

Murdered & Missing Indigenous Women in Montana

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Overview

The Missing and Murdered Indigenous Women (MMIW) crisis is one of the most prevalent problems plaguing the native communities across the country and in Montana. From Selena Not Afraid to Ashley Heavyrunner Loring, the MMIW crisis has taken the lives of 200 women in Montana since 2000¹. Indigenous women from native communities in particular are abused, abducted and murdered at alarming rates. A study done by the National Congress of American Indians found that 84.3% of American Indian and Alaska Native women have experienced violence, 56.1% have experienced sexual violence, and 48.8% have been victims of stalking. In some counties in the United States, indigenous women are murdered at 10 times the national average².

Although the MMIW issue exists throughout the nation, it is particularly acute in Montana. Montana is currently ranked number five on the lists of U.S. states that have the most MMIW cases and the largest Native American populations³. Almost every indigenous person in Montana living on tribal land knows a friend, relative, or community member who has lost a loved one to the MMIW crisis. Native Americans constitute 6.7% of the state population, but account for 26% of Montana's missing persons cases⁴. Due to jurisdictional and response problems, many of the MMIW families search relentlessly on their own - and at their own expense - to find their missing relatives. Very few of these families ever receive justice. This paper explores this issue through identifying the root and indirect causes, response problems, and

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https://billingsgazette.com/news/state-and-regional/mmiw/families-investigators-struggle-to-track-down-missing-native-women/article_3fee49c9-913a-593d-96e3-14d03a781caa.html

2 http://www.ncai.org/policy-research-center/research-data/prc-publications/VAWA_Data_Brief_FINAL_2_1_2018.pdf

3 <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>

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https://billingsgazette.com/news/state-and-regional/mmiw/families-investigators-struggle-to-track-down-missing-native-women/article_3fee49c9-913a-593d-96e3-14d03a781caa.html

existing initiatives to combat the MMIW crisis in Montana. We hope this paper will help educate the reader about the issue and direct potential donors to the most effective MMIW efforts.

Root/Indirect Causes of MMIW

There are many reasons why Native communities are plagued with MMIW. The high rates of abuse against women and children manifest from historical and systemic oppression and inequality against indigenous people as a whole. However, the result of these inequalities is exacerbated when it comes to women in particular. Since the inception of the United States, there has been violence against indigenous women. Colonialism, jurisdictional issues and government apathy have all played a part, but the most detrimental policies have been at the hands of the U.S. federal government. These policies resulted in attempted cultural persecution, which have devalued the role indigenous women serve.

Historically, although women didn't necessarily hold chieftain positions, they did play an integral role in the daily lives of their people. In many tribes, the input of women in decision-making processes, whether it was social or political, often determined the outcome of those decisions. However, because of the continual failure of society to address women's issues and the federal government's inability to address colonialism, the rates at which violence and abuse occur against women in Indian Country are some of the highest in the country.

Tribal sovereignty plays a critical role in the MMIW crisis. Tribal sovereignty refers to the right of tribes to govern themselves. The intent is for tribes to form their own governments and control their own destinies. However, tribes' sovereign rights continue to be attacked by the federal and state governments and impact tribes as a whole, and indigenous women in particular. Between U.S. Supreme Court cases to congressional legislation, the fate of women's lives often lies in whether tribal sovereignty is respected. Dr. Elizabeth Rule stated, "Any policy, attitude or

practice that minimizes tribal sovereignty and tribes' abilities to carry out cultural practices or traditions ultimately hurts the MMIW cause.”

In the state of Montana, there are eight federally recognized Indian tribes. They are:

- Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation
- Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
- Chippewa-Cree Indians of the Rocky Boy's Reservation
- Confederated Salish and Kootenai Tribes of the Flathead Reservation
- Crow Tribe of Montana
- Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Little Shell
- Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation

Each tribe is a sovereign nation, but jurisdiction is dependent on whether the tribe is a Public Law 83-280 (PL-280) tribe. PL-280 does two key things:

1. Grants legal authority from the federal government to state governments
2. Permits states other than Alaska, Oregon, Minnesota, California and Wisconsin to acquire jurisdiction at their option.

If a tribe is a PL280 tribe, it changes the division of legal authority among tribal, federal, and state governments. For example, the Confederated Salish and Kootenai Tribes is a PL280 Tribe, allowing law enforcement other than tribal police to have the authority to police the reservation.

Secondly, *Oliphant v. Suquamish*⁵, a landmark U.S. Supreme Court case, also plays a critical role in the MMIW crisis. The court case negatively impacts tribal communities across the nation, as the ruling determines that tribes have no inherent criminal jurisdiction over non-Natives on tribal lands. Practically, this means tribal governments have no criminal jurisdictional rights over non-Native perpetrators who commit crimes within reservation boundaries and essentially diminishes tribal sovereignty and a tribe's abilities to seek justice for violence against women and children.

