May 2017 and June 2020, there were 1,683 reports of sex trafficking or sexual exploitation made to county or tribal child welfare agencies, with more than 1,500 alleged child victims of sex trafficking or sexual exploitation (Ladd, 2020). Ten percent of alleged victims in child protection reports of sex trafficking or sexual exploitation during that period were ICWA eligible (Ladd, 2020).

## CHALLENGES WITH THE CHILD WELFARE SYSTEM RELATED TO THE MMIW INJUSTICE IN MINNESOTA

Indigenous women and communities have a well-founded lack of trust that the child welfare system will do what it is meant to do: protect children. Key informants acknowledged that the child welfare system is fundamentally flawed. While the system has the intent to protect, in reality it often perpetuates harm in Indigenous communities, including perpetuating the MMIW injustice.

**Many key informants described the child welfare system as a tool that punishes and controls women who are struggling with poverty, criminal histories, domestic violence, and substance use.**

Poverty itself, often labeled in child welfare cases as “neglect,” is used as justification for removing Indigenous children from their parents. More resources and support are needed via the child welfare system to address the material needs of Indigenous families, in particular safe and affordable housing. Additional resources would help to prevent involvement and deepening entrenchment with the child welfare system.

*“The highest amount of cases in the child welfare system are due to neglect, not physical or sexual abuse. Neglect is broadly defined; it is often called the ‘catch all.’ That can be anything from a lack of safe and stable housing, to a lack of food in the fridge, to heating issues in the winter, or the school called CPS because a kid didn’t have appropriate clothing for winter. Those are all connected to poverty. I don’t see those as a child protection issue, but they are a societal issue of taking care of people and having resources.” (Researcher, key informant)*

*"In addition, when women are seeking help for substance abuse disorders .... In Mille Lacs, people come in for Rule 25 [substance abuse treatment assessment process] and are immediately reported to social services. That scares people away from getting help for substance abuse issues. We need a way to do it where we can help but not take your children. Then, people might be more open to talking about those issues." (Advocate, key informant)*

*"If you're the mom of a murdered 14-year-old girl and you have maybe two or three grandchildren, and a couple of other children of your own, maybe your own mother in your home, and you report this, then child protection is looking at your life. You're scared that if you report it or demand accountability that they will come in and remove children you have, or that you'll end up in court, or forced into treatment, or you'll be found to be guilty, or so much shame and guilt about perceived failures that you can't face it." (Forensic assessment technician, key informant)*

**Intergenerational trauma and early experiences of abuse are so common in many American Indian families that many may not even recognize physical, emotional, or sexual abuse as abuse if it happening to them or someone they love.**

Research with Indigenous women and girls who have been trafficked highlights the dysfunctional family patterns and abuse within some Indigenous families that can be traced back to historical trauma, colonization, boarding schools, and involvement in the child welfare system (Abinanti et al., 2020). This leads to normalization of abuse. "For these women, it can be incredibly difficult to recognize the cycle of abuse they are in, and even more difficult for them to exit that exploitation" (Native Women's Association of Canada, 2014a, p. 5).

*"Child protection was called on this family because the parent was making kids kneel on broomsticks and would hit their arms and hands with another broomstick. That's how she was punished and her parents were punished in boarding schools." (Advocate, key informant)*

**There is a strong connection for Indigenous women and girls between being in foster care or other out-of-home placement as a child and being involved in trafficking.**

Key informants corroborated that young people who are separated from their family and community are more vulnerable to sex trafficking. Being a runaway, "throw away," or orphan is a risk factor for sex trafficking and exploitation. Children who run away from foster care are particularly at risk; one respondent said that within 24 hours they are likely to be approached for sex. Many of these children and foster families could benefit from extra support and prevention services than they are currently receiving from the child

welfare system. Youth who are lesbian, gay, transgender, and two spirit are particularly likely to be runaways or otherwise homeless because some families do not tolerate these sexual orientations, which puts this demographic subgroup at even greater risk of sexual exploitation (Pendleton et al., 2020).

*"And then I go into practice and see a number of young girls at a heightened risk, vulnerable of being trafficked or experiencing sexual dating violence. Research tells us those numbers are higher if they are involved in the child welfare system. And, we see that in our community anecdotally; many of those that have been lost were in foster care. They were mothers involved in child protection, and now their babies are in child protection. We don't have enough data or research behind that. The intersection of MMIW with the child welfare system is a key piece that needs to be investigated." (Researcher, key informant)*

About half of the women interviewed in the *Garden of Truth* report (Farley et al., 2011), the most comprehensive report on the prostitution of Indigenous women in Minnesota to date, reported they had been in foster care. Furthermore, they had been in an average of five different foster homes, suggesting high instability in out-of-home placements.

Children who are involved in the child welfare system are likely to have experienced previous violence or sexual abuse or may experience these things while in out-of-home placements. These experiences lead to lower self-esteem, and these youth may think it is normal to experience violence and exploitation, which makes them even more vulnerable to further abuse, sex trafficking, and exploitation (Murray et al., 2014). These children tend to lack emotional support and/or material resources, and predators can prey on these needs.

**When a child goes missing from an out-of-home placement, their case may not be adequately investigated or there may not be enough information to launch an effective search or investigation.**

As stated in the data section above, 23% of American Indian children who run away from foster care do not return (Minnesota Department of Human Services, 2019b). When a child runs away from an out-of-home placement in Minnesota, the child welfare worker is required to coordinate with law enforcement agencies to search for the child, make a report, and complete a debrief form after the child is located (Ladd, 2020).

However, key informants shared that investigations may not always be conducted thoroughly or that the foster parents may not have adequate information about the child's history, vital statistics, and known contacts to aid in the investigation. Foster parents who care for children who are at increased risk of running away or being trafficked need more support. Caring for these children, who are more likely to run away and end up in dangerous situations, is

very difficult, and foster parents need to be informed when a child is at risk. They need to be provided with extra support to ensure these children can remain safe while in the foster care placement and to help facilitate thorough investigation if the child does go missing.

*“When I did foster care, there was so limited support. I'd have four to five adolescents and three are streetwalkers. They come from that life, and I'd spend my time driving the streets looking for them. They are coming from families with sexual abuse and that puts them at risk already. Often I wouldn't even have that information for kids coming in. We need a stronger support system. We need to help foster parents, give them resources to identify kids that are street wise, runners, etc.” (Victim advocate, key informant)*

**ICWA has not been implemented consistently across Minnesota, and there may not be enough American Indian family foster care providers available to meet the demand in some areas.**

Key informants emphasized the importance of the Indian Child Welfare Act (ICWA) in Minnesota. Until Indigenous children stop being removed from their communities, the harm to individuals, families, and communities will keep happening and healing will not be able to begin. Key informants acknowledged the flaws of ICWA/MIFPA in Minnesota, but they nonetheless firmly believed in the importance of it being followed and improved upon.

Of primary concern was that there are not enough American Indian foster care providers within each community to care for children. This leads to situations where children are placed in crowded homes with foster care providers who do not have the capacity to adequately care for each child. Or, American Indian children may be placed in American Indian foster homes, but far away from their own community. Increasing the number and capacity of American Indian foster care providers is key to ensuring ICWA can be followed. This means better recruitment, support, and training for American Indian families to provide foster care in the child's own community.

*“Tribal social services is underfunded and lacks capacity to follow up. They are under pressure to place kids with a Native family, no matter what. We are seriously compromising the welfare of kids and women at-risk by lowering standards for acceptable home placement, just because they are Native. It is a disservice. We need to devote more resources to recruiting and training Native foster caregivers, shelter environments for vulnerable women and domestic violence programs. Duluth has a nice approach, but in most communities there is nothing like that.” (Forensic assessment clinician, key informant)*

## **Multiple key informants highlighted the connection between Minnesota’s education system and child welfare system.**

These informants discussed the ways that our school system fails Indigenous children, including a lack of representation of Indigenous culture and history, leading to Indigenous children feeling disconnected from school. What may appear to be “dropping out” to those from within the system is actually a slow “pushing out” over the course of these students’ K-12 education.

The Minnesota school system can better serve Indigenous children. It requires having Indigenous children see themselves reflected in the curriculum and in teachers who understand their values. Keeping Indigenous children engaged in the school system, where they are connected to trusted adults and opportunities, is a major point of preventing the MMIW injustice.

*“Many Native people report feeling invisible in the curriculum and to teachers. Those things just pile up and cumulate, and, by 11th or 12th grade, you see this drop off in school engagement. A lot of people might call that young kids dropping out, but they’ve told us for many years they feel not welcome and pushed out. Either way, these are public systems that are supposed to be engaging kids fairly. Native kids are feeling those aren’t safe mutual places where they can receive support. That’s one more potential place we could have connected to a young person who might later end up missing, and we can’t connect because they’ve been placed out of school.” (Professor, key informant)*

*“Another example is how schools respond to women who have serious issues in regard to how their children are treated in school or with what the school is teaching. Often the response historically is ‘well, you need to send them to school’ without recognition of their experience or historically that education has been used as a weapon against Native families. They take no account of that experience or feelings that are legitimate, they are disregarding.” (Child welfare, key informant)*

## STRENGTHS AND OPPORTUNITIES OF MINNESOTA'S CHILD WELFARE SYSTEM TO ADDRESS THE MMIW INJUSTICE

All of these challenges point to the need for the child welfare system to pivot from the Western values-based model that Indigenous communities do not currently trust.

Key informants imagined a system that truly protects children by providing families with the material conditions they need to raise their children:

- ▶ In situations where child removal from the home is necessary, place children with Indigenous families within the community who have the training and resources they need.
- ▶ Expand “full family foster care” (also known as “whole family foster care”) models for Indigenous families in Minnesota. Full family foster care is a model where, instead of separating biological families, children and their mother are placed together in a foster home (Pederson & Crudo, 2010). This provides for the material needs of the family while allowing the parents to receive on-site support and coaching from foster parents. This unique program is operated by at least one social service agency in Minnesota, Therapeutic Services Agency (Therapeutic Services Agency, n.d.).
- ▶ Adapt the foster care system to best respond to Indigenous communities’ needs. Key informants said incorporating cultural elements are important to addressing the overrepresentation of Indigenous children in Minnesota’s foster care system.

*“Culture and language is prevention. If we shift and, instead of removing kids, we take that money to invest in the family to heal trauma, address mental health, access culturally responsive substance abuse treatment and services. If we shifted those funding streams to culturally specific support and keeping kids home and families together [then victims and families could heal].” (Researcher, key informant)*

### Domestic violence

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*“There is a lot of crossover between trafficking and domestic violence. The trafficker is often viewed as an intimate partner.” (Victim advocate, key informant)*

Intimate partner violence contributes to Indigenous women being kidnapped or murdered in Minnesota. An Indigenous woman or girl who is experiencing domestic violence is at risk of becoming missing or murdered unless the law enforcement and criminal justice systems respond adequately to investigate and prosecute cases, and to sentence offenders accordingly so they are not easily able to re-offend. Indigenous women may not feel safe

or trust that they will not open themselves and their families up to more legal trouble or child protection issues if they report abuse by their partners.

As described in the prostitution and sex trafficking section, the most common entry into sex trafficking for women in Minnesota is through the “boyfriend method,” where an intimate partner uses violence, threats, coercion, or drugs and alcohol to control a girl or woman and force her into prostitution.

Therefore, domestic violence prevention, addressing domestic violence using a trauma-informed approach for Indigenous communities, and attending to prosecution and sentencing to provide justice and healing for Indigenous women and girls who do experience violence by their intimate partners are all strategies to address the MMIW injustice.



Community gathering and protest on July 27, 2020, when the U.S. Department of Justice opened the MMIW cold case office in Bloomington, MN.

## RELEVANT DOMESTIC VIOLENCE LAWS AND POLICIES

The Violence Against Women Act (VAWA) of 1994 is a United States federal law pertaining to crimes for which the risk of victimization is highest for women, such as domestic violence, sexual assault, dating violence, and stalking (Sacco, 2019). VAWA emphasizes a coordinated response among law enforcement, victim service providers, and

the courts to these crimes (Tribal Law and Policy Institute, n.d. a). VAWA offenses are considered “crimes of general application,” meaning there is federal interest in them no matter who commits them (Aanstad, 2020). In Minnesota, depending on the tribe’s status with regard to Public Law 280 and the Tribal Law and Order Act, the state and/or tribe may also have jurisdiction over these crimes.

While there are exceptions, tribes in Minnesota generally do not have the jurisdiction to prosecute crimes involving non-Indigenous offenders (Rosay, 2016). However, the Violence Against Women Act Reauthorization of 2013 extended tribal criminal jurisdiction to non-Indigenous offenders in cases of domestic violence, dating violence, and violations of some types of orders for protection that occur on tribal lands (National Congress of American Indians, 2018; NCAI Policy Research Center, 2018). But, PL 280 jurisdiction in Minnesota continues to be a barrier to safety for Indigenous victims (Minnesota Office of Justice Programs, 2017).

Although VAWA gives tribes jurisdiction over some cases, some tribes may not have the legal codes established to prosecute these cases or the resources to effectively implement the necessary court structures to be able to prosecute criminal cases. A lack of resources to adequately and fully prosecute and house offenders under the Tribal Law and Order Act (TLOA) or implement the special domestic violence criminal jurisdiction under VAWA leaves Indigenous victims vulnerable without protection (Minnesota Office of Justice Programs, 2017; National Congress of American Indians, 2018).

Minnesota statutes related to family violence include criminal sexual conduct, trafficking and exploitation, and other types of abuse and violence between family members. Families that meet the criteria of family violence are eligible for a family violence waiver, which exempts them from the 60-month time limit for public assistance (Minnesota Statutes 2019, section 256J.545). More research is needed to understand if and how Indigenous women may access this program and how it could be used to help address the MMIW injustice.

## DATA

### **Indigenous women in the United States experience extremely high rates of violence by their intimate partners** (Farley et al., 2011; Rosay, 2016).

Eighty-four percent of Indigenous women have experienced violence in their lifetime compared to 71% of non-Hispanic White women (Rosay, 2016). This includes “domestic violence,” defined as “physical, sexual, emotional, psychological, and economic abuse, as well as intimidation and controlling behavior” by an intimate partner (Holmes & Hunt, 2017). It is widely acknowledged that domestic violence is grossly underreported (Abinanti et al., 2020; Bachman et al., 2008; Minnesota Office of Justice Programs, 2017). Still, in a national survey, 66% of Indigenous women reported experiencing psychological aggression from an intimate partner, and 56% reported having experienced physical violence by an intimate partner (Rosay, 2016). A 30-year retrospective review of all homicides related to domestic violence in Minnesota found that Indigenous victims accounted for 6% of these homicide victims (Violence Free Minnesota, 2018b).



Sixty-six percent of Indigenous women have experienced psychological abuse, and



Fifty-six percent have experienced physical abuse from an intimate partner.



Six percent of intimate partner homicide victims in Minnesota are American Indian.

Sources: Rosay, 2016; Violence Free Minnesota, 2018b

### **Violence against Indigenous women is often perpetrated by a non-Indigenous person.**

While about one-third (35%) of Indigenous women who reported experiencing some form of violence in their lifetimes reported that their perpetrator was their same race, nearly all Indigenous women (97%) who reported experiencing some form of violence in their lifetimes reported at least one perpetrator who was of a different race (Rosay, 2016). When these two percentages are added together the total is more than 100%, because many Indigenous women who have been victims of violence have had more than one perpetrator.

## CHALLENGES IN MINNESOTA REGARDING DOMESTIC VIOLENCE AND THE MMIW INJUSTICE

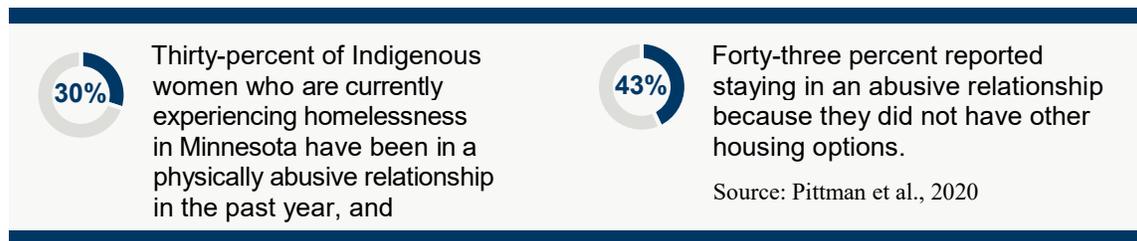
There are many reasons for the disproportionate level of domestic violence against Indigenous women in Minnesota. Many of the factors are similar to what puts women of all races at increased risk for domestic violence, including a sexist culture that normalizes and glorifies violence against women, patriarchal systems that limit women’s workforce

participation and economic independence, and a gender imbalance in systems of power (i.e., law enforcement, judicial system, health care, media). However, racism and colonization compound those factors so that Indigenous women are likely to experience risk factors to a greater extent than White women.

**Indigenous women are more likely to experience poverty and unemployment and, therefore, are more vulnerable to economic abuse compared to White women in Minnesota** (Violence Free Minnesota, 2018a).

Economic abuse is one of the most common tactics to control domestic violence victims of all races. When women know that leaving an abusive relationship also means becoming homeless and not being able to provide for their children, they may choose to stay with the abuser in order to maintain these basic needs (Minnesota Office of Justice Programs, 2017).

The fact that domestic violence is a leading cause of homelessness for women and children demonstrates how inter-connected poverty, domestic violence, and homelessness are for Indigenous women in Minnesota (Violence Free Minnesota, 2018b).



**Domestic violence within Indigenous families is often intergenerational, and most perpetrators have themselves been victims of or witnessed violence at some point in their lives** (Holmes & Hunt, 2017).

Witnessing parental domestic violence is a recognized Adverse Childhood Experience (ACE) that increases a child’s risk of physical and mental health problems and substance use later in life (Violence Free Minnesota, 2018b). Through these intergenerational cycles, violence has become normalized within some Indigenous families (Holmes & Hunt, 2017).

**Current systems that seek to help women experiencing domestic violence are not effectively serving Indigenous women, and may be causing harm** (Holmes & Hunt, 2017).

Key informants identified multiple reasons that Indigenous women in Minnesota hesitate to seek help when they are in domestic violence situations. Without safer alternatives, women may feel trapped in violent situations because reporting domestic violence to the

police or other social service agencies can lead to child welfare involvement and their children being taken away (Minnesota Office of Justice Programs, 2017). This can lead to women and their children being harmed or murdered by their partners. Providing protection and material support to women in this situation so they can leave abusers is one way to break a link in the chain of domestic violence and MMIW.

*“If a domestic violence situation is identified, Hennepin County is known to take kids away from the woman. Why would she call the police?” (Advocate, key informant)*

*“Many of the women and children I meet need concrete services before we can do therapeutic work. They need a place to sleep, a warm meal, a place to shower. They have to ask themselves if they are willing to compromise their safety to have a roof over their head. They might be moving from abusive relationship to abusive relationship just to have a place to stay. [The women] are often groomed [to have access to] their children, who are easy victims. So you have situations where mom won't report [their] children [are] abused for fear of homelessness.” (Forensic assessment clinician, key informant)*

Additionally, key informants cited examples of women reporting to law enforcement as victims of a domestic violence or sex trafficking crime, only to be charged themselves with a crime. In cases of sexual assault, victims may be criminalized for things such as prostitution or drug possession. Additional challenges that Indigenous women may be experiencing such as homelessness, addiction, and criminal backgrounds add to the bias against them – they may be deemed unreliable or seen as deserving blame for what happened to them (Minnesota Office of Justice Programs, 2017).

*“We see a lot of women pulled into child protection, women in intimate partner violence situations, where their children were in their care in the home when the violence occurred, and then [they are] punished for being a victim and they lose their kids potentially.” (Researcher, key informant)*

*“I have a case now of domestic violence by somebody who abused her, and they opened a child protection case on her because this abuser had a previous case where his parental rights were taken away. So now they are opening a case on her and her kids who have nothing to do with him and he isn't the father either. Now she has a child protection case open and she's done nothing wrong.” (Sexual assault advocate, key informant)*

**Many victims fear that they will not be able to escape or that their abusers will not be held accountable when a domestic violence crime is reported** (Minnesota Office of Justice Programs, 2017).

It is well known in the domestic violence field that often the most dangerous time for women with violent intimate partners is when they are trying to leave the relationship. In 2018, over half of the women murdered by intimate partners in Minnesota were separated or trying to leave the relationship when they were murdered (Violence Free Minnesota, 2018a). Many of the women murdered in domestic violence situations in Minnesota have formally reported instances of abuse to law enforcement, and often have restraining orders against their abuser (Violence Free Minnesota, 2018b). There also continues to be a dearth of low or no-cost civil legal services, as well as a lack of resources to assist domestic violence victims with court costs and legal fees (Minnesota Office of Justice Programs, 2017).

Factors that predict how lethal a domestic violence situation is for a woman are previous threats to kill the victim, abuser's access to firearms, and abuser's history of violence (Violence Free Minnesota, 2018a). These factors suggest that effectively investigating and prosecuting threats and non-lethal acts of domestic violence could prevent women from being murdered.

**Jurisdictional issues with law enforcement systems in Minnesota put Indigenous women at increased risk.**

For example, tribal judges and attorneys shared concerns about how restraining orders are stored in the Minnesota Court Information System (MNCIS). Entering tribal orders for protection into the statewide system requires several steps and extra time, so they may be less likely to be entered into MNCIS (Minnesota Office of Justice Programs, 2017). When orders for protection issued by a tribal court are not included in the statewide system, then municipal and county law enforcement officers cannot access this information when they are responding to an incident involving that case. In other cases, municipal and county law enforcement agencies may not treat orders for protection issued by tribal courts in the same manner as a similar order from a state court. Additionally, domestic violence advocates report that law enforcement officers may view Indigenous victims as not credible, and fail to gather necessary evidence when responding to cases of violence against them (Minnesota Office of Justice Programs, 2017).

