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DRAFT

Prepared by Hope Stockwell  
for the State-Tribal Relations Committee

## **FINAL REPORT TO THE 66<sup>TH</sup> MONTANA LEGISLATURE**

# **ADDRESSING AN EPIDEMIC: MISSING AND MURDERED INDIAN WOMEN**

**DRAFT**

# STATE-TRIBAL RELATIONS COMMITTEE

## MEMBERS

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the State-Tribal Relations Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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**This report is a summary of the 2017-2018 interim work of the State-Tribal Relations Committee,** specific to missing persons, human trafficking, and violence against women in Indian Country. In its 2017-2018 [work plan](#), the committee initially expressed interest in receiving overviews and updates on the topics. But as the interim evolved, the committee spent significant time learning about them and related enforcement and jurisdictional issues. Members received additional information and public testimony on the subjects, and this report is an effort to highlight key information and the processes followed by the committee in reaching its conclusions. To review additional information, including audio minutes, and exhibits, visit the committee website: <http://leg.mt.gov/tribal>.

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## INTRODUCTION

The interrelated topics of [missing persons](#), [human trafficking](#), and [violence against women](#) in Indian Country weighed heavily on the State-Tribal Relations Committee during the 2017-2018 interim.

The data paint a grim picture. According to the U.S. Bureau of Justice Statistics, nearly 37 percent of American Indians were victims of violence in 2016 compared to 21 percent of Americans overall. The 2010 National Intimate Partner and Sexual Violence Survey found nearly 27 percent of American Indian and Alaska Native women are raped in their lifetime compared to 18 percent of American women overall.

While about 6.7 percent of Montana's population identifies as American Indian, 25 percent of persons reported missing in the state as of August 6, 2018, were American Indian. The percentage is higher for children at 37 percent. For women and girls, it is 30 percent.

Reliable nationwide data are unavailable. A doctoral student at the University of Lethbridge compiling data on the number of missing and murdered Indigenous women in the U.S. and Canada documented 60 such cases in Montana between 1979 and 2018. More than half of the cases she found (35) occurred in the last 5 years, likely due to the rise in the use of social media to get word out about individual missing persons.

Although the STRC did not embark on a formal study of missing persons, human trafficking, and violence against women in Indian Country, the committee spent a significant amount of time discussing these topics, particularly missing persons (on which this report is focused) after hearing anecdotal reports about law enforcement responses that are perceived to be slow or inadequate, confusion in determining jurisdiction, and the inability of an agency to respond depending on the perpetrator and where the offense took place.

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# ADDRESSING A CRISIS

## HANNA HARRIS

The STRC met on the Northern Cheyenne Reservation in September 2017 in the town of Lame Deer where 21-year-old Hanna Harris was reported missing and found murdered in July 2013. Her mother, Malinda Limberhand, was unable to speak with the committee. Committee member Representative Rae Peppers, whose district includes the Northern Cheyenne Reservation, spoke in her stead.

Harris' family found her body near the rodeo grounds four days after she went missing on July 4, 2013. Peppers told the STRC the family felt the police department, tribe, and others did not take the report of Harris' disappearance seriously.

Peppers said Ms. Limberhand did not want a case like Hanna's to happen again. Peppers urged the committee to take up the fight, calling the incidence of missing and murdered women in Indian Country "an epidemic".



## MONTANA RESOURCES

In August 2017, at the request of STRC Vice Chair Alan Doane, the Montana Department of Justice (DOJ) compiled a [list](#) of programs and services related to missing and endangered persons in Montana.

### Criminal Justice Information Network

The Criminal Justice Information Network (CJIN) at the DOJ's Division of Criminal Investigation serves as the state link to the FBI's National Crime Information Center (NCIC) and the International Justice and Public Safety Network. CJIN collects, stores, and disseminates criminal records, fingerprint information, driver's records, and other sensitive law enforcement information, as well as serving as the data entry point for police agencies to enter reports of missing children and adults. CJIN's responsibilities include managing the Montana Missing Persons Clearinghouse and issuing AMBER Alert notifications.