Responsive Issues

MMIW is an issue that is difficult to combat not only because it is a result of systemic oppression of indigenous people as a whole, but because the attempt to address this issue comes after an indigenous woman or girl has already been victimized. For example, the bill, Hanna's Act, was passed by the Montana State Legislature⁶ to commemorate Hanna Harris. Hanna was a 21-year-old woman, who just days after her disappearance, was found murdered in a rodeo arena on the Northern Cheyenne Indian Reservation. The legislation established and funded a specialist position at the Montana Department of Justice focusing solely on missing persons' cases. Before Hanna's Act, there were no such personnel focused exclusively on MMIW.

Unfortunately, solutions to address the MMIW crisis are almost always reactive rather than proactive. The reactive solutions come at the expense of another tragic incident of an indigenous woman disappearing or getting murdered. Instead, proactive solutions to address MMIW are imperative to ensuring that answers and a just process is provided to victims and their families of this crisis. Overall, to truly address this issue for the betterment of Indian

⁵ <https://www.oyez.org/cases/1977/76-5729>.

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https://helenair.com/news/state-and-regional/govt-and-politics/a-bill-of-life-and-death-legislature-passes-hannas-act/article_7cdda020-3710-5303-8979-758755d86814.html

Country, the intent needs to shift away from reactive solutions like the Savannah's Act that are a result of missing and murdered indigenous women. Instead, we need to focus on preemptive solutions in which resources are provided and do not detract from finding and providing justice to missing or murdered Native women.

Further complicating the issue of MMIW is jurisdictional authority. The confusion surrounding jurisdiction is not only unfortunate, but the fact that tribes are unable to safely protect their own people is a primary reason for the MMIW crisis. The complications and barriers that come with jurisdictional confusion is the dependence on federal laws, such as Public Law 280, as stated above. If a missing-person case occurs within a PL280 state or tribe, the federal government assumes jurisdiction.

When an individual goes missing, a variety of questions arise such as:

- Where did they go missing?
- Did this occur within reservation boundaries or off?
- Who do we call? Outside law enforcement agencies or tribal law enforcement?

Furthermore, the complications deepen if the perpetrator is non-Native. The different laws for different crimes, where it occurred (on a reservation or not), and whether a tribal member is the victim or perpetrator make for a complicated web of overlapping authority with no clear path to get help.

The lack of action by law enforcement is a major problem in addressing the MMIW crisis. More often than not, police fail to effectively investigate missing person's reports due to apathy and departments that are stretched thin. When an indigenous woman goes missing, police are often apathetic to the situation, which results in the prolonged disappearance of women or worse, murder.

Moreover, the reality of law enforcement apathy leads to many murdered and missing persons cases in Montana, such as the instance with the late Selena Not Afraid. In an interview with Cheryl Horn, aunt of the late Selena Not Afraid, she stressed to us that the Bighorn County Law Enforcement essentially did nothing to help. She told us that nobody other than herself, family members and local volunteers were sprawled across the fields off the freeway - with no law enforcement. Just them. We also got to talk to Mary Kathryn Nagle, a Cherokee attorney who represents families affected by MMIW. She stated that the lack of accountability by law enforcement and the U.S. The Federal Bureau of Investigation (FBI) should have investigated murders, but they're far too often indifferent to MMIW cases.

Existing Initiatives

Although there is a general lack of institutional support for MMIW families in Montana, there are a number of existing state and federal programs that aim to combat the MMIW crisis.

Operation Lady Justice

President Trump's Executive Order 13898 is the most prominent national initiative that addresses MMIW. It was enacted on November 26, 2019 and includes best practices for MMIW cases, aims to improve databases that collect missing persons reports, establishes teams to review cold MMIW cases, and facilitates communication and collaboration between local, state, and federal authorities.

Independent National Organizations

These organizations aim to address the MMIW crisis through documenting previous MMIW cases and combating the underlying issues that harm Native communities.

- Sovereign Bodies Institute creates comprehensive databases of all the missing and murdered Native women in the United States
- One Sky Center works to improve health care in Native communities
- WeRNative provides mental health resources for youth
- StrongHearts is a Native helpline for domestic and relationship violence

MMIP Initiative

Also known as Attorney General William Barr’s Missing and Murdered Indigenous Persons (MMIP) Initiative, this effort is the most effective state program concerning the MMIW crisis. This program was enacted on November 22, 2019 and aims to develop common protocols for responding to missing and murdered indigenous cases in 11 states— Alaska, Arizona, Montana, Oklahoma, Michigan, Utah, Nevada, Minnesota, Oregon, New Mexico, and Washington State. The aim is to allow local and state law enforcement to access FBI services and teams and improve the data collection and analysis of missing persons reports.

Montana Department of Justice Report

A report that details the best practices for state law enforcement to combat MMIW in Montana.