### **Insufficient resources and capacity limit tribal and county law enforcement response to intimate partner violence.**

A lack of resources in some tribal jurisdictions has caused insufficient numbers of available law enforcement officers to respond to victims of domestic violence (Minnesota Office of Justice Programs, 2017). Additionally, when Indigenous victims of sexual assault report a rape, access to a medical rape exam may be up to two hours away for a victim residing in a tribal reservation, hindering the collection of vital evidence to prosecute a case (Minnesota Office of Justice Programs, 2017).

## **STRENGTHS AND OPPORTUNITIES IN MINNESOTA RELATED TO DOMESTIC VIOLENCE AND THE MMIW INJUSTICE**

### **There are existing domestic violence crime prevention efforts focused on Indian Country and Indigenous communities in Minnesota.**

Two of the six crime victim coalitions in Minnesota are focused specifically on Indigenous people: the Minnesota Indian Women's Sexual Assault Coalition (MIWSAC) and the Sacred Hoop Coalition. Ten of the 11 tribal nations in Minnesota receive VAWA funds from the Office of Justice Programs for advocacy services to victims of sexual and domestic violence (Minnesota Office of Justice Programs, 2017). A statewide review of VAWA suggests that tribal law enforcement's response to sexual and domestic violence has improved over the past three years (Minnesota Office of Justice Programs, 2017). This may be due to improved training for tribal law enforcement and county law enforcement.

### **Education and training offer opportunities to prevent domestic violence and keep Indigenous women and girls safe.**

Key informants had many ideas on how to change systems and cultural norms to prevent and better respond to domestic violence. First, many key informants stressed the importance of teaching healthy relationships and consent from an early age.

*"From the time kids are little, they should know how to cross the street safely. I'm not aware of any such curriculum unless you enroll in a domestic violence program that tells them who is safe, and who do you tell. Like 'Stop, drop and roll.' We need that. Once we teach them when they're young, they internalize that information. 'You don't have to end up a victim.' We need a stronger sense of self-preservation. The school system is a logical place because it's mandated for kids. Not just a Native kids protocol. Not just once every six months. Start talking about young men and women, why it's not okay to date-rape or abuse."*  
(Forensic assessment clinician, key informant)

Key informants also said there is a need for more training on what domestic violence and sex trafficking look like in the Indigenous community. One facet of this is advocacy coming from peers who have experienced violence and abuse themselves.

*“Training on ... what it looks like about sexual assault or domestic violence in the Native community. It needs to be geared toward things like that versus where they might see it somewhere else. What it looks like in the community. There should be more trainings geared toward the realism of what it looks like from a Native lens.” (Sexual assault advocate, key informant)*

*“They said before you ever meet with a social worker, bring an advocate with you. I think advocacy coming from the mouths of women that have been battered or sexually assaulted, or had their children sexually abused or see battering, advocacy needs to be a piece of this and it probably needs to be funded through the tribes.” (Forensic interviewer, key informant)*

### **Changing how systems and the community at large treat women experiencing domestic violence is key to solving the MMIW injustice.**

*“We need to be better as a community and a state in coming forward to get that information to these women that they don't have to live that way, they don't need to live in isolation. We need to build back trust, make them feel part of a community.” (Prosecutor, key informant)*

*“Change how systems respond to women when they come forward with experiences of violence. Make sure they are protected, honored, and heard.” (Child welfare, key informant)*

Recognizing the intergenerational nature of domestic violence, other advocates have called for the importance of restoring traditional values of respect for women and children, and re-integrating women back into decision-making roles (Holmes & Hunt, 2017).

## **Prostitution & trafficking**

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*“I think we have to understand the current day sex trade and exploitation of American Indian/Native women and girls in context of a long historical span of settler colonialism and genocide. And understanding those historical patterns are still with us today.” (Researcher, key informant)*

*“The over-representation of Aboriginal [Indigenous] women and girls in sexual exploitation and trafficking in Canada has been explored on repeated occasion through a span of years. However, the identified root causes never seem to change. These are the impact of colonialism ..., the legacies of the residential schools and their inter-generational effects, family violence, childhood abuse, poverty, homelessness, lack of basic survival necessities, race and gender-based discrimination, lack of education, migration, and substance addictions” (Native Women’s Association of Canada, 2014b, p. 11).*

Sex trafficking and prostitution of Indigenous women, girls, and two spirit people are central to the MMIW injustice because it is one route through which Indigenous women and girls are put at much higher risk for being kidnapped or murdered. Indigenous women, girls, and two spirit people are more likely than people from other racial groups to be trafficked, both because they are more likely to have risk factors that make them vulnerable to predators and because of gender- and race-based stereotypes that portray Indigenous women as highly sexualized and available for men. The perpetrators who exploit Indigenous women, girls, and two spirit people may also be aware of jurisdictional issues that can impede investigation and prosecution when Indigenous people are trafficked in Indian Country.

A sexualized image of Indigenous women and girls that is portrayed both in pornography and mainstream media has resulted in significant demand among men for sex with Indigenous women and girls, which often goes along with an opportunity to abuse them (Farley et al., 2011; Martin et al., 2017). Increased prostitution activity can be found at hotels and casinos, especially in areas with “man camps” that are associated with extractive industries (e.g., oil fields, mining sites), as well as large sporting events, gaming venues, and other places where a lot of men tend to congregate (Gibson et al., 2017; Martin & Hill, 2017; Minnesota Department of Health, n.d. b; Stark, 2020; U.S. Government Accountability Office (GAO), 2017).

Systems like law enforcement, health care, child welfare, schools, jails/prisons and re-entry, and housing often do not intervene adequately to prevent sex trafficking or to support Indigenous people to safely exit that life. Providers in these fields need better training on how to recognize and appropriately address sex trafficking. In addition, lack of trust in law enforcement among Indigenous communities – and examples of abuse and re-traumatization of trafficking victims when they do report to law enforcement – deters women and community members from reporting and cooperating in investigations (Abinanti et al., 2020). Increased awareness is needed among providers, Indigenous communities, and the general public about what sex trafficking looks like and how to avoid or stop it.

Finally, Indigenous women, girls, and two spirit people who are being trafficked may not have access to adequate, trauma-informed, non-judgmental, culturally responsive services to help them escape from their abusers. Research shows that survivors face substantial barriers to exiting the life, such as addiction, financial hardship, fear of abuse, disability, and physical or mental illness. They may not have any job prospects or a place to stay. They may feel shame about their experiences. Sex trafficking survivors report that the people who work in agencies that are intended to help women (e.g., law enforcement officers, health care providers, judges, and prosecutors) often hold deep-seated negative stereotypes about people who have been trafficked. Indigenous survivors' perspectives are not adequately reflected in policies and programs in Minnesota.

## RELEVANT SEX TRAFFICKING LAWS AND POLICIES

**In the past 20 years, the U.S. government and state of Minnesota have enacted legislation to provide protections for victims of human trafficking and prosecution of the perpetrators.**

In 1865, slavery and involuntary servitude were banned with the 13<sup>th</sup> amendment to the U.S. Constitution. However, there were few tools at the federal government's disposal to address human trafficking until the Trafficking Victims Protection Act of 2000 (TVPA). This law created tools for the protection of trafficking victims, the prosecution of perpetrators, and the prevention of human trafficking both nationally and internationally through improving the socioeconomic conditions of victims and those at risk of trafficking. The Justice for Victims of Trafficking Act of 2015 added a clause to facilitate the prosecution of those who "solicit" or "patronize" victims of sex trafficking. This reauthorization also added the production of child pornography as "illicit sexual conduct" so it can be included in the definition of trafficking.

"Sex trafficking" is defined as receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the individual; or receiving profit or anything of value, knowing or having reason to know it is derived from an act of prostitution (which is defined as being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual contact) (Minnesota Statutes 2019, section 609.321). Federal law defines "severe forms of trafficking in persons" to mean sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act has not attained 18 years of age (Victims of Trafficking and Violence Prevention Act, 2000) A major difference between federal law and Minnesota's state statute concerns the means by which victims are trafficked. Although the federal Victims of Trafficking and Violence Prevention Act requires proof of the use of force, fraud, or coercion if the person is age 18 or over,

Minnesota’s law does not require proof of force, fraud or coercion at any age (Minnesota Statistical Analysis Center, 2019).

**Federal and state laws agree that any act of prostitution involving a minor is nonconsensual or involuntary.**

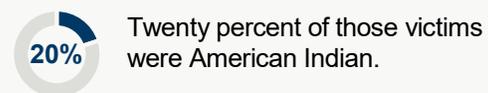
In Minnesota, it is a felony for an adult to engage in or solicit a child to engage in sexual conduct, including over the internet. All suspected sex trafficking of a minor is a mandated report, meaning professionals who work with children or families are legally required to report suspected child abuse or neglect (Ladd, 2020).

Passed in 2011, Minnesota’s Safe Harbor for Sexually Exploited Youth law (Minnesota Statutes 2019, section 145.4716) established “legal protection for minors involved in the commercial sex industry” (Minnesota Department of Health, n.d. b). It defines minor sex trafficking victims as sexually exploited youth, not delinquents, and, as such, youth age 17 or younger cannot be charged with prostitution or prostitution-related crimes. Safe Harbor went into effect in 2014; in 2016, the state raised the maximum age of eligibility for Safe Harbor victim services from 18 to 24 (Minnesota Statistical Analysis Center, 2019).

**The Safe Harbor law states that sexually exploited youth are eligible for all services, supports, and programs provided by Safe Harbor initiatives as well as for all shelter, housing beds, and services. Minnesota’s approach to helping sexually exploited youth is called No Wrong Door, which means that no matter who (e.g., law enforcement, service provider, social worker, child protection, child welfare, medical provider) comes into**

contact with sexually exploited youth or regardless of which door a youth enters (e.g., hospital, hotel, church, community organization, social services), youth will be referred to the Regional Navigator who will help them access crime victim services, support services, and housing services (Minnesota Statistical Analysis Center, 2019).

Law enforcement agencies reported **173** sex trafficking incidents in 2017.



Source: Minnesota Statistical Analysis Center, 2019

## DATA

**Due to the illegal and private nature of the commercial sex market and the high proportion of sex trafficking and prostitution that goes unreported, comprehensive data on the true prevalence of sex trafficking and prostitution among Indigenous women in Minnesota does not exist.**

However, multiple data sources provide estimates of the extent of the problem in the state. This includes data from the Minnesota Department of Public Safety, Wilder Research's triennial Minnesota Homeless Study, evaluations of Safe Harbor, and the Minnesota Student Survey. The Minnesota Department of Public Safety (DPS) is required to conduct a statewide assessment of human trafficking every two years. This assessment includes information about the numbers of arrests, prosecutions, and successful convictions of traffickers and those committing trafficking-related crimes; statistics on the number of trafficking victims, including demographics, method of recruitment, and method of discovery; trafficking routes and patterns; method of transportation; and social factors, including pornography, that contribute to and foster trafficking, especially trafficking of women and children (Minnesota Statistical Analysis Center, 2019). The report covers sex trafficking and other forms of trafficking like forced labor.

**Indigenous women and girls are more likely to be trafficked than women and girls of other races.**

According to the Human Trafficking in Minnesota report (Minnesota Statistical Analysis Center, 2019), 401 sex trafficking victims were identified by law enforcement and 2,124 sex trafficking victims were identified by service providers in 2017.

Nearly three-quarters of sex trafficking victims were female (59% women over 18 years, 25% girls under 18 years). Indigenous people, along with other people of color, are disproportionately more likely to be sex trafficking victims; 20% of the identified victims were American Indian. Eleven percent of the participants served by Safe Harbor between April 2017 and March 2019 were American Indian or Alaskan Native (9% in the metro, 15% in Greater Minnesota) (Atella et al., 2019).

**The majority of sex trafficking victims in Minnesota are recruited through the “boyfriend method” (Minnesota Statistical Analysis Center, 2019).**

Boyfriends, or sometimes another woman, first develop a relationship with the victim, physically and psychologically bonding with her, then, once the relationship is solidified, he reveals himself as a pimp and sexually exploits her. Data from Minnesota law enforcement

agencies suggest that 63% of sex trafficking cases involved a boyfriend/intimate partner pimp (Minnesota Statistical Analysis Center, 2019). As one woman interviewed for the Garden of Truth report said: “I wouldn’t say there are pimps anymore. Now they’re all boyfriends” (Farley et al., 2011, p. 5). These findings indicate that sex trafficking prevention needs to focus on these methods of recruitment.

**Most traffickers rely on coercion, threats, emotional abuse, drugs and alcohol, and intimidation versus actual physical restraints to keep their victims compliant (U.S. Government Accountability Office (GAO), 2017).**

*“It is easier to go after the image that is widely pervasive with some national organizations that shows a blonde girl in chains, frightened and weeping, and she needs help, but that is not the norm. There is a narrative of what a victim should look like.” (Advocate, key informant)*

**Although being physically restrained or held captive is not the most common way women and girls are kept in prostitution, they often experience extreme physical violence as a part of being trafficked.**



Eighty-four percent of women report being physically assaulted while in prostitution, which demonstrates how the life puts women in situations where they are at greater risk of being injured or murdered (Farley et al., 2011).

**Homelessness puts Indigenous women in Minnesota at risk of sexual exploitation.**

According to data from the 2018 Minnesota Homeless Study and the Minnesota Reservation Homeless Study, 13% of Indigenous women and girls have been encouraged to make money by dancing, stripping, posing for nude photos, working for an escort service, or otherwise exchanging sex for money. Twelve percent reported engaging in “survival sex,” defined as being sexual with someone to get clothing, food, shelter, or other things (Wilder Research, 2018).

**Among high school students in Minnesota, Indigenous youth are the racial-ethnic group most likely to have traded sex for food, shelter, or other things.**

In 2019, results from the Minnesota Student Survey indicate that 1.4% of Minnesota high school students have ever traded sex or sexual activity to receive money, food, drugs, alcohol, a place to stay, or anything else. American Indian students were the racial-ethnic group most likely to have traded sex, with 3.1% reporting they had (Martin et al., 2020).

## DEMAND FOR INDIGENOUS WOMEN AND GIRLS IN PROSTITUTION AND SEX TRAFFICKING

*“How do we train our boys how to treat people? How to raise boys to be kind and recognize humanity? How do we hold adult men accountable when they're mean or sexist? Objectifying people? How do we get them to stop? We can work forever to teach women not to be victims, but it won't stop until men stop victimizing. As long as some people are willing to perpetrate and aren't held accountable.” (Attorney, key informant)*

Much of this report focuses on the factors that make Indigenous women, girls, and two spirit people more vulnerable to commercial sex and sex trafficking and how that increases their risk of being missing or murdered. Less often considered is the demand side of the equation, namely, who the sex buyers are, and in what sectors these activities are concentrated. There is a commercial sex marketplace in Minnesota that is created by a willingness to pay for sexual experiences. One recent study estimated that “approximately 380,000 men in Minnesota have purchased sex at least once at some point in their lives, with 26,000 purchasing sex in the past year” (Martin et al., 2017).

In the research literature, there is debate about whether prostitution involving adults should always be considered a form of violence, and if we can assume that people only sell sex due to coercion, financial desperation, or lack of other opportunities (Farley et al., 2011). Some advocates use the term “sex work” to describe the field that some people enter into willingly and should be viewed as a legitimate way to earn a living (Native Women’s Association of Canada, 2014b). We acknowledge these different perspectives exist. For this report, our focus is on how prostitution and sex trafficking lead to increased risk of Indigenous women and girls experiencing violence or disappearing, whether they entered voluntarily or not. Our research suggests that prostitution among Indigenous women in Minnesota is most often driven by their need to survive. Perpetrators of trafficking and johns exploit the vulnerabilities of Indigenous women, girls, and two spirit LGBTQ people; these include poverty, homelessness, and substance use disorders. People who are in prostitution are exposed to high levels of violence and abuse. Ninety-two percent of Indigenous women in prostitution in Minnesota would like to escape the life (Farley et al., 2011).

There are differentiated sex markets across the state, but male-dominated industries, such as resource extraction and shipping, in addition to entertainment sectors such as casinos and sporting events, are common venues for sex trafficking of Indigenous women in Minnesota. The internet is another common tool used to exploit women and girls. Reducing the demand for Indigenous women for sex (and violence), and protecting them

from exploitation by supporting and holding accountable industries and corporations that maintain businesses that are associated with sex trafficking can help to reduce or eliminate the MMIW injustice.

*“As a society, we raise buyers and sellers. We raise batterers and rapists. Prevention must start at a very young age. How is it we teach empathy? Right from wrong? What touches are okay?” (Advocate, key informant)*

Research suggests that sex buyers in Minnesota come from across the state, and are more often White, middle-aged, and married. There is a “trend of racialized violence” in these interracial encounters, where buyers specifically seek out Indigenous women to reenact colonization fantasies (Farley et al., 2011; Martin et al., 2014; Martin et al., 2017).

There is evidence that men who buy sex are more likely than non-buyers to commit and be charged for crimes associated with violence against women, assaults, felonies, crimes with weapons, and to be subject to a restraining order (Farley & Golding, 2019). This correlation further highlights the danger that women who are trafficked may be in during their interactions with sex buyers.

### **Solutions need to include perpetrators as well as victims.**

While much of the focus of key informant interviews was on the victims of sex trafficking, a subset of people emphasized the importance of holding men who purchase sex accountable. As the primary buyers and sellers of sex acts, men’s role is critical in maintaining or dismantling the commercial sex industry. Interviewees discussed needing more effective punishments for buyers and sellers, and teaching boys from a young age that violence against women is never okay. Prevention and enforcement efforts cannot focus on just women who are being trafficked.

*“This is largely a male condition. It is going to take males to start to fix this within themselves .... Anger in male culture. Huge lack of connectedness. False belief of what it means to be a man. Lack of healthy education, what that means for men. They too are going back to the history of this country and what it means to be a male, a conqueror, going back to their original DNA and systemic trauma.” (Sex trafficking advocate, key informant)*

### **Research suggests that most sex buyers in Minnesota use the internet to identify and connect with a provider/victim (Martin et al., 2017).**

Most sex buyers travel between 30 to 60 miles to purchase sex, choosing to leave their hometowns in order to have increased anonymity (Martin et al., 2017). Social media is a tool used by traffickers to target women and girls into sex trafficking, as well as a means

to facilitate sex buying. Social media platforms such as Facebook, Snapchat, and TikTok are used for these purposes.

**Industrial camps, which often have a very high proportion of men working in them, have negative impacts on Indigenous communities and specifically Indigenous women** (Finn et al., 2016; Gibson et al., 2017).

Industrial or extractive camps, commonly referred to as “man camps,” are land or premises “on which an employer, in connection with a logging, sawmill, mining, oil or gas operation, a railway construction project, a cannery, or a similar thing, owns, operates or maintains, or has established, permanent or temporary structures for use, with or without charge, by employees as living quarters” (Gibson et al., 2017, p. 8). Directly related to the MMIW injustice is the increase in sexual harassment and assault, and increased demand for commercial sex within man camps (Gibson et al., 2017).

Many factors contribute to this increase in violence against Indigenous women, primary among them is the “hyper-masculine culture” of the temporary, mostly male and younger work force in man camps. Alcohol and drug use increase around extractive industry camps and in the shipping industry, as an influx of disposable income and single men disconnected from their own families and with little connection to or investment in the local community turn to “partying” and experience social isolation in their time off of work. Indigenous women who live and work in or near the camps are unlikely to reap the economic benefits of increased job opportunities from camps, and are more likely to be working in low-wage jobs, such as hotel/living quarters cleaners, that can make them more vulnerable to harassment and assault (Gibson et al., 2017).

In Minnesota, extractive industries are concentrated in the Iron Range. While Minnesota does not have as many temporary “man camps” as seen in the Dakotas or Canada, there is a consistently high workforce of men in these areas of Minnesota due to extractive industries. Ports and waterways have historically been and continue to be sites of prostitution and trafficking, and the Duluth port is a leading location for the trafficking and prostitution of Indigenous women from Minnesota (Farley et al., 2011; Stark, 2020). Records suggest that the prostitution and trafficking of Indigenous women and girls on ships has decreased since 2000, although there have still been multiple recorded incidents of trafficking in the past two decades (Stark, 2020).

*“There could be 2,000 people almost overnight [coming to a new community] doing resource extraction. This creates a lack of safety for Indigenous women in two major ways. One, companies don’t have adequate sexual assault policies and procedures for follow up. Indigenous women who worked in these camps said they were afraid to make complaints. Two, we also found they created a lack of safety offsite in local communities. People worked two weeks at home, then two weeks at camp. It creates disharmony in the home and relationship problems. We also found ‘man camps’ and substance abuse are correlated. Man camps create economic strain on local communities because families may move to be closer to a family member working in the camp. This creates a strain on rental housing and hotels, so costs go up. If there is a greater demand for housing, the cost goes up. This marginalizes people and puts them into unsafe housing. The cost of food goes up because of the increase in demand for food supply. The local law enforcement is not equipped to deal with the boom in population and crime.” (Judge Marion Buller, Chief Commissioner for the Canadian National Inquiry into Missing and Murdered Indigenous Women and Girls, presentation to the MMIW Task Force, March 2020)*

Speakers at the March Task Force public comment session agreed that sexual and physical violence against Indigenous women occurs at disproportionately high levels in areas near extractive industries, underlining the overlay of sexual and economic exploitation. Some of these speakers said that the treatment of Indigenous women as “disposable resources” mirrors the White colonizing mindset of the natural world as resources to extract for personal use and profit. The “two rapes” that occur too often in these camps is that of both the land and women:

*“There is a natural association that happens wherever there are a lot of extractive industries. Wherever there are oil wells or uranium mines, the violence toward Native women increases exponentially and in direct relationship. Something needs to be challenged in looking at American society. We need to challenge the normalization.” (Public comment)*

As a requirement of their permit, Enbridge (the company that is building the Line 3 Replacement Project in Minnesota) will collaborate with the BCA and Tribes United Against Trafficking (TRUST) to create a public awareness campaign called “Your Call MN.” The goal of the campaign is to “provide support for, raise awareness about, and increase suspicious reporting of sex trafficking in the state of Minnesota” (Bureau of Criminal Apprehension, n.d. b). These organizations have also developed training modules for their workers on this issue. The training modules should be released in fall 2020.