Law enforcement agencies with CJIN computer terminals in their offices can enter missing person reports into the national NCIC database, which automatically alerts the Montana Missing Persons Clearinghouse of the case. Agencies without CJIN access can ask supporting agencies to enter the information for them.

Except for Fort Belknap, all of the reservations in Montana have a CJIN terminal. Rocky Boy's was the most recent addition in April 2018.



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# ADDRESSING A CRISIS

## Montana Missing Persons Clearinghouse

Created by the state's Missing Children Act of 1985, the [Montana Missing Persons Clearinghouse](#) is a central hub for information that helps law enforcement agencies in several ways by:



- monitoring Montana law enforcement agency entries into state and national missing persons databases;
- assisting in the identification of missing and unidentified persons;
- providing general assistance and information to the public concerning missing persons;
- working with the National Center for Missing and Exploited Children and National Missing and Unidentified Person System;
- working with other state missing person clearinghouses to aid in locating children unlawfully taken out of or brought into Montana;
- maintaining an online database of missing persons in Montana to ensure that K-12 schools are aware of school-age children who are missing; and
- responding to requests from the U.S. Department of State regarding children taken from or to, foreign countries, often in child custody disputes.

## Missing Persons Website


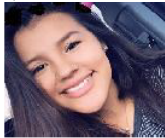
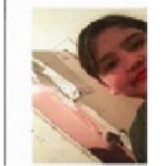

In 2008, the DOJ implemented a missing persons database and [website](#), which provides up-to-date, searchable information to the public on missing persons. The public may also report a sighting of or contact with a missing person through the website.

CJIN routinely posts reports of missing children to the website, which the Office of Public Instruction (OPI) uses to provide a monthly list of missing children to school districts. Districts refer to the list and website when registering children for classes. Districts are required to report any contact with missing children to law enforcement.

The DOJ says OPI is very supportive of and helpful in the process of finding missing children. School personnel sometimes send the clearinghouse a more recent photograph of a missing child or notify the clearinghouse that a missing child is currently in school, allowing law enforcement to respond.

# ADDRESSING A CRISIS

## Missing School Age Children Sample Screenshot August 7, 2018

	<b>Name: STRINGFIELD, TRENTON BRIAN</b> <b>DOB:</b> 10/16/2001 <b>Age:</b> 16 <b>Gender:</b> Male <b>Race:</b> White <b>Last seen:</b> 6/3/2018 <b>Days Missing:</b> 59 <b>Investigating Agency:</b> Kalispell Police Department (406) 758-7780		<b>Name: WILSON, MILDUS KANDEE</b> <b>DOB:</b> 1/17/2002 <b>Age:</b> 16 <b>Gender:</b> Female <b>Race:</b> Native American <b>Last seen:</b> 6/4/2018 <b>Days Missing:</b> 58 <b>Investigating Agency:</b> Billings Police Department (406) 657-8461
	<b>Name: WHITEWOLF, AUTUMN ROSE</b> <b>DOB:</b> 10/16/2003 <b>Age:</b> 14 <b>Gender:</b> Female <b>Race:</b> Native American <b>Last seen:</b> 5/26/2018 <b>Days Missing:</b> 67 <b>Investigating Agency:</b> Big Horn County Sheriff (406) 665-9780		<b>Name: YOUNGRUNNINGCRANE, SHEYELYNNE</b> <b>DOB:</b> 9/25/2007 <b>Age:</b> 10 <b>Gender:</b> Female <b>Race:</b> Native American <b>Last seen:</b> 6/6/2018 <b>Days Missing:</b> 56 <b>Investigating Agency:</b> Great Falls Police Department (406) 771-1180

## AMBER Alerts

The DOJ established Montana's [AMBER Alert program](#) in 2003. AMBER Alerts provide public notifications about children abducted under life-threatening circumstances. CJIN staff launch an AMBER Alert when requested by a law enforcement agency and the following criteria are met:



- There is a reasonable belief by law enforcement that a child was abducted or disappeared under suspicious circumstances.
- The investigating law enforcement agency believes the child is in imminent danger of serious bodily injury or death.
- The missing child is 17 years of age or younger or has a proven mental or physical disability.
- The investigating law enforcement agency must provide enough descriptive information about the victim and circumstances of the abduction for the AMBER Alert to be activated.
- The child's name and other critical data elements are entered into the National Crime Information Center database.