- Published to the Montana Legislature’s State-Tribal Relations Interim Committee on September 1, 2020
- Aims to examine the best ways to improve collaboration and communication between local, state, and federal authorities
- Details the goals of the Montana Missing Indigenous Persons Task Force

Independent State Resources

Mainly focused on raising awareness for MMIW in Montana and assisting women in Native communities.

- Montana Missing and Murdered Indigenous People holds educational outreach sessions
- Montana Native Women's Coalition works with local Native American leaders to access and distribute state and federal funding for Native women and tribal programs

Montana Legislation

The Montana Legislature has made significant strides in the past few years by allowing tribes and law enforcement in Montana to gain more autonomy and clarity when investigating MMIW cases.

- HB21 Hanna's Act established a missing persons specialist position to work closely with tribal, state, and federal authorities while investigating MMIW cases
- HB20 Missing Children allows police officers to file missing persons reports for children who have been taken by their parents and House Bill 54 extends the roles of law enforcement officers to allow every law enforcement official in Montana to file missing persons reports
- HB54 Missing Persons extends the roles of law enforcement officers to allow every law enforcement official in Montana to file missing persons reports

Proposed Solutions

The MMIW initiative could benefit from the following three solutions:

- Funding family-led community searches
- Giving resources to state and federal MMIW organizations

- And providing education about MMIW to law enforcement and people in Native communities where MMIW is the most prevalent.

First, community searches have proven effective at finding witnesses, evidence, and information about the victim and perpetrator when law enforcement has failed. Most MMIW searches are family-led, which means that family members of the victim gather together and search around the premises where the victim was last seen. Oftentimes, they search for weeks and quickly run out of supplies or money. Currently, there are no organizations that give money directly to family-led community searches, so money comes directly from the pockets of MMIW families.

Community searches are not financially sustainable for families (nor good public policy), but they often do find critical details about the missing victims. For instance, when Selena Not Afraid — a 16-year-old from the Crow Reservation — went missing on January 1, 2020, her aunt, Cheryl Horn, started leading community searches to find her niece. Horn told us that they found the last people that Selena Not Afraid talked to before she went missing and the perpetrator's car during these searches. In other searches, families of MMIW have found the victim's last location, perpetrators, and critical witnesses.

Furthermore, community searches allow families of MMIW to actively participate in the search for their loved ones when they feel that law enforcement has been apathetic, negligent or both. Whenever there are legal technicalities — such as when the police cannot investigate if the reported missing person is above the age of 18 — families can still be productive and lead valuable community searches.

Donors can play a significant and impactful role in assisting families searching for missing persons. Donors and nonprofit organizations can help combat the epidemic by donating

to programs that directly help victims and families of MMIW. After discussions with legislators, attorneys, and MMIW families, we have concluded that the following organizations are among the most effective positive contributors to the MMIW crisis in Montana and the nation:

Sovereign Bodies Institute, Urban Indian Health Institute, National Indigenous Women's Research Center, and the Lifeguard Group in Missoula. The initiatives of these organizations are listed below.

The Sovereign Bodies Institute

Main objective is to educate people about how Native communities experience violence and provide solutions to existing problems through projects and research.

- Documents MMIW in a holistic database from the 1900s to the present.
- Leads research on other social justice issues that Native people face such as Uniting Against Femicide and Mapping Against Man Camps

The Urban Indian Health Institute

Aims to document the barriers to healthcare that Indigenous people face and collect accurate data about Native communities.

- Studies the disparities between health resources for Native people and non-Native people
- Projects and reports include Our Bodies, Our Stories project and the MMIWG (murdered, missing indigenous women and girls): We Demand More research report.

The National Indigenous Women's Research Center

Focuses on providing resources for Indigenous women who have experienced violence.

- Provides resources for domestic violence victims
- Hosts advocacy workshops

- Spreads MMIW awareness through the media

The Lifeguard Group

Targets sex trafficking in Montana through awareness and education.

- Provides educational seminars for children in schools
- Gives mental and physical health resources to victims of sex trafficking
- Helps victims access safe shelters

The solutions for combating MMIW are education, effective collaboration and cross-jurisdictional communication. First, widespread and accurate education about the MMIW crisis is critical. The active neglect, discrimination and apathy about the MMIW epidemic keeps it not only invisible but intangible for those outside tribal communities. Furthermore, there are not enough economic resources for education, training, and awareness of MMIW that other sectors of society have. Agencies aimed at improving not only tracking, but also budgeting and educational efforts specific to MMIW, will lead to collaboration and better communication.

Conclusion

Ultimately, to combat the seemingly invisible MMIW epidemic, there must be a **collaborative approach** from tribal communities, law enforcement and the federal and state government. They must **work together** to provide solutions and deliver equitable resources for MMIW. They must do so with a respect and an **emphasis on tribal sovereignty**. In Montana, and beyond, **donations** to organizations directly combating MMIW will ultimately bring the visibility and aid this crisis so urgently needs.

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