**The remote locations and lack of services around man camps make reporting and investigating sexual assaults more challenging** (Gibson et al., 2017).

Man camps are often built in remote areas with limited existing social service infrastructure, such as hospitals, law enforcement agencies, or domestic violence shelters (Finn et al., 2016). Research shows that a low proportion of sexual assaults that occur in man camps are reported. The influx of people that come along with a new extractive industry site often overwhelms the local (often rural) health and human services system. Advocates have called for the impact of camps on Indigenous women, children, and communities to be considered when conducting environmental assessments that will determine if a camp is built in an area (Gibson et al., 2017).

While truck stops have been known as common venues for sex trafficking victims, the 2018 Minnesota Human Trafficking Report found there is a low prevalence of sex trafficking at truck stops in Minnesota.

**Hotels and motels in Minnesota continue to be common places where sex trafficking occurs** (Minnesota Department of Health, n.d. b).

Casinos on tribal lands may also be venues where trafficking occurs (U.S. Government Accountability Office (GAO), 2017). There are 18 casinos in Minnesota.

Minnesota Statutes section 157.177 requires annual sex trafficking prevention training for hotel and motel workers that includes what sex trafficking is; how to recognize potential victims of sex trafficking; how to identify activities commonly associated with sex trafficking; and effective responses to trafficking situations including how to report suspected sex trafficking to law enforcement. Each hotel must also post an approved sign in their facility in a place that is easily accessible to employees that contains the same information. Lodging industry license holders can access these training materials on the Minnesota Department of Health website (Minnesota Department of Health, n.d. b).

**Sex buying also increases with large sporting events** (Martin & Hill, 2017; Minnesota Department of Health, 2019). However, it is an often-cited myth that the Super Bowl is the largest human trafficking event in the United States. An evaluation of the 2018 Super Bowl in Minneapolis suggests that while there was a documented increase in ads for sex

on web pages during the Super Bowl, the demand did not increase beyond that of other large sporting events (Minnesota Department of Health, 2019).



Community gathering and protest on July 27, 2020, when the U.S. Department of Justice opened the MMIW cold case office in Bloomington, MN.

## CHALLENGES RELATED TO PROSTITUTION AND SEX TRAFFICKING AND THE MMIW INJUSTICE IN MINNESOTA

*"I'd imagine a lot of it goes back to historically it was a big tool for getting land; colonizing the country. Take the women, hurt, get control." (Attorney, key informant)*

*"It's based in historic oppression and gender inequality; a lot of values that were brought here that are foreign to us. We existed with values like gender equality. Women were central to tribal nations and families. They are a center pillar; they kept the family strong and ultimately the village strong, and the tribal nation strong. That changed as we had contact with colonizers that came into our nations." (Victim advocate, key informant)*

### **Poverty and racism make Indigenous women, girls, and two spirit people more vulnerable to being sex trafficked.**

Key informants agreed there is a direct line between poverty and entry into the sex trafficking system, and described women's participation in the sex trade as driven by their need to survive. Similar to the need to acknowledge and address racism against Indigenous people, until the conditions that Indigenous women and girls face as a result of poverty are addressed – primarily access to safe and stable housing – they will continue to be vulnerable to trafficking.

*"The overarching goal of the Task Force should be to lessen the vulnerability of Native women." (Advocate, key informant)*

### **Normalized violence in some families and communities makes Indigenous women, girls, and two spirit people more vulnerable to being exploited and trafficked.**

In some cases, families are the original sex traffickers of Indigenous girls (Hennepin No Wrong Door Initiative et al., 2015; Native Women's Association of Canada, 2014a). In other families, physical, sexual and emotional abuse have become so normalized that girls and women who are being trafficked do not recognize the situation as coercive and abusive. Additionally, sometimes when youth report to their parents they have been sex trafficked, families have experienced such high levels of other abuse that they ignore the call for help (Native Women's Association of Canada, 2014a).

Indigenous women, girls, and two spirit people who are trafficked often have parents and grandparents who went to boarding schools, were abused themselves, and who may self-medicate with drugs or alcohol. That leads to families who are broken up by the child

welfare system (Farley et al., 2011). When women grow up in this situation and have children, the cycle continues.

*“The impact is intergenerational. I personally know women who have been missing or murdered. I had clients as a social worker who were. It affects the psyche; it affects me as a parent. They say three out of four Native girls will experience sexual assault. ... Statistically it is very likely. It creates a fatalistic attitude among our people. Why bother trying? Why bother protecting yourself if it will happen anyway?” (Advocate, key informant)*

Criminal records that bar women from employment opportunities in the formal economy contribute to their participation in illegal economies (e.g., prostitution, drugs). Traffickers know that women coming out of jail, prison, or juvenile detention often do not have a safe place to go or any source of income, and they exploit this vulnerability. Some research has found that traffickers intentionally target people who are leaving these systems (in some cases they literally wait outside of the door of these facilities or contact women before they are released), because they know that these women may not have anywhere else to go or be desperate for food, shelter, and social connection (Kelly & McNamara, 2018).

*“Women who have a felony status with a lot going on, maybe substance abuse, and have no other means of making money or getting around.” (Advocate, key informant)*

Recruiters may also use locations where women and girls who are desperate or in trouble may be found, including bars, strip clubs, and while hitchhiking. Lack of transportation in rural areas and reservations contributes to unsafe situations for women. Transit hubs like bus stations and airports are also places recruiters may frequent, looking for victims. Finally, some victims are recruited through household industries like child care or housekeeping (Anthony, 2018; Minnesota Statistical Analysis Center, 2019).

*“For those living in a remote area, transportation is a huge problem. In my home community, people are hitchhiking and catching rides, or walking all the way to border towns.” (Direct service provider, key informant)*

**Substance abuse and addiction create additional risk factors for Indigenous women, girls, and two spirit people to be sex trafficked, and drugs are a tool traffickers use to make it harder for women and girls to escape.**

Drugs are a common tool used by intimate partner perpetrators to coerce people into prostitution (U.S. Government Accountability Office (GAO), 2017). Twenty-seven percent of women interviewed for the *Garden of Truth* report said that they had been deliberately addicted to drugs by a pimp/boyfriend/husband in order to coerce them into

prostitution (Farley et al., 2011). Eighty percent had used outpatient substance abuse services, highlighting the high correlation between substance use and prostitution.

Women who participated in the *Garden of Truth* report reported that the violence and trauma they experienced when they were involved in prostitution served to increase their reliance on drugs because it was a way to numb themselves to the pain and trauma (Farley et al., 2011). As one speaker at a public comment session shared:

*"Unfortunately, I've come to terms with people altering their consciousness because of historical social and economic conditions that need to be addressed. If we want to improve these undesirable characteristics, we should be acknowledging that not many of our people have hope towards a future."  
(Public comment)*

Drugs and alcohol are often used as a way to control sex trafficking victims and deter them from seeking assistance from law enforcement or social service agencies, due to a need to continue using, and shame and stigma around substance use (U.S. Government Accountability Office (GAO), 2017). Additionally, when women with known substance use histories go missing, both families and law enforcement may delay in responding because her lifestyle may have resulted in previous periods of absence. Since the first few hours and days are critical in finding missing women, this increases the risk of them not being found.

### **There are many long-lasting negative impacts of sex trafficking for Indigenous women, girls, and two spirit people.**

Women, girls, and two spirit people who experience sex trafficking often have post-traumatic stress disorder (PTSD), as well as a range of other physical and mental health problems including chronic pain, memory problems, and headaches (Farley et al., 2015). They may also experience shame and have to deal with the stigma of being a sex trafficking survivor (Martin et al., 2018).



Participants at the February 14, 2020, MMIW March in Bemidji.

**Lack of awareness and resources among systems to address trafficking create barriers in the effective identification, investigation, and prosecution of perpetrators of human trafficking, especially when Indigenous women and girls are the victims.**

Once women are being trafficked, lack of awareness of trafficking among professional systems in Minnesota such as health care, law enforcement, child protection, and schools, leads to women and girls not finding “exit ramps.” Even if awareness exists, providers may not have the skills, resources, or will to address it. Self-identification of trafficking by victims is rare due to shame, self-blame, or embarrassment, or because victims do not think they are victims. A recent study of human trafficking in Minnesota found that 77% of law enforcement agencies and 86% of service providers reported at least some of their staff are trained to identify and respond to human trafficking; however, only 37% of law enforcement agencies and 54% of service providers were confident in their ability to identify victims (Minnesota Statistical Analysis Center, 2019). This lack of a consistent, meaningful response to Indigenous women when they are being trafficked, abused, and exploited leads to feelings of invisibility and mistrust. Because of Indigenous women’s mistrust and reduced interaction with systems, they have more barriers to accessing any available “exit ramps.”

## Barriers to effectively addressing sex trafficking

The 2019 Human Trafficking in Minnesota report identified the following system-wide barriers to effectively addressing trafficking:

- ▶ Lack of human trafficking training, time, and resources
- ▶ Difficulty navigating human trafficking laws and definitions
- ▶ Misidentification and misreporting
- ▶ Trauma of the victims, which makes them unable to cooperate with investigations or serve as reliable witnesses
- ▶ Negative attitudes about victims by law enforcement and service providers
- ▶ Lack of victim support and services
- ▶ Negative public attitudes about prostitution and sex trafficking victims

Source: Minnesota Statistical Analysis Center, 2019

**Another fundamental concern is the poor treatment and re-traumatization of Indigenous women, girls, and two spirit people by the system when they identify as being trafficked.**

Law enforcement was most commonly mentioned as not being trauma-informed or culturally sensitive to Indigenous women, girls, and two spirit people.

*“Especially in law enforcement, there is a lack of training, an understanding of trauma, compassion, empathy, connecting resources and need, rather than a criminalized approach to handle people who are struggling. I see lot of young girls and women caught up in that. Because of those experiences, they are not seeking help from law enforcement because of how they were treated last time or how their auntie or cousin was treated. They won't go to them when they are worried or unsafe. There is a long history of creating not great relationships with law enforcement and those who are meant to protect us.” (Researcher, key informant)*

*“If one of my family members was a victim of sexual violence or something worse, there are certain officers you'd cringe at if they showed up. They aren't as compassionate. Whether it's through training or what have you. Some are really good at showing compassion and empathy. Someone will call in to make a complaint because a Deputy wasn't as good as they could have been, and I end up taking over.” (Law enforcement, key informant)*

**Implicit and explicit racism, other biases, and victim shaming in law enforcement, social services, health care, and other systems deter Indigenous women, girls, and two spirit people and their communities from seeking help when they need it.**

Shaming women who have been trafficked – whether for the trafficking itself or for the drug use that often accompanies trafficking – leads to ongoing traumatization (Martin et al., 2018).

*“The other things that are working are the broadening definitions of violence and broadening definitions of commercial sexual exploitation. Along with domestic and sexual violence, we are taking away the blame of that violence from the survivor, and looking at it in a way we would respond to a domestic violence incident. That is more in the mind of community members. Also then, when looking for someone, when they understand how commercial sexual exploitation works, then we are removing the mythology excuse of why they deserve to be gone. These are forms of violence too. We want people to come home to soft places in our community.” (Advocate, key informant)*

Interviewees also commonly discussed that Western medical models, even if they are trauma-informed, do not provide the ongoing healing and support trafficked women need to escape prostitution and sex trafficking:

*“Hospitals – sometimes people get hurt and go to the hospital and they don't recognize the bigger context of what's happening. They are fixing the broken arm but not asking how the break happened. They should do safety assessments. Are you safe at home? My experience is that when that's done they do a terrible job. They are checking a box, not actually setting it up so anyone can answer in any authentic way. They are leaving the husband in the room, or they don't ask like they're interested.” (Attorney, key informant)*

*“The current medical model that is 'trauma informed' has been helpful helping medical organizations, nonprofits, and schools understand that trauma is a thing and we have to know how to recognize it. But, we still have a knee jerk reaction to send people to clinical environment. Sometimes that is a good thing, and sometimes it is not good because of the mistrust, lack of congruity with Indigenous values. How do we create responses that are healing informed, not trauma informed? These are traumatized people, and the best way to help them get settled and stay out of the workhouse, or get that job, stay in school, prevent diabetes ... whatever it is, it's our job to connect them with culturally meaningful and healing practices that can be normed in their families, peer groups and the organizations that serve them.” (Advocate, key informant)*



## Best practices for preventing sex trafficking

One way to reduce sex trafficking is to prevent it before it happens. Experts recommend the following overlapping strategies:

- ▶ Conduct awareness campaigns for the general public about what sex trafficking is (to combat stereotypes about victims being chained and transported in cargo vans)
- ▶ Educate parents, community members, and professionals about how to recognize sex trafficking and what to do about it
- ▶ Educate girls and women (and boys and men) about healthy relationships (to combat normalized violence), abuse, and exploitation, and what to do if it happens to them
- ▶ Educate parents and adults in communities about how to help create a safe space for healthy youth development
- ▶ Create a safe space for Indigenous youth to go and opportunities for them to build safe and caring relationships with Indigenous adults and peers
- ▶ Conduct initiatives to combat gender- and race-based discrimination
- ▶ Meet peoples' basic needs like housing and food so that vulnerabilities related to poverty and homelessness cannot be exploited by traffickers
- ▶ Use harm reduction models

Source: Minnesota Statistical Analysis Center, 2019; Native Women's Association of Canada, 2014b; Pierce, 2012

## Solutions should be designed by and for Indigenous people who have lived experiences with trafficking and other forms of violence and exploitation.

Minnesota has made “tremendous strides preventing and combatting human trafficking, particularly sex trafficking” (Minnesota Statistical Analysis Center, 2019, p. 10). Safe Harbor, sex trafficking prevention and response training, and awareness campaigns have contributed to progress. However, Indigenous people have been excluded from organizing and funding designed to create solutions (Atella et al., 2019; Martin et al., 2018). Moving forward, many key informants discussed the importance of having Indigenous advocates and modalities of healing incorporated into systems that help trafficked women. This would help reduce re-traumatization and create sustained healing through connections to Indigenous culture and community.

*“A huge amount of support that comes through advocacy isn't available to many of the Native women. And, the services that are available are coming from outsiders, not members of the community, and don't approach from a perspective of respecting traditions. Empathy has to look different in those situations. And, understanding the history of trauma these women are facing is different than non-Indigenous women. We need culturally specific and targeted resources in advocacy for women. Having it in their community is even more important.” (Prosecutor, key informant)*

The *Garden of Truth* report (Farley et al., 2011) found that a number of the women were interested in getting out of prostitution and into training for one of the helping professions, such as nursing or social work, in order to help other women escape prostitution. Key informants almost unanimously agreed that survivors of trafficking and family members are experts on this issue and should be leading efforts at reform. Tangible solutions to do this include providing funding for a Tribal Safe Harbor Navigator for each Native nation that shares geography with Minnesota, and engaging and funding Indigenous-led nonprofit organizations in metro areas (Martin et al., 2018).

### **Using a trauma-informed and harm reduction approach is critical.**

When working with sex trafficking victims, it is important to understand how addiction, PTSD, and shame (in addition to pre-existing disabilities or low educational attainment) can prevent them from taking the actions needed to help them escape, including showing up for appointments, following through on resource referrals, etc. These factors can also make sex trafficking victims “unreliable witnesses” (not communicating clearly, not reporting dates or events accurately, etc.), which can make prosecution of their cases more difficult. It is important for services providers, law enforcement, and prosecutors to learn strategies to work effectively with survivors who are coping with these issues.

Experts recommend using a “harm reduction” approach to working with Indigenous sex trafficking victims and survivors, both with regard to their involvement in sex work and addiction. This means “accepting sexually exploited youth and adults wherever they are in life and trying to improve their safety in non-coercive ways” (Native Women’s Association of Canada, 2014b, p. 23). This approach encourages service providers to build relationships and trust with the victims; make a range of services available to meet victims’ needs (housing, food, health care, financial, social interaction, etc.); accept and expect the process of recovery is more often a “one step forward, two steps back” path versus a linear path forward; and do all of this with a culture of grace, understanding, and respect for the person.

Survivors of sex trafficking mention near death experiences, motherhood and childbirth, and role modeling and support from survivors as their primary motivations to exit prostitution. Sex trafficking victims need to be able to see that there is another way they can live their life, and they need to have confidence in themselves that they can achieve it.

**Key stakeholders agreed that accessible, non-judgmental, and culturally appropriate substance use treatment is key to helping Indigenous women, girls, and two spirit people leave prostitution.**

*“We need a response to opioid addiction and chemical health in general. The power of opioids is known by most, but certainly by people who want to manipulate and control people. Opioids are used to control someone for people who want to do horrible things. We need a response to addiction that is not punitive.”  
(Child welfare, key informant)*

*“We need better ways to address chemical health. There are some fabulous programs, but not enough. We need programs for moms, especially young moms, where they can have babies there with them. Young women I have represented who go to Wayside Family or [Oosh-Kii-Mii-Kah-Nah Halfway House], where kids can be with them, are much more able to successfully complete treatment.” (Child welfare, key informant)*

**Programs should center Indigenous voices and cultures to promote healing.**

Key informants shed light on some promising solutions to the MMIW injustices in Minnesota. At the forefront was centering leadership and control on this issue to Indigenous communities. They also agreed that reforms need to de-center Western models and ways of thinking and, instead, come from Indigenous ways of thinking. One program that may already be doing this is the White Earth Reservation Tribal Down on Violence Everyday (DOVE) program (<http://www.whiteearthdove.com/>).

*“We are not uplifting survivors who may have been missing. We’re not building them up as the experts. Our Western way of thinking is it’s best to hire someone with a degree. We should be training and helping survivors to become better experts.” (Mental health provider, key informant)*

*“Families should be at forefront. So much of the representation of this issue is not led by families, especially media stuff. They get it wrong. It should be designed by families. I think anything having to do with education around trafficking needs to be led by Indigenous survivors.” (Missing persons database director, key informant)*

*“It comes down to leadership within the community. Whatever happens next has to be led by people most knowledgeable and connected and within the Indigenous community. This isn’t something the state should do to them. It should come from within the community.” (Researcher, key informant)*

**There is a significant lack of services available for Indigenous LGBTQ2 people** (Abinanti et al., 2020). Healing services should consider the needs of LGBTQ2 people.

**Along with leadership by the Indigenous community, it is important to integrate culturally responsive healing into system responses and provide funding for these services.**

Prominent ideas suggested by the experts we interviewed included peer-to-peer support for women who are being trafficked and mentorship programs for youth by community elders. Informants gave multiple examples of effective Indigenous healing, such as land-based practices, traditional ceremonies, medicine bags, and traditional activities for youth. These services are limited by government agencies not recognizing them as treatment options, and therefore not getting funding. Recognition and reimbursement of Indigenous practices represents one promising area for change.

*"To do that, we have parent mentors in our office who are women who have experienced the child welfare system and are now in a place where they are healthy and able to provide hope to women we work with. They have seen it, they share stories, and both have experienced extreme situations of violence. They have lived that trauma and are raw about the reality of it, but also have found a way to heal and move forward. Healing is not just linear; many things cause pain and create step backs, but they are committed to a path. Those relationships matter. We take a multidisciplinary approach to legal services, especially with moms and parents. Our model has shifted and is working" (Child welfare, key informant)*

*"Fond du Lac organized an MMIW powwow, a day where people are acknowledging it is happening. Years ago, there was no acknowledgement. There are tables with resources. It's packed. They hold it in January. Most powwows are in summer; everyone comes. And the entire community is engaged in cultural practices, which is healing." (Direct service provider, key informant)*

*"But a lot of time state agencies don't pay for or value those kind of healing modalities. ... I think if state agencies could figure out how to let communities lead and pay them for the work they're doing, I think that would be a huge prevention piece." (Researcher, key informant)*

**Safe Harbor and No Wrong Door have greatly increased system response to youth victims of sex trafficking in Minnesota in the past decade. However, the 2019 Safe**

**Harbor Evaluation Report concluded that an effective response to American Indian youth was a continuing gap in Safe Harbor services (Atella et al., 2019).**

The multi-agency approach that Safe Harbor created to prevent and respond to sex trafficking has been effective in serving youth victims of sex trafficking in Minnesota. The Safe Harbor law created a state-level position (the Safe Harbor Director) housed within the Minnesota Department of Health to develop and provide comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals (Minnesota Statutes 2019, section 145.4716). Regional navigators located across the state, in addition to nine tribal nations and four community-based organizations that serve Indigenous communities, work together to provide supportive services through Safe Harbor grants (Lutz & Palmer, 2020).

While Safe Harbor has led to significant positive progress for victims in Minnesota, past implementation efforts of Safe Harbor have not adequately engaged tribal and Indigenous communities (Martin et al., 2018). As Safe Harbor expands and adapts, it is integral to include these communities.