## Missing and Endangered Persons Advisories

If the situation does not meet the criteria for an AMBER Alert, but there is reason to believe a missing person is in danger, the DOJ can issue a Missing and Endangered Person Advisory (MEPA), which is a public notification but not as widespread as an AMBER Alert.

Launched in 2008, a MEPA allows law enforcement agencies to quickly get the word out to the public and to other agencies around the state and region about a missing person. MEPA guidelines call for a local agency to first determine whether the case is appropriate for an AMBER Alert. If not, the agency can request a MEPA.

The DOJ issues MEPAs through the National Weather Service (NWS), the DOJ missing persons website, and Montana Lottery terminals. Media – either in a specific region or statewide – are notified via the NWS or

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# ADDRESSING A CRISIS

by e-mail or fax. The requesting agency may also decide to send the advisory to border ports of entry or other public agencies.

If the missing person is under age 21, the National Center for Missing and Exploited Children is also notified.

The public can receive MEPAs and AMBER alerts and updates on their cell phones by signing up for the free CodeRED application at <https://www.onsolve.com/solutions/products/codered/mobile-alert-app/codered-mobile-apps-download/>.

## Children in Foster Care

The Department of Public Health and Human Services Child and Family Services Division (CFSD) is required to report when a child in the state foster care system goes missing. This includes children missing from tribal lands or American Indian children placed in homes off tribal lands. The report is filed with CFSD's centralized intake system and law enforcement agencies with jurisdiction.

The DOJ assists CFSD in locating missing children and has an ombudsman who may collect information. The ombudsman maintains records of the children reported missing from CFSD and the outcome of each case.

## Gaps in Programs and Services

In compiling its list of missing persons programs and services, the DOJ also identified some gaps, which it presented to the STRC at its March 2018 meeting.

The DOJ recommends the following:

- clarifying that the DOJ has authority to assist with cases of missing adults, not just children, since the clearinghouse was originally implemented as part of the Missing Child Act of 1985 but now handles cases involving persons of all ages;
- increasing public outreach efforts, such as reminding parents not to delay in calling 9-1-1 when a child goes missing;
- creating a central repository of school photos that can be given to law enforcement when a child goes missing;
- clarifying that the first law enforcement agency to receive a missing persons report must take the report;
- requiring a missing child report to be filed in custodial interference cases when the whereabouts of the child are unknown;
- finding a way to break the runaway cycle; and
- establishing a missing persons specialist at the DOJ to assist law enforcement and families in navigating investigations.

## LEGISLATIVE PROPOSALS

In response, the STRC worked with the DOJ to develop the following legislative proposals:

- [LCdoj1](#) - authorizing the Department of Justice to assist with all missing persons cases. This proposal also includes the creation of a missing persons specialist at the DOJ, whose responsibilities include working with all law enforcement authorities and families, overseeing entries into the National Crime Information Center database, managing the state database and website, and providing public outreach and education. The specialist would be required to complete cultural competency training. At the request of Rep. Peppers, the STRC designated this proposal as “Hanna’s Act”.
- [LCdoj2](#) – requiring all law enforcement authorities to accept a missing persons report and revising requirements for the report of missing children. The DOJ researched statutes in several other states to devise the language requiring all law enforcement agencies to accept a missing persons report without delay. The proposal allows for exceptions for extenuating circumstances.
- [LCdoj3](#) - a resolution requesting an interim study of options to break the cycle of youth who run away from home. According to data from the DOJ, 28 percent of the 68 youth reported missing three or more times in 2017 were American Indian.
- [LCdoj4](#) - requiring a missing child report to be filed in custodial interference cases when the whereabouts of the child are unknown; and
- [LCFOT2](#) - requiring the Office of Public Instruction to establish an electronic repository for school photos of children whose parents give permission for the photo to be held and shared with law enforcement if the child goes missing. OPI provided a description of [fiscal impacts](#) and potential costs associated with LCFOT2 at the STRC’s July 2018 meeting.