**Work is being done to improve screening, identifying, and helping sex trafficking victims in multiple settings in Minnesota.**

The Minnesota Department of Health is in the process of developing guidelines for health care providers in identifying sex trafficking victims. The guidelines will include training on how to identify and assess patients for trafficking; survivor-informed responses; correct International Classification of Diseases, 10th Edition (ICD-10) coding; and how to connect survivors with services and resources. In 2018, new ICD-10 codes were added to help differentiate human trafficking patients from other forms of abuse, which will allow for tracking medical conditions related to trafficking (Lutz & Palmer, 2020; National Center for Health Statistics, 2020).

In 2018, the anti-sex trafficking coalition, “Tribes United Against Sex Trafficking (TRUST),” was formed. The intent is to increase coordination across tribes to respond to sex trafficking cases in Minnesota. TRUST has received Safe Harbor grants to help fund their work. Through mutual aid agreements, tribes are working together to grant tribal law enforcement officers the ability to exercise their powers on other tribal lands.

In 2020, the Minnesota Department of Public Safety Office of Justice Programs funded two-year grants to local, state, and tribal governments to support sex trafficking investigations and training (Minnesota Office of Justice Programs, 2019b). Eligible applicants were new or existing multijurisdictional entities to investigate sex trafficking

cases or law enforcement agencies looking for training, case consultation, and technical assistance related to sex trafficking investigations. In Minnesota, grantees were the TRUST Task Force, MN Human Trafficking Investigative Task Force, Central Minnesota Human Trafficking Task Force, and East Metro Task Force. In addition to their own task force investigations, the group meets quarterly for information sharing as well as training. The task forces also provide technical assistance for each other, as well as support during investigations.

### **Multidisciplinary task forces may be effective in responding to human trafficking.**

*“A Sex Trafficking Investigations Task Force is a multi-jurisdictional entity comprised of state, county, city, and/or tribal agencies working together to identify and investigate sex trafficking crimes in their jurisdictional area. STIFs include local law enforcement and prosecutorial agencies and victim services providers partnered with tribal, state, and federal investigative, enforcement, and regulatory agencies” (Minnesota Office of Justice Programs, 2019b, p. 2). Task forces recognize that the investigation of sex trafficking crimes is a complex undertaking, and a task force allows the opportunity for information sharing and leveraging of resources across organizations (Minnesota Office of Justice Programs, 2019b).*

Sexual Assault Response Teams (SART) are one model of multidisciplinary task forces that help survivors navigate services that are available to them (Abinanti et al., 2020). Currently there are six teams specifically focused on developing sex trafficking protocols under a grant from MDH managed by the Minnesota Coalition Against Sexual Assault. MNCASA may be able to identify where these teams made connections with American Indian-serving organizations and tribes.

# Factors that affect if missing and murdered Indigenous women, girls, and two spirit people are found, identified, and served justice

The response to missing Indigenous women, girls, and two spirit people in Minnesota by law enforcement and social services agencies hinders the chances that they will be found safely and given effective healing services. Current issues with data systems on missing people, as well as biased and insufficient media response, reduce the chances of Indigenous women being found safely. These issues extend to women who are murdered – research suggests that Indigenous women are less likely to be found or have their cases prosecuted. Improvements in systems that react to MMIW cases could increase the chances of Indigenous women and families in Minnesota receiving the justice they deserve. Below we explore the challenges and strengths of five key parts of the system, including: investigations of missing persons, investigations of suspicious deaths, prosecution and sentencing, media and the reporting of MMIW cases, and data systems.

## Investigation – missing persons

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*“Once they are reported missing, it’s not followed up on quickly enough. A lot of times the tribal police or local jurisdictions will say, ‘She’s probably drunk somewhere or using drugs’. Or, ‘She’s gone down to the cities to stay with relatives.’ They don’t give it the attention that it deserves. They often lack the resources to investigate it, even if they take it seriously.” (Law enforcement, key informant)*

Indigenous women and girls go missing and are the victims of violent crime at a much higher rate than other groups (Bureau of Criminal Apprehension, 2012-2020a; Rosay, 2016). A primary concern among advocates is that cases that involve missing or murdered Indigenous women and girls may be less likely to be properly investigated and solved when compared to similar cases not involving Indigenous victims.

There is often concurrent jurisdiction in cases of missing persons and suspicious deaths in Indian Country (see tribal-county-state relations section). This can lead to confusion about which law enforcement agency is supposed to complete which steps in the investigation, especially if there is a poor relationship or lack of communication among these entities. The reality is that MMIW cases often span jurisdictions, from rural to urban, and, therefore,

coordination between county sheriffs, city police, state officials, federal agents, state highway patrol, and the Coast Guard is necessary to effectively intervene in and investigate MMIW cases (Abinanti et al., 2020). Rural and tribal law enforcement agencies may lack the resources and training they need to effectively conduct investigations and utilize relevant state and national data systems to report and track missing persons or investigate crimes. Bias against Indigenous women and girls, or judgement of a particular individual due to their criminal background, history with child protection, involvement in prostitution, or drug and alcohol use, also affects how individual MMIW cases are handled.



Twin Cities MMIW March, February 14, 2020.

## RELEVANT MISSING PERSONS LAWS AND POLICIES

**Local law enforcement agencies have primary initial responsibility for investigating a report of a missing person. The Minnesota Bureau of Criminal Apprehension can provide assistance.**

The roles of tribal, local, state, and federal law enforcement agencies depends on the tribe and the type of crime. For cases of kidnapping, missing persons, and suspicious deaths (i.e., major crimes) in Indian Country, the state and federal government has jurisdiction to investigate all cases involving non-Indian offenders. The tribe may have concurrent jurisdiction in cases when the offender is American Indian.

The Minnesota Missing Persons Act (Brandon’s Law), which was updated in Minnesota Statutes 299C.53 in 2019, indicates that the local law enforcement agency that has jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. Minnesota Statute 299C.565 clarifies that if the last known location of the missing person cannot be established, the local law enforcement agency that has jurisdiction over the location where the missing person last resided has the responsibility to take the report. If there are disputes or lack of clarity about jurisdiction, the Bureau of Criminal Apprehension (BCA) is required to offer prompt guidance to the agencies involved.

The BCA is also responsible for developing, updating, and distributing a training and procedures manual to all law enforcement agencies in Minnesota for how to handle cases of missing and endangered children. The BCA can provide investigative support to law enforcement agencies, including additional resources such as personnel, consent or search warrant help, cell phone tracking, interviews, and crime scene assistance. Because missing persons cases are often complex, time intensive, and often lead outside the home jurisdiction, coordination across jurisdictions and with the BCA is often necessary (Minnesota Statutes 2019, section 299C.565). Every local law enforcement agency in Minnesota that is POST-certified is required to have a written policy for how to deal with missing and endangered children, especially during the critical first two hours of the report (Minnesota Statutes 2019, section 299C.5655). Under federal law, tribes are also required to have a plan in place (Office of Juvenile Justice and Delinquency Prevention, 2019b), meaning that all agencies in Minnesota – tribal and non-tribal – should have a written plan.

**Law enforcement is required to take a report of a missing person as soon as someone reports them as missing; there is no required waiting period.**

Minnesota Statutes section 299C.53 states that law enforcement agencies are required to take a report of a missing person regardless of how long the person has been missing, even if that person is an adult, no foul play is suspected, or there is indication the disappearance is voluntary. Unless the responding law enforcement agency has direct knowledge that the person is, in fact, not missing and the whereabouts and welfare of the person are known at the time the report is being made, they are required take a missing persons report. This policy acknowledges that an agency’s initial response may determine if the person is recovered and returned safely home.

If the person is a child or “endangered” (at risk of injury or death, to be determined with specific criteria), the responding law enforcement agency is required to consult the BCA and enter the information into the National Crime Information Center (NCIC) data system

(Minnesota Statutes 2019, section 299C.52). Jurisdictional issues are not supposed to delay the initiation of an investigation and the entry of information about the missing person(s) into state and federal data systems.

Once a missing person report is filed and entered by the local law enforcement agency into NCIC and the BCA is notified, the agency can request assistance in issuing a Missing Person alert to assist in locating the missing person. AMBER Alerts are issued when a child goes missing and is at risk. The BCA works with the reporting law enforcement agency to determine if the criteria to issue an AMBER Alert are met (Office of Juvenile Justice and Delinquency Prevention, 2019a). The AMBER Alert program is a voluntary program between law enforcement agencies, broadcasters, transportation agencies, and the wireless industry (Office of Juvenile Justice and Delinquency Prevention, 2019b). Once the alert is issued, it activates a statewide communication network. Updates are sent when new information about the case becomes available, and Minnesota can request another state to issue an alert if there is reason to believe the missing person is crossing state lines. Minnesota has an AMBER Alert plan and an AMBER Alert Coordinator in charge of coordinating the plan across participating agencies.

**Law enforcement agencies are required to complete certain steps to support the investigation and to follow up on missing persons reports after a certain period of time.**

The reporting law enforcement agency is required to update the initial missing person report within 30 days, 60 days, and yearly thereafter (Minnesota Statutes 2019, section 299C.535). After 30 days, the law enforcement agency shall attempt to obtain medical and dental records. The annual validation process includes checking driver's license information and criminal records to see if the missing person is showing up in any of these systems. The BCA can also help local law enforcement agencies to collect DNA evidence to aid in the investigation of a missing person.

Different systems in Minnesota also have legal accountabilities for helping to find and locate missing children and missing and endangered adults.

- ▶ The Minnesota Missing Persons Act allows law enforcement to request dental and/or skeletal X-rays of an individual child who is missing or a person who is missing and endangered (Minnesota Statutes 2019, section 299C.56).
- ▶ School districts in Minnesota may be required by a law enforcement agency to flag the records of a student who is missing, in case there is a request for that student's records

from another district, indicating that student may be attempting to enroll at that new district (Minnesota Statutes 2019, section 123B.08).

- ▶ School districts may also develop a voluntary fingerprinting program whereby parents/guardians receive fingerprints of their child to hold in case their child ever goes missing (Minnesota Statutes 2019, section 123B.07).
- ▶ Recent work at the federal level, such as the Presidential Task Force Operation Lady Justice and Savannah’s Act aim to improve the investigative response in MMIW cases (Savanna’s Act, S. 227, 116th Cong., 2019).

## DATA

American Indians make up 2% of the state’s population and American Indian women and girls comprise 1% of the state’s population (Minnesota Compass, 2019).<sup>4</sup> In any given month, about 15% of the female missing persons cases in Minnesota are American Indian women and girls.

**From 2012 through March 2020**, there were between **27 and 54 actively missing Native American females** in any given month in Minnesota.

As of December 2019, there were **34 missing Native American females age 17 and younger** and **4 age 18 or older** in Minnesota.

Source: Bureau of Criminal Apprehension, 2012-2020a

The Minnesota Bureau of Criminal Apprehension (BCA) reports via the Federal Bureau of Investigation’s (FBI) National Crime Information Center’s (NCIC) database that from 2012 through March 2020 there were between 27 and 54 actively missing American Indian women and girls in Minnesota in any given month. For comparison in the same time period, there were between 20 and 49 missing American Indian men and boys in any given month, representing about 12% of the male missing persons cases.

For the same time period, there were between 4 and 19 missing Asian females in any given month in Minnesota, between 47 and 104 Black females, between 91 and 143 White females, and between 6 and 33 females of an unknown race (Bureau of Criminal Apprehension, 2012-2020b).

The majority of missing American Indian females in the NCIC system are youth: as of December 2019, there were 34 active missing American Indian females age 17 and

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<sup>4</sup> These percentages reflect the proportion of people in Minnesota who identify their race as American Indian alone or American Indian in combination with other races (Minnesota Compass, 2019). The percentage of people who identify as American Indian alone is 1%, and less than 1% of the state’s population is women who identify their race solely as American Indian.

younger and 4 age 18 or older listed in NCIC. These numbers are likely an undercount; past research has documented that missing Indigenous women can be racially misclassified as White, or not entered into a national database as a missing person (Abinanti et al., 2020). Even so, this percentage clearly demonstrates that American Indian females are overrepresented in missing persons in Minnesota.

**An accurate count of all missing Indigenous women, girls, and two spirit people does not exist in one centralized database.**

However, national estimates indicate that the number is in the thousands. The NCIC had 5,712 Indigenous women recorded in the database as missing as of 2016, and the Sovereign Bodies Institute's databases had 2,306 cumulative MMIWG2 cases from 1900 to 2020.

## CHALLENGES IN MINNESOTA RELATED TO INVESTIGATION OF MISSING PERSONS AND THE MMIW INJUSTICE

*"In my time in law enforcement, and not only involving Indigenous women, we ask if they are a runaway or if foul play is part. Are they drug dependent? Mentally ill? Running because they're being beat up every day? If they have a history of running away or dropping out of society from time to time, you have to figure out what makes this time different than the last time, or last four times, that this person dropped out of sight. It comes down to how much manpower and staff time you devote to someone who has a history of dropping out. When does it become something that you go, 'Hmm this is unusual, we have to look into it.' Maybe the last five times we looked into it they were fleeing domestic abuse or on a bender. When do you decide it is the real thing?" (Law enforcement, key informant)*

**Key informants highlighted a pattern of under-resourced and apathetic law enforcement response when an Indigenous person is reported as missing.**

Key informants stressed that until the de-valuing of Indigenous women is acknowledged and addressed by law enforcement and prosecutors in the investigative response, Indigenous women will remain over-represented among missing persons and will be less likely to be found when they do go missing. Multiple key informants described the typical law enforcement response to a missing Indigenous woman is that the woman is likely "out partying" or "getting drunk" and reports are not followed up with immediacy or urgency.

*"You'd be hard pressed to find someone in community that is White and went missing or was murdered and the case was not looked at thoroughly." (Direct service provider, key informant)*

*"It comes down to racism and de-humanization. If police don't give a crap, they won't do investigations. If they don't believe people, they won't do the level of*

*investigation needed. If a person is using drugs and trading sex, what do they expect will happen to them? There is prejudice and stigma. That is a huge part of why these cases are not investigated. Oftentimes in the investigation, we blame the victim for why they are missing.” (Researcher, key informant)*

### **Not taking it seriously when a woman or girl goes missing can be common responses from family members as well as from law enforcement.**

One key informant explained that certain Indigenous cultures are more nomadic, and frequently traveling and staying in different places with family and friends is typical. As the injustice of missing women has been normalized in some Indigenous communities, families may be less likely to report when a woman first goes missing. This leads to a delay in reporting missing women to police, which is a serious concern because the first hours after a person goes missing are a critical window for investigation.

*“The problem is there is a huge gap when reporting someone missing to the time there is follow up. First Nations people are nomadic; they move around a lot. They may not have a phone number that stays the same overtime. That creates huge problems in investigations.” (Sex trafficking advocate, key informant)*

*“The normalization of violence in community. ‘My friend went missing but she’ll be okay.’ That diminishing of the fear is a coping mechanism. It is a survival strategy that has worked for a long time because, if every time someone goes missing and I cry wolf, no one will listen to me. The normalization of violence and acceptance.” (Advocate, key informant)*

### **The lack of standardized policies and protocols for investigating a missing adult leads to inconsistencies and subjective decisions around when investigations should start and how they should be carried out.**

Key informants acknowledged that investigating a missing adult is more complicated than a missing youth, as adults have more freedom and may not want to be found. From a law enforcement perspective, this makes searching for missing adults a lower priority in the context of limited resources. Key informants commonly requested establishing one statewide, standardized missing person protocol. One noted that unless these protocols center Indigenous women, MMIW cases will continue to fall through the cracks.

*“Across the board, we need a standardized missing persons protocol. I talked to the Minnesota Clearinghouse, while I was doing research, about a standard for using media or a standard for how to conduct searches. They said it was up to each individual investigator at individual departments. A more standardized protocol would prevent racism or background influencing an investigator’s desire to use tactics to find somebody.” (Advocate, key informant)*

*"They have to create any kind of policy around deaths or investigations of missing persons around the specific needs of Native women. I've been in policy things before and they decide on policies that will impact all women, but it never works if it isn't centered around MMIW. If it is, it will work for everyone. If it is centered on Native women. Without that, they will fall through gaps because of racism and invisibility." (Advocate, key informant)*

Multiple key informants and people who spoke at public comment sessions stressed that compassionate and knowledgeable individuals exist within these systems who work hard to do right by Indigenous communities. However, they stressed the need for consistent accountability between agencies because once that person is not in that position anymore, it goes away.

**The mandate of entering information into NCIC within two hours does not apply to missing adults who are not considered endangered, so the NCIC may not have data on missing Indigenous women that are recently missing. Key informants noted that some law enforcement officers do not follow this guidance of reporting within two hours.**

The policies and practices for entering missing adult cases into NCIC differ across states and counties. Minnesota Statute 299C.53 states that "a law enforcement agency shall accept without delay any report of a missing person," and that they should not refuse to accept a report on the basis that the missing person is an adult, regardless of if the circumstances do not indicate foul play, the person has been missing for a short or a long time, or the circumstances suggest the disappearance may be voluntary. Even so, key informants explained that there remains a recalcitrance among some officers to immediately take a missing persons report and enter missing adults who they do not consider endangered into NCIC.

**Although a tribal AMBER Alert program exists, tribal law enforcement agencies may not have the capacity or training needs to implement it or to coordinate with the state's program.**

Only some tribes participate in the voluntary AMBER Alert program. In 2017, following the abduction and murder of a girl from Navajo Nation, the federal Ashlyne Mike AMBER Alert in Indian Country Act was passed to assist tribes in developing their own AMBER Alert program and to coordinate with their state's AMBER Alert system (Office of Juvenile Justice and Delinquency Prevention, 2019b). The Act gives tribes the same standing as their state Amber Alert plan. A recent national study by OJJDP found that there is much more work to be done in the integration of state or regional AMBER Alert plans with the Ashlyne Mike AMBER Alert plans (Office of Juvenile Justice and Delinquency Prevention,

2019b). The study identified tribes' biggest areas of need as training, help accessing the plan, a lack of tribal infrastructure (e.g., radio, broadcasting road signs), and a shortage of staffing and technological resources.

The Minnesota Bureau of Criminal Apprehension has completed training on the AMBER Alert in Indian Country Act. Although tribes can develop their own AMBER alert program, all tribal law enforcement agencies in Minnesota – whether POST-licensed or not - may request an AMBER Alert through the BCA in the same manner any other law enforcement agency in the state can.

**Indigenous people have experienced lack of understanding and a range of harms when interacting with law enforcement during MMIW investigations.**

Law enforcement officers are oftentimes “outsiders” to Indigenous communities, and do not understand the cultural ways of Indigenous people (Abinanti et al., 2020). Understaffing and the rurality of Indian Country in Minnesota often requires agencies to recruit officers from other areas of the state.

There are valid reasons why Indigenous communities may not trust law enforcement officers. One of these is that American Indians, and American Indian women specifically, have higher rates of fatal encounters with police officers (Harvey, 2020). In the ninth federal district (comprised of Minnesota, Montana, North Dakota, South Dakota, northwestern Wisconsin, and the Upper Peninsula of Michigan), research suggests that American Indian females have 38 times higher risk of a fatal encounter with police officers than White women (Harvey, 2020). Both violence and a lack of understanding makes Indigenous people wary of working with law enforcement and hinder investigations.

*“Officers stationed out in tribal law enforcement agencies aren't from here. One officer had transferred from [another state]. Before coming here, he didn't know any Native people and didn't know what to expect. ... There is a lack of relationships and a lack of good experience, and a lack of capacity.” (Missing persons database director, Key informant)*

*“We need to find those subjective decision-making points and start challenging them. It is scary to call police and ask questions and challenge them, scary to push back, ask if they considered this or if they can tell me more about this. It is really scary to do. There is no built-in relationship between the Native community and law enforcement. There is a real disconnect, distrust, and severe dislike of law enforcement.” (Direct service provider, key informant)*

One key informant gave an extreme example of law enforcement personnel contributing to violence against Indigenous women. Other examples included cases of law enforcement officers being so negligent in investigating cases that victims are put in harm's way by their perpetrators for reporting.

*"I should say the elephant in the room in talking about MMIW is law enforcement complicity, whether that's negligence on a case or direct involvement, or systemic sexual violence. On an official level, people don't talk about it. The media won't talk about it. In [names other states], we've had families tell us about non-Native police officers coming to our community and brutalizing women. It's not one bad agency, or one bad state, it is structural and everywhere." (Missing persons database director, key informant)*

### **Pervasive lack of trust toward law enforcement limits willingness among Indigenous communities to cooperate in investigations.**

This wariness hinders the collection of important personal information or forensic and evidence from individuals and family members that could lead to cases being solved. Better explanation to Indigenous communities about what forensic tools and databases exist and how information they provide will be used is an important step in building trust. Of course, this education and assurances of data being protected needs to occur in tandem with their data actually being fully protected and used solely for the benefit of their investigations.

*"The mechanisms of collecting data require a linear thought process which are not always easy to follow because of complex relationships and circumstances for Indigenous women, girls, and boys. Where is it funneling up to? Who is gathering and making sense of it? What are we doing about it? In today's world and someone wants to collect data, I need to know that privacy is protected." (Advocate, key informant)*

*"Also, we need just more education and awareness of forensic resources that can resolve these cases. I get questions about DNA in tribal communities. What is it utilized for? How can I take my profile back out of the system? It requires proactive work to message how it is utilized and not utilized for missing persons cases. DNA is only going into CODIS [the FBI's Combined DNA Index System], which is heavily regulated. It is not used outside, only used for missing persons, it will not be checked for backgrounds or criminal history, used in research or commercial databases." (Missing persons database director, key informant)*

*"Improving relationships with the community. There is a huge stigma against snitching. Someone may know something, but there's no safe way to report that information without fear of someone finding out because our communities are so small." (Advocate, key informant)*

**The track record of MMIW cases being investigated or prosecuted with a different standard from other missing persons and murder cases reinforces distrust and hopelessness in Indigenous communities** (Abinanti et al., 2020).

A harmful cycle exists where Indigenous people do not have faith in the systems meant to prevent and solve MMIW. This leads to a lack of reporting and cooperation, which in turn leads to weaker investigations and fewer MMIW cases being solved and prosecuted. The cycle then restarts. As multiple key informants described:

*“On reservations, there are a lack of consequences if women are assaulted or murdered. There is not the belief that men are going to be held accountable because a history of that not happening.” (Law enforcement, key informant)*

*“Conditions where it is known, maybe not outright spoken, that if you harm a Native woman in Minnesota nothing is going to happen to you. With that, its constant fear of anyone could go missing.” (Advocate, key informant)*

Key informants agreed that the current dynamics are hurting the success of investigations and contributing to the MMIW injustice in Minnesota. Not surprisingly, recruiting more officers from Indigenous communities and training officers to be culturally competent when interacting with Indigenous people was one suggestion for creating more effective investigations.

**Several key informants noted that jurisdictional issues create cracks in the system into which Indigenous women, girls, and two spirit people may fall.**

For example, no law enforcement agency reports a missing person into the appropriate state and national databases because the responding agency does not have access or they assume another agency will handle it. Or, jurisdictional issues may contribute to delays in responding to reports of violence or missing persons, despite the fact that experts know it is critical to the outcome of the case to initiate the investigation as soon as possible after a report of a missing person is received (Minnesota Statutes 2019, section 299C.53).

**Conducting complete investigations in rural or tribal counties with small law enforcement departments is a challenge.**

Law enforcement key informants discussed how a lack of resources in personnel, funds, training opportunities, and the latest technology makes it hard to conduct investigations up to the level of larger, urban departments. Other resources available in the Twin Cities, such as providers who are trained to conduct Sexual Assault Nurse Examiner (SANE) exams, or forensic interviewers trained to interview victims in a trauma-informed way, often do not exist in rural areas. Challenges inherent in Minnesota’s rural geography, such as long

driving distances and lack of cell phone coverage, also impede responding to calls for help and investigations (Abinanti et al., 2020). Only about half of law enforcement agencies in Minnesota reported they could properly investigate or respond to human trafficking. Many of these law enforcement agencies and service providers indicated that they lack the time and/or resources to properly conduct investigations (Minnesota Statistical Analysis Center, 2019).

*"But if the average department can't specialize or doesn't have staff, you'll get the investigator that does a bit of everything. The majority of departments in the country are small departments. You don't have specialization you need to do these things. What's the likelihood you'll have specialists in MMIW? Mental health? An opioid specialist? Cloquet, Carlton, Fond du Lac don't have much. They have generalists, and unless they are phenomenal they won't be as good as a specialist that can work with various tools and advocacy groups." (Law enforcement, key informant)*

## STRENGTHS AND OPPORTUNITIES IN MINNESOTA RELATED TO MISSING PERSONS INVESTIGATIONS AND THE MMIW INJUSTICE

There are resources available to help tribal law enforcement agencies and other types of agencies develop and implement AMBER Alert programs for their jurisdictions, including the AMBER Alert Training and Technical Assistance Program from the National Criminal Justice Training Center at Fox Valley Technical College, the AMBER Alert Field Guide for Law Enforcement Officers from OJJDP, and the AMBER Alert in Indian Country Investigative Checklist from DOJ. The National Criminal Justice Training Center also offers free training and technical assistance to tribes on topics specific to preventing, identifying, investigating, and prosecuting crimes impacting Indigenous people. Minnesota DPS is in the process of working with the AMBER Alert T/TA Program to conduct a needs assessment of Minnesota tribes to learn what their needs are related to AMBER alerts.

Another suggested solution to this issue is forming regional teams of experienced investigators that could respond and assist in MMIW cases – similar to gang and drug task forces in Twin Cities. This approach recognizes that equipping each individual agency to investigate MMIW fully is cost prohibitive and unrealistic, but creating channels for agencies to reach out to for assistance when they need it could maximize resources.

Indigenous communities in the state often use informal means to investigate within the community. Posting announcements of missing women on social media is one prevalent tactic. The Gitchigumi Scouts is a community-led effort to train and mobilize Indigenous communities to conduct searches for missing Indigenous people. They were formed in

recognition that formal systems often conduct inadequate investigation of MMIW. While community-led responses like these may strengthen investigations and empower the community, efforts to improve formal systems tasked with investigation in Indigenous communities should continue.

*“People have stopped trusting that the police will do what they need to do. We have created a network of MMIW researchers and advocates. They will trade flyers, share lists and information, beyond what the police do. People organize searches on their own, and do investigations on their own. It is maybe not always the best idea, but more proactive than reporting to police. The network is strong and growing. This whole issue would not have come to the public's attention without that network.” (Advocate, key informant)*

## Investigation – Suspicious deaths

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*“There have been instances of the medical examiner\* making a determination and no one questioning it and then the autopsy delivered the same message: ‘We don't have to look closely.’ And then the case is closed. People are in grief and don't have the energy to challenge those things. A family friend was found drowned in a lake. They did a quick burial. There is a traditional belief of burying the body in four days. That's an issue for doing a good thorough autopsy.” (Direct service provider, key informant)*

*\*or perhaps this respondent meant coroner and did not understand the difference*

Similar to missing persons investigations, the deaths of Indigenous people from Minnesota are not always thoroughly investigated. We heard anecdotal accounts from key informant interviews and public comments that the deaths of some Indigenous women that may have been caused by violence were mistakenly ruled as suicides and overdoses. Many Indigenous families report that they do not receive adequate communication about the status of the investigation or clarity and closure with a final ruling that aligns with their understanding about the circumstances surrounding their relative's death. This is despite the fact that all medical examiners and coroners in Minnesota are required to have a family communication plan. Investigations are challenged by insufficient resources and training among law enforcement, especially rural and tribal agencies. In addition, Minnesota's patchwork system of coroners and medical examiners leads to inconsistencies in how and when autopsies are conducted.

## RELEVANT LAWS AND POLICES RELATED TO DEATH INVESTIGATIONS

### **In Minnesota, the medical death investigation system is county-based.**

Minnesota has a mixed death investigation system, where each county must have either a coroner or medical examiner (Centers for Disease Control and Prevention, 2015). About three-quarters of Minnesota's counties are served by medical examiners, while the remaining counties are served by coroners (Minnesota Department of Health, n.d. a). A coroner is an elected or appointed official, whereas a medical examiner must be appointed by the county board (Minnesota Statutes 2019, section 390.005). These officials have terms of no longer than four years. In Minnesota, medical examiners are appointed by county boards based on their training and experience, and are required by statute to be forensic pathologists (Strobl et al., 2020). Coroners, however, are physicians with varying levels of death investigation training. All coroners are required to obtain additional training on medicolegal death investigation, but some have little to no experience beyond this training. The medical examiner's office operates independently of law enforcement or the county attorney's office.

All deaths that are sudden, unexpected, or may be due to something other than natural disease processes must be promptly reported to the county medical examiner or coroner for evaluation (Minnesota Statutes 2019, section 390.11). The sheriff is required to report all such deaths to the medical examiner and the county attorney.

For the nine tribal nations where the state of Minnesota has criminal jurisdiction via PL 280, the county sheriff investigates and the medical examiner or coroner has jurisdiction over examining deaths (Mullen, 2014a). For the two tribal nations that are not PL 280 (Red Lake and Bois Forte), jurisdiction is federal, although parts of tribal lands are in medical examiner counties. If the tribe requests assistance from the FBI, they may assist in the investigation and send the body to a medical examiner office.

### **The role of the medical examiner or coroner is to determine the cause and manner of death** (Strobl et al., 2020).

Medical examiners and coroners rule if the death is natural (recognized underlying disease process), an accident, a suicide, a homicide, or undetermined. The coroner or medical examiner determines the extent of their investigation. Medical examiners and coroners may conduct an autopsy to determine the cause and manner of death, and collect evidence for an investigation. Autopsies are deemed necessary in many instances, including to investigate a suspicious death or suspected crime, or if the death is caused by unwitnessed or suspected drowning. A death certificate and autopsy report are then produced. When

further investigation is deemed advisable, or if the case involves concerns of a potential criminal nature, a copy of the report is delivered to the county attorney.

**The decision to do an autopsy ultimately relies on the sole discretion of the medical examiner or coroner.**

Minnesota Statutes section 390.11 states that a medical examiner or coroner shall perform an autopsy when “in the judgment of the coroner or medical examiner the public interest would be served by an autopsy.” The only exceptions to this are deaths due to fire or a person in a federal correctional facility, in which case there is federal decision-making on an autopsy. Autopsies are funded by the specific county in which the autopsy is occurring. Key informants raised the issue of decisions to perform an autopsy potentially being influenced by the cost of the procedure or other pressure by law enforcement or government to not open an investigation; this may be more problematic in counties that have a coroner instead of a medical examiner.

Death certificates list whether an autopsy was performed, and the medical examiners’ or coroners’ offices and law enforcement keep records on autopsy determinations in each death.

**Every coroner or medical examiner must have a written policy or principles regarding how they communicate with families during a death investigation** (Minnesota Statutes 2019, section 390.005).

Within 24 hours of the discovery of a deceased person where an autopsy is deemed necessary, the coroner or medical examiner is required to give notice to the representative of the decedent of the intended autopsy (Minnesota Statutes 2019, section 390.11). This notice must include written materials explaining the death investigation process or providing the representative the office's website address where this information is located. These written materials and website must include information regarding Minnesota's law concerning religious objections to autopsies. If, despite a good faith effort, a representative of the decedent cannot be found within 24 hours of the discovery of the decedent's body, the autopsy may proceed without further delay.

**If the representative of the decedent does not object to the autopsy on religious grounds, the autopsy may be performed without delay.** (Minnesota Statutes section 390.11)

If the representative of the decedent objects to the autopsy on religious grounds, an autopsy must not be performed unless the coroner or medical examiner determines that there is a compelling state interest to perform the autopsy.

**In cases where the deceased person is unidentified, the coroner or medical examiner must make reasonable attempts to identify the deceased person promptly.**

(Minnesota Statutes 2019, section 390.25)

They may also make other efforts to identify the deceased person such as by publicizing information that may aid in identification (Minnesota Statutes 2019, section 390.25, section 144.05 subdivision 4). Section 144.05, subdivision 4 states that the Department of Health must have a website with information about unidentified deceased persons for the “purposes of obtaining information that may aid in identifying the individual and for purposes of notifying relatives who may be seeking the individual.” That information is to remain on the website continuously until the person’s identity is determined. However, no such Department of Health website exists.

**After 30 days, the coroner or medical examiner provides information to the BCA to be entered into the NCIC database and BCA Clearinghouse.**

If a deceased person’s remains are identified as a missing person, the BCA or lead law enforcement agency will attempt to locate family members of the deceased person and inform them of the death and location of the deceased person’s remains (Minnesota Statutes 2019, section 390.25). All efforts to locate and notify family members are supposed to be recorded and retained by the BCA or lead law enforcement agency.

Data created or collected by a county coroner or medical examiner which are part of an active investigation are confidential data and protected nonpublic data until the completion of the coroner’s or medical examiner’s final summary of findings (Minnesota Statutes 2019, section 390.11). These data may be disclosed to a state or federal agency charged by law with investigating the death of the deceased individual.

## DATA

Although American Indian women and girls constitute just 2% of Minnesota’s female population, they constitute 8% of all the females dying of homicide in Minnesota (Pham, 2020). Compared to White women who have an average homicide rate of 0.9/100,000 population, American Indian females in Minnesota have an average homicide rate of 6.3/100,000 population, meaning **American Indian females are 7 times more likely to die of homicide than White females** (Pham, 2020).

The BCA reports the number of homicides by gender and race every year<sup>5</sup>. Since 2010 (including preliminary data for 2019), the BCA has recorded 24 American Indian females dying of homicide in Minnesota. According to data from the Minnesota Injury Data Access System, homicides of American Indian females between 2010 and 2018 occurred more often in four counties: Hennepin (6 homicides), Ramsey (3 homicides), Cass (3 homicides), and Beltrami (3 homicides). Other counties that reported one American Indian homicide were Aitkin, Becker, Goodhue, Hubbard, Itasca, Mahnomon, Redwood, and St. Louis. There were no homicides of American Indian females in Minnesota's other 75 counties (Pham, 2020).

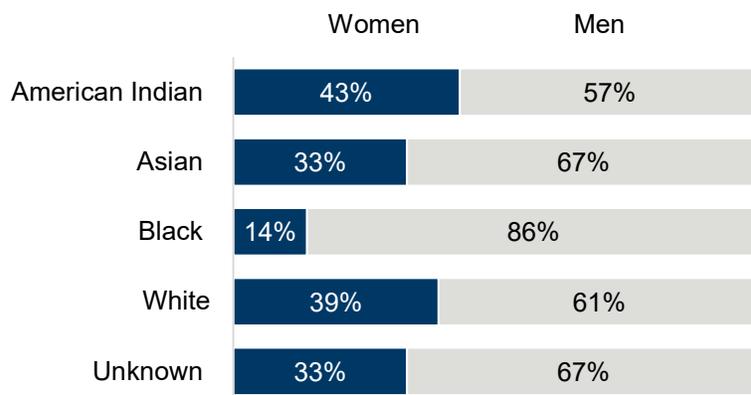
The average homicide rate against Indigenous women nationally is 7.3/100,000 (for comparison, it is 5.0/100,000 for White women) (Bachman et al., 2008). However, this national statistic masks the extremely high rates of murder against Indigenous women in certain counties of the country, primarily those composed of tribal lands. In some areas, the murder rate for Indigenous women is over 10 times the national average. According to data from the Minnesota Department of Health Vital Statistics Interactive Queries website, in the state of Minnesota, the county with the highest murder rates for Indigenous women is Beltrami (26.5/100,000), followed by Cass (25.7/100,000) and Hennepin (24.1/100,000). Other analyses have indicated St. Louis County and Mille Lacs County as also having high murder rates for Indigenous women (Bachman et al., 2008).

Across all races, a higher percentage of murder victims are men compared to women in Minnesota (Bureau of Criminal Apprehension, 2010-2019). However, according to data from the Bureau of Criminal Apprehension, for American Indians who die of homicide in Minnesota, the difference between men and women is the smallest: 43% of American Indian murder victims were women and 57% were men (Figure 7; Bureau of Criminal Apprehension, 2010-2019).

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<sup>5</sup> Fond du Lac, Mille Lacs, Upper Sioux and White Earth tribal law enforcement agencies report their homicide numbers to the BCA directly; Grand Portage and Shakopee Mdewakanton Sioux tribes report homicide numbers to the BCA indirectly through their County law enforcement agencies. Bois Forte, Red Lake, Leech Lake and Lower Sioux report homicide numbers to the Bureau of Indian Affairs, and Prairie Island does not report homicides to either agency; therefore, homicides reported between 2010-2019 by those five tribes are not reflected in this data. This means that this number is likely an undercount

7. Proportion of all Minnesota murder victims who are female, by race (2010-2019)



Source: Bureau of Criminal Apprehension, 2010-2019

**American Indians have the highest undetermined death rate of any racial group in Minnesota.**

American Indians (male and female) are four times more likely to die from an undetermined death than White people in Minnesota. They are also significantly more likely to die from suicides and drug overdoses compared to White people (Pham, 2020). Key informants explained that deaths that are ruled as suicides or drug overdoses might actually be homicides.

**These data only include the deaths that were ruled as homicides by a medical examiner or coroner and are likely an undercount.**

**Key informants shared that there are other American Indian women who have gone missing or died in recent years under suspicious circumstances that were ruled as suicides, overdoses, or accidental deaths even when the family believes that they were actually the victims of murder. One person at a public comment session shared:**

*“[She has been] gone for over one year. Feds called it a suicide. She was murdered. Four kids, healthy, bubbly. Here to honor and remember her. They stole her truck and keys that night. I was told they found her hanging by her feet. They didn’t investigate.” (Public comment)*

## CHALLENGES IN MINNESOTA RELATED TO DEATH INVESTIGATIONS

### **Death investigations may not be thoroughly conducted for some Indigenous women, girls, and two spirit people.**

Some key informants raised concerns about the medical examiner process related to the MMIW injustice. They reported that suspicious deaths are sometimes ruled as suicides, hypothermia, drowning, alcohol intoxication, or accidents when they should be examined more closely as homicides. Research from the Sovereign Bodies Institute (Abinanti et al., 2020) suggests that over one-third of MMIW cases in California were misclassified as suicide, undetermined, or accidental.

### **There are no accessible public data that summarize which deaths are investigated and when autopsies are done or declined.**

Although death certificates are public information and indicate whether an autopsy was conducted, as well as if a medical examiner or coroner certified the death, this data is not routinely compiled, analyzed, and publically disseminated. While detecting patterns is therefore technically possible, in reality it would be an onerous process. Therefore, we do not know beyond anecdotal reports to what extent MMIW cases in Minnesota are mistakenly ruled as suicides or accidents. We also do not know if there are patterns of certain counties systematically declining autopsies in MMIW cases. This is an area for possible additional investigation and remedies sought within this system.

### **A critical issue with cataloging unidentified remains is correctly identifying the race of the deceased person, and this may be particularly difficult to do for Indigenous victims.**

There is a concern that race data are captured through inconsistent means across databases including medical examiners, funeral directors, and information provided by next of kin (Violence Free Minnesota, 2018b). The Sovereign Bodies Institute (2019) documented frequent racial misclassification in databases on missing and murdered people, with one-third to one-half of Indigenous cases being racially misclassified depending on the database. Of note, they found that 35% of a sample of MMIW from Northern California were racially misclassified in NamUs, a federal missing persons database. Most commonly the misclassification was labeling an Indigenous person as White.

If a medical examiner or coroner cannot determine the race or ethnicity of an unidentified body, that information is not entered into databases. In order to match a missing person to an unidentified body, collecting DNA is integral since that is how matches are ultimately

made. The racial misclassification of unidentified deceased Indigenous women as other races or an unknown race makes collecting data and finding missing Indigenous women more difficult.

*“The challenge is that with so few Native people, the forensic anthropologists often trained to do this work aren't exposed to the unique aspects of a Native skeleton. So they don't get categorized. If in a community there is not a local forensic anthropologist, it might be the county coroner making that call and they might not have any idea. **Forensic anthropology is at the center of missing and exploited children.** Native skeletons are misclassified as Asian or Hispanic. When you are looking at a database of Jane Does for a Native woman, you may not find a match there because she is not classified as Native. And that is assuming you're dealing with high blood quantum and are racially identifiable as Native. That is when there would be differences that a trained investigator could identify. We want to bring this woman home, but, if they are misclassified, it doesn't help us match a missing case to the discovery.” (Professor, key informant)*

## STRENGTHS AND OPPORTUNITES RELATED TO DEATH INVESTIGATIONS

Minnesota has a medical examiner system that covers much of the state. Strengthening and expanding this system as a resource to other counties in Minnesota that currently use coroners is one suggested solution for ensuring all death investigations are conducted by highly trained practitioners.

### Prosecution and sentencing

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*“If we don't prosecute [MMIW] cases, it's difficult to prevent them. The predators know they can get away with it.” (Professor, key informant)*

Perpetrators of MMIW crimes are not prosecuted for many reasons, including weak evidence from investigations, lack of resources to prosecute, lack of trust in the judicial system leading to uncooperative victims and witnesses, jurisdictional issues, and a fundamental lack of regard among system professionals for Indigenous women, especially those with a history of substance abuse, prostitution, or involvement in the child protection system. Issues in Minnesota with prosecution and sentencing of perpetrators are similar to and inextricably intertwined with issues of investigating MMIW (covered in the previous sections of the report).

Perpetrators of MMIW crimes may be given light punishments because of a lack of resources to build a strong case, as well as because of lenient or biased judges or prosecutors. Tribal

courts and rural county courts in Minnesota may not have the capacity to prosecute cases related to MMIW.

## RELEVANT LAWS RELATED TO PROSECUTION AND SENTENCING OF PERPETRATORS

### **Tribal courts are limited in their authority by federal laws.**

In Minnesota, each of the 11 tribes has established their own court, in addition to courts in each of Minnesota's 87 counties. Tribal courts use traditional tribal dispute resolution approaches and also integrate elements from the U.S. Constitution. When PL 280 was enacted, it had the effect of slowing tribal court development because the Bureau of Indian Affairs stopped funding tribal courts in Minnesota and the other PL 280 states (Tribal Law and Policy Institute, n.d. b).

There are many types of crimes related to the MMIW injustice. This includes murder cases, trafficking, sexual assault, assault, domestic violence, firearm offenses, and child welfare cases (which include physical and sexual abuse, as well as endangerment and neglect) (Aanstad, 2020). As described in the tribal-county-state relations section, who has jurisdiction over prosecuting these crimes depends on where the crime occurred, the type of crime, the identity of the perpetrator, and the identity of the victim. Because of the complex system of overlapping jurisdictions based on these factors, when a crime occurs in Indian Country, there might be tribal, state, or federal criminal jurisdiction (Aanstad, 2020). However, VAWA offenses and federal trafficking offenses are "crimes of general application," meaning the federal government has the ability to prosecute them no matter where they occur. The United States Attorney's Office works in coordination with tribal and state partners to determine a prosecution avenue.