The STRC will decide at its September 7 meeting which proposals, if any, to forward to the 2019 Legislature for consideration.

## FEDERAL PROPOSALS

The STRC tracked two pieces of related federal legislation during the 2017-2018 interim.

### S. 1870, The Survive Act

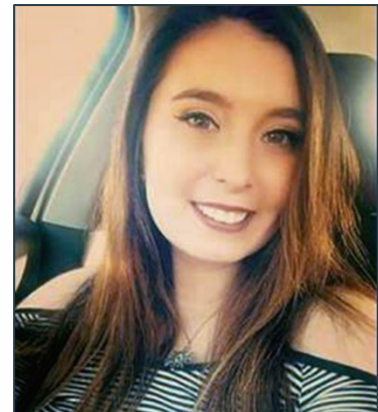
Sponsored by North Dakota U.S. Sen. John Hoeven, S. 1870, known as the Survive Act, would set aside 5 percent of the federal Crime Victims Fund to provide direct grants to tribally administered programs providing services like counseling and legal aid to crime victims. Currently, tribal programs must apply for funds through state grant programs.

The U.S. Senate Committee on Indian Affairs, chaired by Sen. Hoeven, heard S. 1870 on October 25, 2017, and passed it out of committee on December 6, 2017. The bill has yet to be heard by the full Senate.

In March 2018, Congress enacted the Consolidated Appropriations Act, 2018, which included a 3 percent set aside (\$133 million) from the Crime Victims Fund for tribal crime victim programs. Sen. Hoeven's office says he still supports S. 1870, because it contains a larger allocation and provides sideboards for use of the funding.

### S. 1942, Savanna's Act

Sponsored by North Dakota U.S. Sen. Heidi Heitkamp, S. 1942 is known as Savanna's Act, in memory of 22-year-old Savanna Greywind of Fargo, who was 8 months pregnant when her family reported her missing. Greywind died after being assaulted and having her baby removed from her womb. Kayakers found her body 8 days later in the Red River in nearby Moorhead, Minnesota.



S. 1942 directs the U.S. Attorney General to improve collection and sharing of data related to missing and murdered Indian women, including the addition of a field in the federal database to record the tribal enrollment or affiliation of a victim.

S. 1942 also requires the U.S. Attorney to:

- review existing law enforcement and justice protocols for missing and murdered Indians and to develop standardized, written protocols for the investigation of cases and the responsibilities of each federal partner;
- improve inter-jurisdictional cooperation and law enforcement response rates and case follow-up; and
- ensure that Indians and their families have access to victim services.

The U.S. Senate Committee on Indian Affairs also heard S. 1942 on October 25, 2017, but the committee has not taken any action. The STRC sent a [letter of support](#) for both pieces of legislation to U.S. Senate Majority Leader Mitch McConnell and Sen. Hoeven.



# ADDRESSING A CRISIS

## ENFORCEMENT

After hearing anecdotal reports about law enforcement responses that are perceived to be slow or inadequate, confusion in determining jurisdiction over a case, and the inability of an agency to respond depending on the perpetrator and where the offense took place, the STRC gathered state, tribal, and federal representatives at its meeting in Great Falls in May 2018 to discuss matters of jurisdiction and enforcement.

Participants included Montana Assistant Attorney General Melissa Schlichting, U.S. Attorney Kurt Alme, Assistant U.S. Attorney Jared Cobell, FBI Special Agent Travis Burrows, Fort Belknap Tribal Councilwoman Brandi King, Fort Belknap Victim Witness Specialist Fawn Williamson, and Maylinn Smith, co-director of the Margery Hunter Brown Indian Law Clinic at the University of Montana.