### **Victims of crimes in Minnesota have certain rights that are not always upheld in MMIW cases.**

The Minnesota Crime Victim Bill of Rights outlines the rights of victims as their case moves through the criminal justice system (Minnesota Office of Justice Programs, 2019a). This includes being notified of the prosecution process, being present at court proceedings, giving a victim impact statement, and being notified of the outcome of a case. When a MMIW case is successfully prosecuted, there are benefits to Indigenous victims and their families, which can include the perpetrator being held accountable, a sense of safety for the victim, and the victim's voice being heard and believed (Aanstad, 2020).

Most of Minnesota’s 87 counties have a Victim Services Unit as part of their Attorney’s Office and community-based organizations that provide victim services (Minnesota Office of Justice Programs, 2020). In most cases, victims and witnesses are assigned an advocate that can answer questions about the criminal justice process, give case updates, and connect people to other social service agencies that can provide healing services (Hennepin County Attorney, n.d.). Although there are outlined rights for all victims, there are many cases in Minnesota’s current prosecution system where these rights are not followed. Some of these challenges are described below.

## DATA

### **Sex trafficking cases are often dropped or ultimately do not result in the conviction of the perpetrators as these cases move through the criminal justice system.**

As explained in the section on sex trafficking and prostitution, Indigenous women, girls, and two spirit people who are trafficked or involved in prostitution are at higher risk of being harmed, kidnapped, or murdered. Like any type of crime, not all law enforcement interventions in a suspected trafficking crime result in conviction. Out of the 173 sex trafficking incidents and 401 victims identified by law enforcement in 2017, there were 32 convictions (Figure 8; Minnesota Statistical Analysis Center, 2019).

#### 8. The progression of sex trafficking cases from identification through prosecution in Minnesota



Source: Minnesota Statistical Analysis Center, 2019

### **Data on prosecution rates for MMIW-related crimes is not publically available in the state of Minnesota.**

Understanding the race of victims and perpetrators of MMIW-related crimes as cases moved through stages of prosecution in Minnesota is integral to understanding the true scope of the MMIW injustice. These data would also indicate what patterns exist in the

prosecution of these crimes. However, victim data by race are not publically available in the state of Minnesota due to concerns about victim confidentiality.

We heard multiple anecdotal accounts of differential prosecution based on victim and perpetrator race (notably, cases being less likely to be prosecuted when the perpetrator is White and the victim is Indigenous). Yet, because victim race data are not available, we do not know to what extent American Indian women and girls in Minnesota are less likely to have those who commit crimes against them prosecuted in court. Data from the Sovereign Bodies Institute (2020) indicates that in a sample of MMIW cases from Northern California, half of perpetrators were ever charged or convicted, and only 12% of the cases were closed with a conviction.

Minnesota has sentencing guidelines in order to ensure consistent sentencing that reduces disparities and is proportional to the severity of the offense (Minnesota Sentencing Guidelines Commission, 2019). In theory, regardless of victim or perpetrator race, MMIW-related crimes should be prosecuted consistently. However, data are not publically available in Minnesota to see whether differences in following sentencing guidelines exist across jurisdictions, or for individual judges, in prosecuting MMIW crimes. Finding a way to access data in both of these areas are important focus areas for future study.

## CHALLENGES IN MINNESOTA

**Nearly all key informants highlighted the pervasive lack of accountability in prosecution and sentencing for perpetrators who commit crimes against Indigenous women, girls, and two spirit people in Minnesota.**

While key informants acknowledged many reasons for this lack of accountability – including lack of prosecution resources and the fractured composition of the non-tribal and tribal court system in Minnesota – racial biases were once again cited as a root cause. Similar to other sections in this report that speak of the dehumanization and invisibility of Indigenous women, many key informants felt that MMIW cases were not prosecuted with the same resources devoted to similar crimes against White women. Perpetrators are also well aware that they are less likely to be held accountable for these crimes, leading to targeting of Indigenous women.

*“Unfortunately, I think for folks on reservations there is a common understanding that these crimes won't be prosecuted.” (Direct service provider, key informant)*

*“There are two things that make Native women more attractive to predators. One is that predators know about these disparities. Also, in the tribal community, this means when someone is assaulted she knows the system doesn’t work, so she won’t report.” (Professor, key informant)*

Key informants explained that this pattern of not holding perpetrators accountable is well known by victims, victims’ families, and Indigenous communities, leading to a lack of trust and cooperation by Indigenous people with the prosecution process. Fundamentally, the entire community, victims and perpetrators alike, needs to be able to recognize victimization and exploitation of Indigenous women and girls when it is occurring, and to know that MMIW cases will be prosecuted fairly and equally. Devoting more resources and attention to this issue will send the message to perpetrators that they will be held accountable.

*“There are a lot of cultural activities going on, opportunities to educate parents, victims, tribal leaders, spiritual leaders. It is needed by everyone. As traffickers see that, they will see that the community is watching and won’t risk going into that community.” (Victim advocate, key informant)*

### **The composition of court systems in Minnesota leads to jurisdictional gaps that perpetrators can manipulate in order to avoid prosecution.**

*“In other research we’ve done, we’ve seen traffickers using jurisdictional gaps between tribal sovereignty and state and federal government, exploiting loopholes in the legal system to move people around. They can evade detection and prosecution.” (Researcher, key informant)*

### **Issues from investigations carry over into challenges with prosecution. When prosecutors know the critical components of a thorough investigation do not exist, it can lead to MMIW cases not being brought to trial at all.**

If the investigation is under-resourced and poorly done, as is often the case with MMIW investigations, prosecutors are aware that the cases are not likely to “hold up” in trial. An investigation that enables a prosecution often needs a complete victim interview, evidence to support a victim, and evidence to proceed without a victim’s participation (Aanstad, 2020).

*“How good is the investigative case file? Sometimes they’ll take a weaker case, and they’ll give it a try. There are a lot of factors, including the experience of the prosecution staff, expertise, and quality of the case file sent over by law enforcement.” (Law enforcement, key informant)*

*"The prosecutor's office says, 'This will never go, we aren't even going to bother with it,' and leave it to the advocate to tell the survivor they aren't going to prosecute. The prosecutors need to be the one having that conversation and not cop out. They need to try, too. There have been cases they could have tried. Just try, that's it. They say, 'Well, we have to win to keep up appearances.' No you don't, you need to just try." (Advocate, key informant)*

### **Counties and tribes also have varied levels of expertise and capacity to prosecute.**

Building a criminal case was described by one key informant as taking a "tremendous amount" of resources and can prompt disagreements as to which entity is responsible for leading and funding prosecution. Prosecutors from rural and tribal areas may not have the funds or knowledge to build a case that is prosecutable. Currently, many non-tribal courts are able to prosecute cases faster than tribal courts due to more resources, staff, and training. Many key informants spoke to the need for tribal justice systems to be strengthened and tribes to have sovereignty and authority to prosecute perpetrators of violence against Indigenous women, girls, and two spirit people.

*"To put a case together in a way that is prosecutable is a whole other issue. It requires not losing stuff in court, following case law, and constitutional restrictions. It goes back to training and experience. So, that's a huge issue." (Law enforcement, key informant)*

### **Key informants described rampant racial biases in Minnesota's prosecution and sentencing system.**

*"Nothing happens to people who harm Native women. Even if they are found, no one is held accountable. The ones I can think about, even though all research says the main offenders are non-Native, the ones I can think of that were prosecuted were Native men. That is racism coming back into play. How long it takes to investigate, the resources it takes, the priority level they take of these cases, and the fact there is almost no prosecution creates a condition of people's lives not having any value." (Advocate, key informant)*

A related issue raised by one key informant is that Indigenous women are often not represented by - and do not have any interaction with - professionals or service providers in the MMIW-related systems who are themselves Indigenous women, such as lawyers or judges in a county court venue.

**Key informants also described bias in the prosecution system against victims and families with histories of substance use, domestic violence, child welfare involvement, and sex trafficking. Victims and families often do not trust the process.**

As outlined in other sections, these issues are often interrelated and intersect with Indigenous women going missing or being murdered. Due to trauma responses and lack of trust with the court system, trafficking victims can be “difficult” to work with or deemed “unreliable” and, in key informants’ experiences, juries are likely to be less sympathetic to their cases.

*“There are easier victims to work with. No one that has gone through trauma or sexual exploitation is going to be ...; they’ve survived trauma. It might not make them the easiest person to work with or the best in front of a jury, but they still need help. I know those are factors that go into how cases move forward, and we need to figure out how the system can work for those that fight, that run, that might not look the best in front of a jury, but still deserve justice. We have strong prosecutors and investigators that can do that, but it’s harder to do.”*  
(Public health supervisor, key informant)

**Victims and family members are often re-traumatized by the prosecution process.**

Traumatization can come at the hands of prosecutors, law enforcement officers, and judges who do not understand how to treat victims and family members in a victim-centered, trauma-informed way. It can also come from witnesses fearing for their own safety due to retaliation by the perpetrator and there not being adequate protections in place. Finally, it can come from going through a drawn-out prosecution process only to have the perpetrator not sentenced fairly or at all. Not only does this cause harm to individuals, it makes other victims, family members, and witnesses unwilling to participate. Without victim and witness collaboration, cases are less likely to be prosecuted successfully, adding to the cycle of trauma.

*“Sometimes, not speaking about our officers, but I’ve seen it in old school officers. They portray themselves and explain the process in a way to talk the person out of being a victim. They’ll say, ‘You’re gonna have to testify and do all this stuff.’ Yes, they will probably have to, but the way they frame it makes it sound intimidating. I don’t know how to combat that other than through training and policies.”* (Law enforcement, key informant)

*“Even if you have a cooperative victim on the front end, it gets dragged out so long, they drop off or it goes to court and they change their mind, or they get influenced by the suspect or suspect’s family. It is difficult to see them through to the end. We almost always experience drop out.”* (Law enforcement, key informant)

**Minnesota tribes are not consistently notified when people convicted of violent offenses and sexual offenses are released back into their community.**

When people convicted of violent and sexual offenses are released back into the community, Minnesota Statutes 244.052 and 243.166 state that the law enforcement agency that has primary jurisdiction where the offender plans to reside should be notified. People convicted of these types of offenses are required to register and, depending on their risk factors, community notification may occur to varying degrees.

Multiple tribes reported during the tribal consultations for the MMIW Task Force that notification of release of non-member violent offenders and sex offenders is non-existent from the county or the Minnesota Department of Corrections. Tribes have requested that county probation work in partnership with tribal staff to verify the residence addresses of sex offenders. Other tribes have requested a notification of release 90 days before their release from prison.

## STRENGTHS AND OPPORTUNITIES REGARDING PROSECUTION AND SENTENCING OF MMIW CASES

**Ongoing, mandated training on trauma-informed, victim-centered practices for law enforcement, prosecutors, and judges was one proposed solution to reducing the re-traumatization people experience during the prosecution process.**

Key to successful prosecution is partnership with victim witness services (Aanstad, 2020). Training and more support from interagency workgroups, task forces, and experts from within these systems could ensure that the investigation and prosecution process is carried out more consistently and effectively for all MMIW cases in Minnesota, regardless of the jurisdiction.

**Providing more culturally specific victim services was another opportunity that was mentioned by key informants.**

*“It would be helpful if there was a Native liaison or a Native unit that can walk along with a family during cases. Whether that is helping as an advocate and representing the family during prosecution or making sure they have a guide and a process, along with a lawyer. It is important to have a support team in situations like that. That unit could also help with translating, so to speak, the process and next steps. Give them updates and let them know if new things were found. Native families are more likely to listen to that support rather than hearing it from law enforcement. They can also provide culturally specific healing and resources that go along with that grieving experience as well. I’m unaware of culturally specific victim services.” (Direct service provider, key informant)*



Twin Cities MMIW March, February 14, 2020.

## Media and the reporting of MMIW cases

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*"The media and newspaper put out missing persons and used a mugshot of [Indigenous woman] as the photo. ... If that was a White woman that was ill that had gone missing, it would have been her Facebook profile picture of her hugging her dog. The protocol is to use the BCA photo or legal identification. ... What does [using a mugshot photo] say? That she might be dangerous, that she does not have value. It says, 'Look, here's a criminal that went missing.' (Advocate, key informant)*

Media coverage of intimate partner violence cases varies depending on the victim's identity and where they were killed, with victims in rural and marginalized communities getting less press (Violence Free Minnesota, 2018b).

Key informants described Minnesota's media systems as playing a crucial role in the MMIW injustice. Many described inconsistent reporting when people go missing, and attributed institutional racism in the media as the reason for the lack of coverage when Indigenous people are missing or murdered.

Analysis by the Urban Indian Health Institute suggests that approximately three-quarters of MMIW cases are never reported in the local, state, or national media. For cases that are covered, the language used to describe the victim or crime may reinforce stereotypes and stigma of Indigenous women, such as referencing the victim's use of drugs and alcohol or her criminal history (Lucchesi & Echo-Hawk, 2018).

**Finally, key informants noted a pattern of using mug shots as the missing persons photo when Indigenous women go missing, as opposed to more humanizing photos.**

*"There are questions on media coverage and who handles stories going to media. Police departments have relationships with the media and established rules. People don't know that. That impacts community perception. The media does a lot of work with the police department. Our organization has good relationships with media, so they do contact us, but for communities with no organizations to do that work, no one is informing those narratives. If there's no story on missing/killed women and girls, that says a lot. That shows a family that loss isn't acknowledged." (Direct service provider, key informant)*

Creating standard protocols for how the media covers MMIW cases (e.g., not using old mug shots of the missing person or referencing any criminal background, highlighting and centering the victim's life, consistently sharing info such as crisis hotlines, etc.) is one proposed solution for more effectively disseminating unbiased information when Indigenous women are missing or murdered.

## Data systems

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*“We don’t currently have everyone using one centralized system for missing and unidentified. Many states have clearinghouses, or use NCIC. NamUs [federal missing persons database] is not mandated in every state. There are some states that have passed statewide legislation for cases of a certain age. Maybe for someone missing for 30 days, or 90 days, based on the volume of missing cases. It is a challenge that there is not a mandate, so [NamUs doesn’t] receive all cases. There is a push to create fragmented databases, but the more fragmented we get, the greater chance we’ll miss connecting a missing person to an unidentified remains case. If a medical examiner couldn’t determine race or ethnicity, they might not know that yet. If the missing person is filed in a different system, we might not get that information.” (Missing persons database director, key informant)*

### DATA SYSTEMS RELATED TO THE MMIW INJUSTICE

**The National Crime Information Center (NCIC) database managed by the Federal Bureau of Investigation (FBI) is the leading source of national law enforcement information about missing and unidentified persons** (National Crime Information Center (NCIC), n.d.).

It also holds information on domestic violence protection orders and provides access to the National Sex Offender Registry. As a part of the Minnesota Missing Persons Act, the Minnesota Department of Public Safety (DPS) is required to maintain a Minnesota Missing Children and Endangered Persons Program to ensure that people who are missing and endangered are entered into the NCIC data systems.

Unlike some of the other data systems for missing and murdered people, the NCIC is only accessible by law enforcement agencies and is not open to the public, although DPS is required to compile a statistical report annually. The BCA ensures that all tribes in Minnesota have access to NCIC; local agencies enter information into the NCIC database, and the BCA is the conduit for all agencies to ensure the information gets to the FBI.

**Entering missing persons information into NCIC is required for all law enforcement agencies in Minnesota if the missing person is less than 21 years of age.**

The Minnesota Bureau of Criminal Apprehension ensures all tribes have access to the FBI’s NCIC data system. Minnesota State Statute 229C.53 states that law enforcement agencies must enter reports of a missing person under 21 within two hours. However, the same requirement does not apply for people over the age of 21. NCIC is likely the most reliable

source of cross-jurisdictional law enforcement data on missing children and endangered persons in Minnesota.

**Data from the NCIC is used to create the Minnesota Missing and Unidentified Persons Clearinghouse. It is a tool to assist in the recovery of missing children and adults in the state of Minnesota.**

The purpose and scope of the Clearinghouse is defined in Minnesota Statute 299C.51, the Minnesota Missing Persons Act. The Clearinghouse posts information about children who have been reported missing to a law enforcement agency. The Bureau of Criminal Apprehension also maintains the Minnesota Missing and Unidentified Persons Clearinghouse as a tool to assist in the recovery of missing children and adults in the state of Minnesota. In order to be on the MN Clearinghouse site, data about the missing person must first be entered into NCIC (Bureau of Criminal Apprehension, n.d. a). Information in the Clearinghouse is available to the public, and information available to the public is slightly filtered from what information is in the NCIC.

The Clearinghouse also provides guidance to law enforcement agencies across the state who reach out asking for help with missing persons investigations. The Clearinghouse could expand this role more specifically to work with tribes on MMIW cases, including educating the tribes on what to do when someone goes missing, doing DNA collection events in tribal communities, and verifying if missing person reports are on file, especially for older cases.

**A newer data system for crime-based reporting called the National Incident-Based Reporting System (NIBRS) was developed by the FBI to improve the quality of crime data collected by local law enforcement agencies** (National Incident Based Reporting System, n.d.).

All POST-licensed agencies (Minnesota Peace Officer Standards and Training) in Minnesota are supposed to be reporting into NIBRS by January 2021. NIBRS is an incident-based system that will include more detailed data on crime incidents, including information on victims, known offenders, relationships between victims and offenders, arrestees, and property involved in crimes (National Incident Based Reporting System, n.d.). Law enforcement agencies that are POST-licensed in Minnesota are required to report crime data (Minnesota Statute, Section 299C. 06) and NIBRS is the system that agencies will use; agencies in Minnesota are just beginning to implement this system. NIBRS will help agencies establish a baseline and quantify current criminal activity and trends in their jurisdiction.

**NamUs is the U.S. Department of Justice’s missing persons database, which is open to the public.**

Medical examiners and coroners have access to add profiles for unidentified cases to NamUs. While these professionals have access, not all unidentified cases are added to the database. While available to the general public, some information in the NamUs database is protected and only available to criminal justice users. Because it is open to the public (whereas NCIC is not), families have been able to find their own missing loved ones by seeing pictures of unidentified remains. There are different types of information available to these different stakeholders, with medical examiners and law enforcement having access to more information. While the public can enter and edit information, those changes are vetted by the BCA before it is changed.

**The Sovereign Bodies Institute hosts the MMIWG2 database, which logs cases of missing and murdered Indigenous women, girls, and two spirit people, from 1900 to the present.**

This database was created to provide one centralized database and aims to span colonial borders and log all important information on missing and murdered women, girls, and two spirit people. Recognizing that information on Indigenous women in other databases is often incomplete, the Sovereign Bodies Institute augments data from missing persons websites with direct outreach, media posts, social media, and historical archives.

**Several federal and state laws impact data sharing across law enforcement entities, health care systems, schools, and other agencies that may serve or interact with Indigenous women and girls who are at risk of or experiencing violence or exploitation.**

These include the Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act (FERPA), and Minnesota Government Data Privacy Act. More research is needed to identify the specific aspects or interpretations of these laws that lead to challenges in sharing MMIW-related data and to determine recommendations to address these issues.

## CHALLENGES RELATED TO DATA ABOUT THE MMIW INJUSTICE

**A range of different data systems are used by local law enforcement agencies in Minnesota when investigating MMIW cases, leading to challenges in data sharing.**

Each law enforcement agency in Minnesota reports calls for service and crimes they respond to into a Record Management System (RMS). This information is available to

law enforcement officers within the county; across Minnesota there are over 10 different RMS systems used. If, in the course of an active criminal investigation, a county wants to access data within another county's RMS system, they must request access and get permission before accessing the system - even if they are technically on the same system - due to Minnesota data practices. For counties on different systems, this can lead to hindered communication between different jurisdictions investigating missing person cases. Investigators report spending inordinate amounts of time trying to communicate with other jurisdictions to get access to information. Sometimes, due to concerns about protecting sensitive data and liability, information in databases is never shared.

However, local agencies are generally not open to creating a statewide system, due to concerns about protecting dissemination of data.

*"You've got 87 counties in this state with however many record systems. That's counties alone. Then you have BCA databases and FBI databases. Information is out there, but it's being protected, for good reason. It's private and confidential, but it goes back to information sharing and communication. We have to try to get around record management systems. You can't access it. You have to get through to someone on the phone. I have to call directly to an investigator in the records office and prove my need for that information." (Law enforcement, key informant)*

*"We are careful about releasing data; we are concerned over getting sued for wrongfully releasing information." (Law enforcement, key informant)*

### **The NCIC system does not provide a real-time source of information about missing persons, including their history of being missing, which could aid investigations.**

Additionally, the NCIC system provides a static picture of missing persons in Minnesota; therefore, law enforcement agents cannot see how many people are actively missing on a given day. The Clearinghouse has to request lists from the FBI, which can be time consuming and creates delays. This is a concern for missing juvenile runaways, as the NCIC can provide a point-in-time snapshot of the missing person, but not historical reference data such as how long or how many times they have been missing.

### **Tribal law enforcement agencies have different authority and access to data systems, training, and resources that make effectively investigating MMIW cases challenging.**

There is no universal method or access level for all tribal law enforcement agencies in Minnesota to access the NCIC. Some have the ability to report into the system directly,

while others must coordinate with the BCA or other law enforcement agencies to enter the information (Minnesota Statutes 2019, section 299C.53).

Grand Portage Band of Lake Superior Chippewa and Shakopee Mdewakanton Sioux Community do not have their own law enforcement agencies; rather, these tribes rely on responses from local governments with which they share geography. Shakopee Mdewakanton Sioux has some limited direct access to this system, whereas Grand Portage Band of Lake Superior Chippewa does not have direct access to this law enforcement data system.

### **No single source of data spanning the MMIW injustice exists.**

The MMIW injustice is comprised of many specific issues and problems, each of which may have their own database. Underreporting and misreporting in many of these systems may lead to an underrepresentation of the MMIW injustice overall. In addition, these data sources are not connected and no one source compiles all of the data needed to truly understand this problem.

This is a national problem not unique to Minnesota. Data analysis by the Sovereign Bodies Institute (Abinanti et al., 2020) suggests that over half of MMIW cases in Northern California are not in any official state or federal missing persons database. While we do not have data on the percentage in Minnesota, key informants spoke to a similar problem in Minnesota with some proportion of MMIW not being in databases. Consistency between databases is another issue, with documented instances of basic information, like race, not being the same between databases (Abinanti et al., 2020).

### **Key informants note the challenges of multiple databases rather than one mandatory national database for states and tribes to participate in for missing adults.**

Specific to MMIW, the executive director of NamUS acknowledged that there are still a lot of Indigenous cases that are missing from NamUs. The database recognizes this problem and is actively working on addressing it. For example, based on feedback from tribal leaders that NamUs needed to better track and account for missing Indigenous people, in 2018 NamUs worked with the BIA and added additional fields to NamUs. These additional fields include whether the person was tribally enrolled and if the person went missing on tribal land; it aims to help tribes have better accounting of missing people (Abinanti et al., 2020).

While there are some calls for and efforts underway to develop state-level or national databases specific to MMIW, there is concern among some experts that this could further

fragment the data and create challenges for matching missing persons with unidentified bodies. If, for example, an Indigenous person is misclassified by race, they would not end up in the MMIW database. Most key informants want information put into one central system, although there were different opinions on what that system should be. Some informants called for information to be mandated into a national system, like NamUs, because of the benefits to having all cases in one system, while others said that mandate would be “nearly impossible” to accomplish. Others spoke of the need for an Indigenous-specific missing persons database:

*“I hear a lot of messaging that there is not a national database for missing Indigenous persons. Perhaps, there is a wish or need for a standalone database strictly for missing Indigenous persons. But, if we fragment cases, we’ll miss associations. I don’t know if that’s because tribes are not aware of NamUs. It is a national database for MMIW, just not standalone or Indigenous only.” (Missing person database director, key informant)*

*“[We should require] mandatory reporting in some point in time to NCIC and NAMUS. Every state already has a federal mandate of entering missing children into NCIC, but there is still gray area when it comes to adults. Make it mandatory to report to NCIC and NAMUS. Make the reporting period reasonable to the amount of cases you see.” (Missing person database director, key informant)*

*“The biggest thing, once you can deliver all information to the BCA, they can disseminate statewide. If more agencies would do that, instead of making their own case. Depending on operating software and record management [system being used], that info might not go further than their agency. ... But to make a statewide policy stating that, to force agencies to do that, it would be very difficult.” (Law enforcement, key informant)*



Twin Cities MMIW March, February 14, 2020.

A more coherent and comprehensive data system to track MMIW cases would allow stakeholders to learn more about the causes and potential solutions to the problem.

*“A huge issue is prioritizing and supporting the gathering of data to understand the issue. We know that Native women are being murdered and missing and being harmed. We know this. And, yet, prioritizing and giving support, including funding, personnel, and so on, to discover empirical data, will get us a step beyond knowing it happens to why it happens and what we can do to address it. I don't ask for the data just so I have numbers .... I want to understand the why, and test ways to stop it, prevent it, and address it.” (Public health supervisor, key informant)*

**Finally, it is important to acknowledge issues related to tribal data sovereignty.**

Tribal data sovereignty is defined by the Native Nations Institute as “the right of Native nations to govern the collection, ownership, and application of its own data” (Rainie et al., 2017). In Minnesota, as well as around the U.S. and internationally, Indigenous peoples (and in some cases, the colonizing governments they must interact with) are implementing policies and practices that honor data sovereignty. Every cooperative/joint powers agreement between a tribe and a local law enforcement agency in Minnesota is covered by the Minnesota Government Data Privacy Act. All cooperative agreements related to MMIW

should be aware of and take into account the data sovereignty of the tribes entering into these agreements.

## STRENGTHS AND OPPORTUNITIES RELATED TO DATA ABOUT THE MMIW INJUSTICE

### **Existing programs help tribes access and use national data systems.**

The Bureau of Justice Affairs (BJA) created the Tribal Access Program (TAP) for National Crime Information to facilitate the exchange of critical data for non-PL 280 tribes across Criminal Justice Information Services systems and other national crime information systems (U.S. Department of Justice, n.d.). Tribes that participate can (among other things):

- ▶ Enter orders of protection, making them accessible for enforcement both on and off tribal land
- ▶ Register sex offenders in compliance with the Adam Walsh Child Protection and Safety Act
- ▶ Enter information to prevent illegal gun purchases
- ▶ Enter arrest warrants for on and off reservation awareness and enforcement
- ▶ Perform record checks on employees and volunteers who have contact with Indian children
- ▶ Document arrest and conviction data
- ▶ Access investigative records of other law enforcement agencies
- ▶ Search for and enter information about persons and property
- ▶ Conduct name-based criminal history checks to determine if supervised individuals have new charges
- ▶ Obtain complete criminal histories to make release recommendations in criminal court cases

Red Lake Nation was accepted to the full TAP program in 2018. Bois Forte Band of Lake Superior Chippewa is in the process of applying for the BIA-OJS version of the TAP. This program is only available for non-PL 280 tribes, so no other tribes in Minnesota are eligible.

Additionally, the transition to NIBRS by all POST-licensed Minnesota law enforcement agencies by 2021 will allow for more detailed data on each single crime incident. This will hopefully allow for improved prevention and investigation of MMIW crimes.

Through compiling and triangulating data from multiple sources, this report presents a baseline picture of the MMIW injustice in Minnesota. Through this process, we have learned what data are publically available and what is not. Included in the mandates are recommendations for an annual report and/or data dashboard to track progress on the MMIW injustice in Minnesota. If the mandates are implemented, we can start to assess the impact on any changes that are made in the state, using this report as a baseline.

# A Call to Action: Mandates from the MMIW Task Force

The Minnesota Legislature included five requirements for the MMIW Task Force. The calls to action and mandates included in this final section of the report respond directly to each of these five requirements. Some of the mandates will require action by the Minnesota Legislature. Other mandates do not necessitate policy changes, but may require changes in policies or practices at state or local agencies. Some of these mandates may require additional advocacy efforts, and most will require additional funding and development before they can be implemented. Finally, the MMIW Task Force completed tribal consultations and we have some suggestions from and for tribal nations in Minnesota to consider.

**Requirement #1: Examine systemic causes behind violence that Indigenous women and girls experience, including patterns and underlying factors that explain why disproportionately high levels of violence occur against Indigenous women and girls, including underlying historical, social, economic, institutional, and cultural factors which may contribute to the violence.**

- ▶ Mandate 1: With tribal consultation, create an **MMIW Office** to provide or support the following activities:
  - Hold the MN Legislature and state agencies accountable for implementing the mandates in this report, and develop additional recommendations to address the MMIW injustice.
  - Facilitate further research to refine the mandates in this report and to assess the potential efficacy, feasibility, and impact of all recommendations.
  - Develop tools and processes to evaluate the implementation and impact of MMIW-related efforts.
  - Facilitate technical assistance for local and tribal law enforcement agencies during active MMIW cases.
  - Conduct and report on the results of case reviews for the following types of MMIW cases: cold cases for missing Indigenous people; death investigation review for cases of Indigenous people ruled as suicide or overdose under suspicious circumstances; and prosecution and sentencing review for cases where a perpetrator committed a violent and/or exploitative crime against an Indigenous woman, girl, or two spirit person and/or when the perpetrator is a repeat offender.

Ensure legislation includes the necessary provisions to create access to the data needed to conduct these reviews.

- Review sentencing guidelines for MMIW-related crimes, recommend changes if needed, and ensure consistent implementation of the guidelines across Minnesota courts.
  - Coordinate these efforts with:
    - The stakeholder groups that were represented on the Task Force and/or state agencies that are responsible for the systems involved in the MMIW injustice, including: Minnesota Chiefs of Police Association; Minnesota Sheriffs' Association; Bureau of Criminal Apprehension; Minnesota Police and Peace Officers Association; tribal law enforcement; Minnesota County Attorneys Association; United States Attorney's Office; juvenile courts; Minnesota Coroners' & Medical Examiners' Association; United States Coast Guard; Minnesota state agencies such as Health, Human Services, Education, Corrections, and Public Safety; Minnesota Indian Affairs Council; service providers who offer legal services, advocacy, and other services to Indigenous women and girls; the Minnesota Indian Women's Sexual Assault Coalition; Mending the Sacred Hoop; Indian health organizations; and Indigenous women and girls who are survivors.
    - The 11 tribal nations that share geography with Minnesota.
    - Organizations and leadership from urban and statewide American Indian communities.
  - Work with relevant DPS divisions to maintain communication and coordinate, as relevant, with the Bureau of Indian Affairs' Cold Case Office through Operation Lady Justice and other federal efforts, as well as efforts in neighboring states and Canada. This recommendation pertains to state efforts; tribes are sovereign nations that have the right to determine if and how they will coordinate with these other efforts.
- ▶ Mandate 2: Ensure adequate **funding and resources** are made available to implement these recommendations.
  - ▶ Mandate 3: Address **systemic racism in all systems that interact with Indigenous women and girls** (education, health care, housing, child welfare, law enforcement, criminal justice, etc.) by **hiring more Indigenous staff**, by providing **training and education** to reduce bias among professionals working in these systems, and by **demanding accountability** to eliminating bias.

- Create employment pipelines for Indigenous people to enter careers within the systems of education, health care, housing support, child welfare, law enforcement, and criminal justice.
- Provide training for law enforcement officers and leaders of local and state agencies about tribal sovereignty and laws that pertain to Indian Country and American Indian people, jurisdictional issues, the MMIW injustice, and related policies.
  - Coordinate with the Minnesota County Attorneys Association and other organizations to make MMIW a required topic of coordinated training for prosecutors and judges.
  - Amend Minnesota Statute 595.02 to include MMIW as a related topic in the 40 hours of required training for sexual assault advocates. Ensure that community-based organizations are involved in providing the training.
  - Coordinate with the Minnesota Legislature and the Peace Officer Standards and Training (POST) Board to change law enforcement officer licensing requirements to include training on MMIW.
  - Coordinate with law enforcement programs in colleges and universities in Minnesota to add MMIW to curriculum.
- ▶ Mandate 4: Focus on **eliminating poverty and meeting basic needs** of Indigenous women, girls, and two spirit people, and their communities, both in greater Minnesota and urban areas.
  - More affordable housing.
  - More employment opportunities that pay a living wage.
  - More job training.
  - More supportive, culturally specific housing for people who are at risk of or are exiting domestic violence or trafficking.
  - More resources for culturally specific, trauma-informed residential treatment programs for addiction and mental health care.
  - Make funding in these areas more flexible, i.e., not tied to specific programming, but can be used for infrastructure and operation costs.

**Requirement #2: Examine appropriate methods for tracking and collecting data on violence against Indigenous women and girls, including data on missing and murdered Indigenous women and girls.**

- ▶ Mandate 5: The MMIW Office or another entity should produce an **annual MMIW report and dashboard** that will pull in data from state data systems to provide an overview of the MMIW injustice, to track how the issue changes over time, and to see how the MMIW statistics change relative to various programs, initiatives, and systemic changes.
- ▶ Mandate 6: Ensure state and federal **technical assistance and support is provided so tribes have access to and can fully participate in all relevant data systems.**
  - Tribal law enforcement and local law enforcement should have the same access to information about Orders for Protection (whether issued by the tribe or county). These OFPs should be enforced consistently by all law enforcement agencies, regardless of if a tribal or state court issued it.
  - All data that tribes are being asked to share with state or federal agencies regarding the MMIW injustice need to be reciprocally shared, streamlined, and timely. State and local agencies must respect the sovereignty of tribes, including data sovereignty.
  - Find ways to address the challenges created by the MN Data Privacy Act in relation to local and tribal law enforcement agencies sharing data to effectively investigate MMIW cases; ensure that tribal data sovereignty is accounted for in any policy decisions or changes.
  - Support tribes and the respective counties and municipalities they share geography with to ensure all law enforcement officers working in an area have access to relevant data systems and information for that area.

**Requirement #3: Report on policies and institutions such as policing, child welfare, coroner practices, and other governmental practices that impact violence against Indigenous women and girls and the investigation and prosecution of crimes of gender violence against Indigenous people.**

- ▶ **Mandate 7: Support tribes to exercise their sovereignty and increase their jurisdictional authority** to investigate, prosecute, and sentence perpetrators of violence against Indigenous women and girls.
  - Turn Executive Order 19-24 into law.
  - Specify that the Minnesota Joint Exercise of Powers extends to MMIW investigations and add clarification and guidance regarding Minnesota Statutes 626.90-626.94 for responding to and investigating MMIW cases.
    - Consult with each tribe individually to determine whether joint powers agreements are still serving tribes’ needs. Work to strengthen agreements where they are still desired by tribes and counties, and dismantle the agreements where they are not.
  - Support tribes to develop and implement AMBER Alert programs, using available TA resources from the Tribal National Criminal Justice Center.
  - Support tribes to strengthen their justice systems and their authority to prosecute MMIW cases using enhanced sentencing jurisdiction under the Tribal Law and Order Act and special domestic violence jurisdiction via the Violence Against Women Act.
    - Consider opportunities for cooperative agreements to share prosecutors between a tribe and county, or with the federal government (depending on the tribe and jurisdiction).
  - The Minnesota Department of Corrections has a policy and practices in place to ensure that tribes are being notified when a sex offender or violent offender is being released back into their community or a nearby community. Continue to provide these notifications to tribal police chiefs, sheriffs, and municipal police chiefs and support these agencies to notify the relevant tribal government leaders who will then ensure that the appropriate local domestic violence and/or sexual assault programs are notified. Ensure that local law enforcement agencies cooperate with tribes that do not have their own law enforcement agencies to notify the appropriate tribal authorities.

- ▶ Mandate 8: Coordinate with legislators, tribes, and the National Congress of American Indians to advocate for the U.S. Congress to sign the **2020 Violence Against Women Act (VAWA)** and to strengthen tribes' use of VAWA funds.
  - Make training on how to expand VAWA jurisdiction accessible to all tribes who are interested.
  - It is currently a requirement that DPS Office of Justice Programs meet with all tribes every four years to discuss how VAWA funds can be used to strengthen criminal justice efforts to address the MMIW injustice; this should occur more frequently, every two years.
- ▶ Mandate 9: **Extend Safe Harbor law to all trafficking victims** (not just youth age 24 and younger).
  - Ensure the necessary resources are made available to provide services to these victims.
  - Add regional Indigenous-specific Safe Harbor Navigators to existing Safe Harbor Navigator model.
- ▶ Mandate 10: Increase **personnel and state resources** dedicated to addressing the MMIW injustice:
  - Increase the 0.5 FTE American Indian Human Trafficking Child Welfare Liaison position within the Minnesota Department of Human Services to 1.0 FTE.
  - Amend Minnesota Statutes 275.0755-275.0769 and provide adequate funding to expand the capacity/staffing of the Ombudsperson for American Indian Families and reduce restrictions on funds so the person in this position can meet with communities on MMIW-related issues.
    - Allow this position to be able to accept grants, gifts, and donations to provide increased resources for this work beyond what the Minnesota Legislature has allocated.
    - Collaborate and work closely with local and state governments, tribes, the American Indian community, agencies, counties, community organizations, courts, schools, and other organizations to develop policies, rules, and laws that impact violence against American Indians, such as policing, coroner practices, mortuaries and funeral homes, child welfare policies and practices, and other governmental practices to improve outcomes for American Indian families.

- Provide community outreach, resources, information, and education to American Indian families who have missing family members and, when necessary, assist in investigations for non-compliance of the law. If non-compliance is found, recommend prosecution to appropriate state and county authorities to ensure prosecution.
- ▶ Mandate 11: Provide more training and resources to professionals, especially in Indian Country and greater Minnesota, to **conduct effective investigations of MMIW-related cases** and to ensure all current guidelines and best-practice recommendations are being followed consistently.
  - Improve coordination and collaboration between tribal and state law enforcement agencies and courts. (This may partly be accomplished through the creation of the MMIW Office, recommended above.)
  - Provide more training to law enforcement officers, especially those working in and around Indian Country and on MMIW-related cases, on conducting missing persons investigations.
    - Provide training to all law enforcement agencies in the state in the use of Forensic Experiential Trauma Interviewing (FETI), provide technical assistance or regional coordination, or otherwise increase capabilities for all tribal and local law enforcement agencies to conduct effective forensic interviews.
    - Facilitate multidisciplinary partnerships between law enforcement agencies and advocates in community organizations so that advocates can conduct forensic interviews with victims (instead of law enforcement) as part of the investigation.
  - Strengthen education and awareness of who is the responsible authority for the investigation when a missing person crosses jurisdictions, and create a mechanism to resolve any jurisdictional disputes.
  - Develop strong partnerships between the BCA Clearinghouse and tribes; the BCA should play a stronger role in working with tribes, including educating tribes on what to do when someone goes missing, verifying if missing reports are on file, helping resolve jurisdictional disputes, and conducting DNA collection events in tribal communities for families of missing persons, as well as conducting investigations in all reported missing person cases-
  - Create partnerships to provide training and technical assistance to law enforcement agencies, advocates, and communities about laws surrounding MMIW investigations.

- Create a Tribal Community Category for the Crime Alert Network to improve inter-tribal communication when an Indigenous person is missing.
- Ensure all tribes have access to state and federal databases as appropriate to assist with missing persons cases.
- Require a point-of-contact (POC) in every law enforcement agency in Minnesota for MMIW investigations (much like tribal liaison POCs) who has training on MMIW issues and is prepared to work effectively in a tribal context.
- Create and provide guidance to all law enforcement agencies with a standardized statewide missing adults protocol.
  - This protocol should include clear guidance around how family members are kept informed and involved during the investigation process; this requires a trauma-informed approach and understanding of how Indigenous communities have been harmed or not served well by investigations historically.
  - Section 144.05, subdivision 4 should be implemented -- the Department of Health should create and maintain a website with information about unidentified deceased persons that may aid in identifying these individuals and for purposes of notifying relatives who may be seeking these individuals. The information will remain on the website continuously until the person’s identity is determined.
- Increase funding under Minnesota Statute 299A.71 to further support the capacity of local law enforcement to conduct sex trafficking investigations.
- ▶ **Mandate 12: Ensure that all MMIW-related deaths receive an autopsy and are investigated by a coroner or medical examiner.**
  - Develop a mechanism to obtain a second review of a coroner’s/medical examiner’s ruling of a death as suicide or overdose, especially when an autopsy has not been completed.
    - The MMIW Office should determine who conducts this second review with particular attention to how the victim’s family members and other community advocates can be involved.
  - Create a mandatory protocol to document if and why an agency declines to investigate or prosecute an MMIW-related case (a case involving an Indigenous woman, girl, or two spirit person that involves violence, exploitation, and/or kidnapping).
    - Provide training in protocol use.

- Review aggregate data from the protocol periodically to assess for systematic bias and compliance issues.
- Develop a publically accessible website that disaggregates declinations by district and victim race/ethnicity.
- Change Minnesota Statute 390.005 so that the death investigation system in Minnesota has a licensed medical examiner conducting death investigations in each county.
- Modify Minnesota Statute 390.11 to ensure the four-day burial custom of some Indigenous cultures in Minnesota is honored in the process of conducting a thorough death investigation.
- ▶ **Mandate 13: Strengthen the trauma-informed and victim-centered response of law enforcement, courts, and the health care system** to Indigenous survivors of sexual assault, trafficking, and violence.
  - Expand access to Sexual Assault Nurse Examiner (SANE)/forensic exams in tribal and rural areas; consider more regional partnerships across health systems and with tribes to expand access to nurses with this training and expertise.
  - Provide training to law enforcement and emergency room staff about providing trauma-informed care for Indigenous women and girls who have experienced violence and sexual assault, including working with victims of trafficking and those who are being exploited by their own relatives or caregivers.
  - Create policies and guidance so people who report being sexually assaulted, trafficked, or a victim of intimate partner violence will not be arrested or charged with a crime due to outstanding warrants.
  - More coordinated efforts to support victims and relatives through the prosecution process; increase access to victim services providers.
- ▶ **Mandate 14: Address the harm that the child welfare system has done to Indigenous families and communities** by making the following reforms and providing guidance and training to staff of local and tribal child welfare agencies accordingly.
  - Ensure consistent implementation of the Indian Child Welfare Act (ICWA).
  - Use a harm reduction and trauma-informed approach; acknowledge and be responsive to the harm this system has caused Indigenous families over multiple generations.

- As the Family First Prevention Services Act is implemented in Minnesota, ensure Indigenous communities are considered in shifting child welfare funds to providing material support to women to meet their family's basic needs.
- Respect and honor Indigenous parenting practices, values, and needs in agency policies and practices; provide training to child welfare workers that reflects Indigenous parenting practices and family structures.
- Integrate intergenerational cultural healing; work with the entire family.
- Provide better protection for women who come forward with domestic violence and/or substance use/addiction issues, so their children are not removed from their custody.
- Expand options for women in substance use disorder treatment to keep their children with them.
- Increase the number of Indigenous foster care providers.
- Consider and expand full family foster care models for Indigenous families.