**BACKGROUND LEFT TO RIGHT: MELISSA SCHLICHTING, KURT ALME, JARED COBELL, MAYLINN SMITH, TRAVIS BURROWS, BRANDI KING, FAWN WILLIAMSON, REP. JAMES O'HARA, REP. RAE PEPPERS, LAURA SANKEY KEIP  
FOREGROUND LEFT TO RIGHT: SEN. STEVE HINEBAUCH, REP. ALAN DOANE  
GREAT FALLS, MAY 9, 2018**

Maylinn Smith summarized who has criminal jurisdiction in Indian Country, depending on the type of crime, where it was committed, and the race of the alleged perpetrator and the alleged victim.

# ADDRESSING A CRISIS

## Jurisdiction in Indian Country

(For Reservations Not Administered Under Public Law 280)

Alleged Perpetrator	Alleged Victim	Crime	Location	Jurisdiction
Indian	Indian	Enumerated/ felony	Indian Country	Tribal and Federal
Indian	Indian	Misdemeanor	Indian Country	Tribal only
Indian	Non-Indian	Enumerated/ Felony	Indian Country	Tribal and Federal
Indian	Non-Indian	Misdemeanor	Indian Country	Tribal only
Indian	Victimless	Misdemeanor	Indian Country	Tribal/Federal Assimilative crimes statute
Indian	Victimless	Enumerated/ Felony	Indian Country	Tribal/Federal
Non-Indian	Indian	Misdemeanor or enumerated/ felony	Indian Country	Federal only Unless VAWA requirements met
Non-Indian	Non-Indian	Misdemeanor or enumerated/ felony	Indian Country	State only
Indian/Non- Indian	Indian/Non-Indian	Misdemeanor or enumerated/ felony	Outside Indian Country	State only Unless is federal offense

The Bureau of Indian Affairs (BIA), which oversees and provides enforcement in Indian Country, was invited but did not attend the meeting. In response, the STRC voted in July 2018 to send a [letter](#) to the BIA urging it to better address myriad enforcement issues, ranging from improving coordination with state, federal, and tribal partners to increasing internal efficiency. At its May meeting, the STRC discussed how lengthy and delayed BIA hiring processes exacerbate reservation law enforcement vacancy rates, causing qualified candidates to drop out before positions can be filled. STRC members also said a BIA backlog for employee background checks compromises public safety.

In its letter, the STRC invited BIA District V Commander Doug Noseep in Billings to attend the STRC's September 2018 meeting in Helena.

Under the authority of the State-Tribal Cooperative Agreements Act, [18-11-101, et seq., MCA](#), the state entered into enforcement agreements with three tribal governments in Montana that expand state and local law enforcement agencies' authority to enforce laws within reservation boundaries. The details of each agreement are specific to negotiations with the particular tribe.

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# ADDRESSING A CRISIS

The [Blackfeet](#) agreement, signed in 2004, is limited to allowing Montana Highway Patrol officers to enforce traffic laws on roads within that reservation.

The [Confederated Salish and Kootenai Tribes](#) have a broader agreement with the state, Flathead, Missoula, and Sanders counties, and the municipalities of Hot Springs, Ronan, and St. Ignatius that allows the nearest officer, regardless of whether an alleged crime took place on or off tribal lands, to respond when serious circumstances do not first allow for the assessment of whether the persons involved are Indian or not. The agreement also allows all officers in these jurisdictions to issue citations to Indians and non-Indians for violations of traffic laws and laws regarding minors in possessions of alcohol. First signed in 1994, officials most recently renewed this agreement in 2015.

The [Fort Peck Executive Board](#) has the broadest agreement, signed in 2000. It cross-deputizes officers from the tribe, Wolf Point, Poplar, Roosevelt County, and the Montana Highway Patrol to cite and arrest Indians and non-Indians within the reservation's boundaries.

## CONCLUSIONS

...TBD...