#### **Requirement #4: Report on measures necessary to address and reduce violence against Indigenous women and girls.**

- ▶ **Mandate 15: Provide education on healthy relationships and consent** to all students in Minnesota’s K-12 schools and tribal schools. The curriculum should be age appropriate, culturally responsive, trauma-informed, and include topics such as inappropriate sexual contact, intimate partner violence, and trafficking and sexual exploitation.
  - Facilitate collaborations between law enforcement and Indigenous community organizations to create safety guidelines and educate youth on social media and apps that sex traffickers use, how sex traffickers groom victims, ways in which traffickers exploit and control their victims, etc.
  - Advocate for the Minnesota Legislature to approve HF 2768 to modify Minnesota Statutes 2017 Supplement, section 120B.021, subdivision 1, which would require child sexual abuse prevention instruction in health classes, including child sex trafficking prevention.
  - Identify and disseminate existing curriculum or develop new curriculum that is culturally responsive to American Indian culture.
- ▶ **Mandate 16: Draw on existing Indigenous community organizations to increase awareness of MMIW issues and specific MMIW cases** among the general public.
  - Increase funding for community organizations to provide multidisciplinary (e.g., legal, technical) MMIW training for educators, school social workers, emergency room staff and first responders, etc.
  - Create public awareness campaigns specifically about sex trafficking and Indigenous women:
    - Recruit and fund local Indigenous artists and media specialists to create these campaigns specific to Minnesota.
    - Encourage the Governor of Minnesota to make a proclamation for a MMIW day.
  - Increased funding to organizations that include voices of survivors.
  - Create standard protocols for how the media covers MMIW cases (e.g., not using old mug shots of the missing person or referencing any criminal background, highlighting and centering the victim’s life, consistently sharing info such as crisis hotlines)
    - Increase resources to Indigenous community organizations and Indigenous news media in Minnesota to create and disseminate these standard protocols.

▶ **Mandate 17: Prevent and reduce the harms of trafficking, sexual exploitation, and normalized violence for Indigenous women and girls who are involved in the child welfare system and/or the criminal justice system.**

- Provide additional training and resources about trafficking and sexual exploitation to Indigenous women and girls who are incarcerated or involved in the child welfare system since they are at most risk of becoming MMIW. Information should include the definition of trafficking, what to do if it happens to them, resources available to help trafficking victims, etc.
  - Increase funding for Indigenous community organizations to provide these trainings.
- Provide training and guidance to the professionals who work with Indigenous women and girls involved in these systems, including guidance from DHS about youth in out-of-home placement who run away, and ensure the guidance is implemented consistently.
  - Create and implement a mandatory, culturally responsive, and valid tool to complete a forensic interview and immediately connect the victim to services that counties and tribal law enforcement agencies can use every time there is a mandated report about abuse of an Indigenous child.
- Provide additional support to foster parents and caregivers who are caring for Indigenous youth who are at-risk of or involved in trafficking.
- Pass a law to create a new non-caregiver sex trafficking assessment for child protection, which would provide a path for juvenile victims of sex trafficking to access services without fear of being prosecuted or being removed from their family. Instead of the typical child welfare investigation process, this assessment should help determine which services to provide to the child and their family. The tribe should be notified in cases where the child is a tribal member. Child welfare workers should be required to participate in training about sex trafficking and exploitation. These services should be culturally specific.
- Review statutory language related to domestic violence and trafficking crimes to determine if additional legislation is needed. Further research is needed to assess how plea bargains are used, especially in and around Indian Country, whether plea bargaining is exacerbating the MMIW injustice by leading to repeat offenses, and if limitations are needed on plea bargains. Tribes need to be able to access information about the sentencing of their tribal members and perpetrators of their tribal members. The Task Force also wants consideration given to the overrepresentation of

Indigenous people and other communities of color in the criminal justice system when sentencing guidelines are created and revised.

- ▶ **Mandate 18: Require sex trafficking awareness training and targeted prevention** to Indian Country, areas where extractive industries such as oil and mining camps are located, and casinos and hotels; partner with and hold companies accountable.
  - Build on work of existing task forces and workgroups to develop these trainings and policies.
  - State agencies (e.g., Minnesota Pollution Control Agency, Public Utilities Commission) that oversee extractive industry work should clarify and implement changes to the process, including:
    - All entities involved in the negotiations of impact-benefit agreements related to resource extraction and development projects must include provisions that address the impacts of projects on the safety and security of Indigenous women and girls, as well as provisions that ensure Indigenous communities equitably benefit from the projects through employment opportunities and the financial benefits of a new industry to a community.
    - Social infrastructure must be expanded and service capacity built to meet the anticipated needs of the host communities in advance of the start of extractive projects or new extractive facilities or sites; this includes, but is not limited to, ensuring that policing, social services, and health services are adequately staffed and resourced.
    - Require criminal background checks for workers in extractive industry camps and housing, and ban those with a criminal background involving violent crimes or exploitation of women or children from working at these sites.
    - Require that industry has a plan to train all workers on trafficking before permits are granted to any extractive industry project.
  - Collaborate with tribes that have these programs in place to expand training to non-tribal hotels (hospitality business in general) and use existing training materials as a resource for other tribes. Provide support for these efforts.

**Requirement #5: Examine measures to help victims, victims' families, and victims' communities prevent and heal from violence that occurs against Indigenous women and girls.**

- ▶ Mandate 19: Ensure that any initiatives, programs, and decisions related to the MMIW injustice are **informed by Indigenous women and girls**, especially those who have lived experiences with violence and exploitation.
  - Create more opportunities and hire more Indigenous people into law enforcement, health care, child welfare, education, and other fields that interact with MMIW.
  - Pass the legislation introduced in the previous two legislative sessions as the Increase Teachers of Color Act.
  - MMIW Office should review minimum law enforcement requirements to see where changes can be made to recruit more Indigenous people into law enforcement.
  - Provide more training and create more positions for Multidisciplinary Action Teams; create more positions for advocates who are Indigenous and/or trained in Indigenous domestic violence and sex trafficking and Indigenous healing practices; these positions should be embedded within victim services in law enforcement and court response.
- ▶ Mandate 20: Promote healing of perpetrators, survivors, relatives, and communities by supporting **culturally responsive, community-led efforts**.
  - Services for survivors of trafficking should be person-centered, holistic, and address basic needs such as housing and health care, as well as issues such as trauma, self-esteem and self-care, physical and mental health and well-being, cultural connections and community engagement, education and employment, etc.
  - Address statute and department policies, as needed, to increase providers' ability to be reimbursed for culturally responsive treatment and healing services. Modify grant guidelines and billable service codes to allow tribes and Indigenous programs more flexibility.
  - Once guidelines are modified, ensure that funding for healing ceremonies as reimbursable under DPS's crime victim services funding is advertised in a way that is less culturally biased (e.g., adding information to DPS's website on how these funds can be used in Indigenous healing ceremonies) and directed to Indigenous victims.
  - Increase awareness of and access to resources available through the Minnesota Crime Victims Reparations Act (Minnesota Statutes 611A.51-611A.68) for Indigenous culturally specific healing services; these services are eligible for

reimbursement, but victims may not be aware of that. Clarify that the law allows for victims of sex trafficking and prostitution to be eligible for reparations, regardless of their criminal status, and so the amount they are eligible for is not reduced due to them being involved in another crime or being criminally negligent at the same incident where they were victimized. (The law is already clear that a victim of sex trafficking is not committing a crime purely by being involved in an act of prostitution.)

- Increase resources to Indigenous-led community organizations with funds specifically earmarked for improving and increasing services for two spirit and LGBTQ+ survivors.
- Implement community safety models that reduce crime:
  - Fund and support holistic wraparound models of case planning for justice-involved women and girls.
  - Create diversion programs and restorative practices for Indigenous women and girls who have been arrested for involvement in or charged with prostitution or have been victims of sex trafficking.

# Appendix

## Task Force process

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The Minnesota Department of Public Safety (DPS) contracted with Wilder Research to conduct the research and prepare the final report on behalf of the MMIW Task Force. Wilder Research is a nonprofit applied research firm based in Saint Paul, Minnesota. Dr. Nicole MartinRogers (*White Earth Band of Ojibwe, descendant*) was the project lead for Wilder. She has extensive experience conducting culturally responsive research for American Indian tribes and communities in Minnesota on a range of topics from homelessness to education to health care. She was supported by Research Associate Virginia Pendleton, who has a background in public health, as well as a team of support staff from communications, graphic design, the library, and data analysis.

DPS also contracted with an independent consultant, Ms. Stephanie Autumn (*Hopi/Irish*), to facilitate the Task Force and its subcommittees. Ms. Autumn is the Director of the Tribal Law and Policy Institute's Tribal Youth Resource Center. She is a skilled restorative justice practitioner and she is the founder of the American Indian Prison Project Working Group.

The Wilder Research team and Ms. Autumn worked collaboratively with DPS to design and facilitate the Task Force meetings and to carry out the work between meetings.

The Task Force's first meeting was held at the Minnesota Humanities Center in Saint Paul on September 19, 2019. This meeting included a ceremonial signing of the bill with Governor Tim Walz and Lieutenant Governor Peggy Flanagan (*White Earth Band of Ojibwe*), DPS Commissioner John Harrington, and many others. Members of the Task Force and American Indian community leaders State Representative Mary Kunesh-Podein (*Standing Rock Lakota, descendant*), former director of the Minnesota Indian Women's Resource Center Patina Park (*Cheyenne River Sioux*), and Director of the Minnesota Indian Women's Sexual Assault Coalition Nicole Matthews (*White Earth Band of Ojibwe*) were also present for the signing of the bill and the first Task Force meeting.

After the bill signing, the first Task Force meeting included an activity to establish the Task Force's guiding values. The Task Force also created three subcommittees to guide their work – Data, Community, and Systems – as well as a Steering Committee to provide leadership to the Task Force.

Prior to the COVID pandemic, the Task Force had two additional in-person, full day meetings. The meeting on December 12, 2019, was hosted by the Mille Lacs Band of Ojibwe at Grand Casino Hinckley. At this meeting, Janell Twardowski from the Minnesota Bureau of Criminal Apprehension (BCA) presented about the BCA's missing persons clearinghouse. The Task Force also completed several activities and discussions to clarify and refine their common understanding of the MMIW injustice in Minnesota. Finally, the Task Force heard public comments from two individuals at this meeting.

The March 5, 2020, Task Force meeting was hosted by the Northwest Indian Community Development Center in Bemidji, Minnesota. At this meeting, the Task Force heard a presentation from Judge Marion Buller, the Chief Commissioner for the Canadian Inquiry into Missing and Murdered Indigenous Women and Girls. Wilder Research presented the preliminary results from the key informant interviews, and the Task Force completed discussions and activities to start to develop the mandates for their final report. Finally, the Task Force heard public comments from six individuals at this meeting.

There were two additional in-person public comment sessions, on February 22, 2020, at the Minnesota Indian Women's Resource Center in Minneapolis and on February 29, 2020, at the American Indian Community Housing Organization in Duluth. The public was also invited to submit comments through written letters, an online portal, and a telephone line until May 18, 2020.

During the period of October 2019 through March 2020, the Task Force's subcommittees were also meeting separately, both in-person and virtually, to discuss the specific issues that pertained to their group. Ms. Autumn facilitated these groups and Wilder Research staff took notes at the meetings.

Due to the COVID-19 pandemic, starting in spring 2020 we changed to virtual meetings for the remainder of the Task Force's work. In June and July 2020, DPS, Wilder Research, and Ms. Autumn collaborated to host weekly two-hour virtual meetings to review draft sections of the report and to learn more about specific topics from experts at various agencies around Minnesota. The meeting dates, topics, and presenters were:

- ▶ 6/10/2020: Tribal-county relationships (presenter: Bonnie Clairmont, Victim Advocacy Specialist with the Tribal Law and Policy Institute)
- ▶ 6/17/2020: Response to violence and suspected trafficking/exploitation (presenters: Leah Lutz, Independent Consultant, and Caroline Palmer, Director, Minnesota Department of Health Safe Harbor Program)

- ▶ 6/24/2020: Prosecution and sentencing of offenders of violence against Indigenous women (presenter: Deidre Aanstad, Assistant United States Attorney and Tribal Liaison in the U.S. Attorney’s Office in the District of Minnesota and a MMIW Task Force member)
- ▶ 7/8/2020: Foster care/child welfare (presenter: Sarah Ladd, Human Trafficking Child Protection Coordinator at the Minnesota Department of Human Services)
- ▶ 7/15/2020: Law enforcement investigation of missing persons and suspicious deaths (presenters: SSA Ricky Wuori and ASAIC Don Newhouse from the Minnesota Bureau of Criminal Apprehension’s Bemidji Office)
- ▶ 7/22/2020: Coroner/medical examiner process for identifying victims (presenters: Dr. Quinn Strobl, Director of the Midwest Medical Examiner’s Office)

On September 17, 2020, the full Task Force met virtually to review the full report and provide additional feedback on the mandates. Mr. Perrote and Ms. Autumn facilitated follow-up conversations with Task Force members to obtain feedback on the remaining mandates that were not discussed at the meeting. Wilder Research incorporated the feedback into the final draft report, which was presented to Commissioner Harrington of the Department of Public Safety in October 2020. After that review, the Task Force met on November 12, 2020, to approve the final report and mandates.

The Steering Committee was made up of the Chairs, Vice-Chair, and Chairs of each of the subcommittees to help support and guide the work of the Task Force. The Steering Committee also helped provide and guide the work of DPS staff and consultants. Finally, they also provided leadership for the Task Force. The Steering Committee met monthly, starting after the first full meeting in September, throughout the life of the Task Force.

Throughout this work, DPS and Wilder Research maintained communication with Task Force members via email and Dropbox (online file access) maintained by DPS. We saved meeting notes, documents in progress, reports, and interview transcripts in this Dropbox location for all Task Force members to access and use.

Overall, the activities and processes used by the Task Force throughout the past 16 months were designed to ensure that we identified the most critical issues that contribute to the MMIW injustice in Minnesota. We also prioritized the solutions that are most likely to successfully address the problems and ultimately reduce or eliminate the MMIW injustice in Minnesota. The Task Force’s ideas about the MMIW injustice and solutions were vetted with experts across Minnesota’s state agencies and other key stakeholders.

## Key informants

<p><b>Annita Lucchesi</b> Executive Director, Sovereign Bodies Institute</p>	<p><b>LeAnn Littlewolf</b> Economic Development Director, American Indian Community Housing Organization (AICHO)</p>
<p><b>Beatriz Menanteau</b> Violence Prevention Programs Unit Supervisor, Minnesota Department of Health</p>	<p><b>Lenny Hayes</b> Executive Director and Mental Health Specialist, Tate Topa Consulting, National Indigenous Women's Resource Center</p>
<p><b>B.J. Spamer</b> Executive Director, National Missing and Unidentified Persons System (NamUs)</p>	<p><b>Lori Paul</b> Communications and Programming Developer, Breaking Free</p>
<p><b>Bonnie Clairmont</b> Victim Advocacy Specialist, Tribal Law and Policy Institute</p>	<p><b>Mak Miller Tanner</b> Advocate, Program for Aid to Victims of Sexual Assault (PAVSA), Duluth</p>
<p><b>Bridget Perrier</b> Founding Member, Sex Trade 101 and Canadian Coordinator, Space International</p>	<p><b>Marcia Kitto</b> Sexual Abuse Advocate, Fond du Lac Human Services Division</p>
<p><b>Carol LaFleur</b> American Indian Outreach Coordinator, Metro Transit Police Department</p>	<p><b>Mike Martin</b> Undersheriff of Regional Services, Ramsey County</p>
<p><b>Caroline Palmer</b> Safe Harbor Director, Minnesota Department of Health</p>	<p><b>Pat Eliason</b> Sheriff, Cook County</p>
<p><b>Deena McMahon</b> Social Worker, McMahon Counseling and Consulting Services</p>	<p><b>Patina Park</b> Director, Tribal State Relations and Systems Implementation, State of Minnesota</p>
<p><b>Holly Henning</b> Residential Director, Ain Dah Yung Center</p>	<p><b>Paula Morton</b> Advocate (retired)</p>
<p><b>Jessica Fralich</b> Assistant County Attorney, St. Louis County</p>	<p><b>Rebecca St. George</b> (former) Staff Attorney, Fond du Lac Band of Lake Superior Chippewa</p>
<p><b>Joy Friedman</b> Domestic and Sexual Violence Advocate, Minnesota Indian Women's Resource Center</p>	<p><b>Ryan Fisher</b> Criminal Investigator, Cass County Sheriff's Office</p>

## Key informants (continued)

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<b>Katie Johnston-Goodstar</b> Associate Professor; Director of Undergraduate Studies, UMN School of Social Work	<b>Sarah Curtiss</b> Co-Executive Director, Men as Peacemakers
<b>Kerry Kolodge</b> Police Detective (retired), Duluth Police Department	<b>Sandra Davidson</b> Advocate (retired)
<b>Korina Barry</b> Director of Outreach, UMN Center for Advanced Studies in Child Welfare	<b>Sarah Deer</b> Professor, University of Kansas
<b>Laura Gapske</b> Program Director, Forensic interviewer and Trainer, First Witness Child Advocacy Center	<b>Shannon Smith</b> Executive Director, Indian Child Welfare Act Law Center
<b>Laura Martin</b> Associate Professor, UMN School of Nursing	<b>Suzanne Koeplinger</b> Director, Catalyst Initiative, Minneapolis Foundation

## Key informant interview script

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### Key Informant Interview Questions for Task Force on Missing and Murdered Indigenous Women

Wilder was contracted by the Minnesota Department of Public Safety to provide research and report writing for the Task Force on Missing and Murdered Indigenous Women. As a part of this project, we are interviewing experts who work in one or more areas that are related to Indigenous women who experience violence, go missing, or are murdered. You were identified as someone who we should interview.

This interview is voluntary. Your decision of whether or not to participate will not affect your relationship with the Minnesota Department of Public Safety, the MMIW Task Force, or Wilder Research. We would like to identify you as an expert who we interviewed, and we may want to share some quotes from your interview. You can let me know if there are any parts of your interview that you want us to keep confidential by not attributing your name to any particular response. The interview will take about 30 minutes to one hour, depending on how much you have to say. You do not have to answer any questions you do not want to answer. Are you willing to participate?

Your interview responses will be combined with the responses from other experts plus data from other sources that will be used to help the MMIW Task Force develop their

recommendations for the Minnesota Legislature. The report will be submitted in December 2020, and you can opt in to receive the final report if you want. More information about the MMIW Task Force can be found on the Minnesota Department of Public Safety's website.

Do you have any questions before I begin?

1. First, what is your position and role within your organization? How does your work, volunteer or life experience touch on the topic of MMIW?
2. Are there geographic area(s) or communities where you are familiar with MMIW issues?
3. What do you think are the root causes of why Indigenous women and girls are more likely to experience violence, go missing, and be murdered?

The next few questions are about gaps or problems in the part of the system you are familiar with (e.g., law enforcement, advocacy, courts, hospitals/health care, child welfare system, etc.)

4. What are potential policies or practices within the systems you are familiar with that may harm Indigenous women and girls or increase their vulnerability to violence?
5. What gaps or problems do you see in how data is collected, disseminated, or acted upon?
6. When Indigenous women and girls go missing, what contributes to them not being found and cases not being investigated or resolved? In cases where women are murdered, what contributes to offenders not being prosecuted or sentenced?
7. In what types of situations have you witnessed challenges because of jurisdictional limitations or strained relationships with other jurisdictions?
8. What types of community resources are missing or in shortage that might be beneficial to victims and their families and promote healing?
9. Which systems or institutions are responsible for preventing violence against Native women and girls? What is their role in prevention?
10. What training or educational opportunities would be beneficial in the department or system in which you work or are familiar?

11. What types of messages should public awareness campaigns spread, and to whom should these campaigns target?
12. What are some of the key efforts you or others who you are aware of doing in this area that are working really well? What kinds of positive impacts or outcomes have you observed as a result of these efforts?
13. The Task Force on Murdered and Missing Indigenous Women will submit a report with recommendations to the Minnesota Legislature in December 2020. What do you think are the strongest recommendations that the Task Force should include in their report?
  - a. (if needed) clarify which problem(s) this recommendation will address
  - b. Is this a solution specific to MN or generic? Find out as much as possible about the specific policy, etc. that is in question.
  - c. Why? What would the impact be if this recommendation was implemented?
  - d. Are there recommendations that you would not sign off on or can't see supporting? Why?
14. What are the longer-term goals that the MMIW Task Force and the Minnesota Legislature should consider or pursue, if any, after this initial Task Force report is submitted to the Minnesota Legislature in December 2020?
15. Is there anything else you want to add that we didn't ask you about?
16. Is it OK if we contact you again if we have any follow-up questions?
17. Would you like to receive the final report? If yes, email address we should send the report to:

Optional questions to add:

Advocacy/Community Org/Research:

What do you see as the impact of this issue on Indigenous communities?

Data:

What databases or data sources are familiar to you?

What are barriers, if any, to cross-jurisdictional data sharing?

Law Enforcement:

What do you think the role of law enforcement is or should be in preventing MMIW?

What are some of the biggest challenges in working across agencies or jurisdictions when investigating a missing or murdered case?

Courts/Attorneys:

What do you think the role of the court or judicial system is or should be in preventing MMIW?

What laws or policies are barriers to victims and their families seeking justice?

Child Welfare:

What do you think the role of the child welfare system is or should be in preventing MMIW?

What do you think the child welfare system can do differently to keep children safe?

What types of services or resources do you think would be beneficial to children with risk factors for violence or trafficking?

Health Care:

What do you think the role of the health care responders is or should be in preventing MMIW?

What are the biggest challenges when working with other systems (law enforcement? advocacy groups?)

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