



# Murdered and Missing Indigenous Relatives (MMIR) Task Force for the Utah Legislature

Policy, Best and Emerging Practices,  
and Current Issues in Utah

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## Executive summary

Indigenous relatives are disproportionately likely to experience violence, be murdered, or go missing compared to other demographic groups. In Utah, although they make up just 1.5% of the population, American Indian and Alaska Native relatives account for over 5% of all murder victims (Utah Department of Health and Human Services, 2023).

In 2020, the Utah Legislature created the Murdered and Missing Indigenous Women and Girls Task Force (renamed the Murdered and Missing Indigenous Relatives Task Force in 2023; MMIR; Utah H.B. 116, 2020; Utah H.B. 25, 2023). The Task Force’s responsibilities include conducting Tribal consultation on issues related to the MMIR injustice, developing model protocols and procedures, identifying best practices related to case investigation and prosecution, and conducting community education and outreach.

This report addresses nine key topics of relevance to murdered and missing Indigenous relatives which emerged throughout the research process:

1. Reporting and initial investigation of missing person cases
2. Communication and alert systems
3. Review and investigation of unresolved (“cold”) cases
4. Death investigation
5. Jurisdiction issues and government-to-government collaboration
6. Data issues
7. Victim and family services
8. Prevention
9. Media reporting

For each topic, the report presents major findings based on an analysis of the results from interviews with key informants, and listening sessions with family members of MMIR victims and community members in Utah; an inspection of existing federal and state legislation; and a review of relevant research literature. Based on these findings, the report:

- ▶ Describes the policy context, identifying laws relevant to murdered and missing Indigenous relatives
- ▶ Provides insight on best and emerging practices, including some protocols for effective investigations
- ▶ Identifies issues which affect missing persons and homicide investigations related to Native Americans in Utah
- ▶ Offers recommendations

This summary synthesizes the findings across topics and identifies common themes in the report. The full report provides more detailed information, including extensive references.

## Overarching themes

This summary presents the overarching themes that define and perpetuate MMIR injustice in Utah. These themes are based on a literature review, key informant interviews, and listening sessions with family members of Indigenous relatives who are missing or died by murder or other suspicious circumstances and other community members. Each section of the full report explores these issues in more depth.

### ***Gaps in established, trusting relationships***

Gaps in trusting relationships, between both Indigenous communities and law enforcement, and Tribal communities and the state of Utah, contribute to challenges in the reporting, investigation, and response to cases of MMIR.

Some Indigenous community members distrust law enforcement and believe (in some cases, based on prior negative experiences) that if they make a report to the police, it won't be taken seriously or acted upon. Distrustful community members may be less likely to report missing persons or crimes to law enforcement in a timely manner, if at all.

There are also some gaps in relationships between Tribes, the counties with which they share geography, and the state of Utah more broadly. These government-to-government relationships may be impacted by past or current jurisdictional issues and conflicts, individual interpersonal relationships or biases, or state- and national-level political events.

### ***Economic and social vulnerabilities increase risk and impact system response***

Indigenous relatives and others with economic and social vulnerabilities (including poverty, homelessness, substance use, mental health concerns, cultural and community disconnection, and generational trauma) are at increased risk of experiencing violence and exploitation, going missing, and being murdered. When individuals without close family and friends go missing, a missing person report may not be filed right away, or at all—which contributes to delays in their investigation. Their cases may be deprioritized by law enforcement without the pressure and attention from family and friends following up about their case.

### ***Lack of access to investigative resources***

There are gaps in access to investigative resources, expertise, personnel, and infrastructure in rural Utah, including some Tribal lands. Some law enforcement agencies struggle with having adequate staff capacity, or are stretched thin over vast geographic areas. This contributes to delays in response time. Investigative technology and training can be cost-prohibitive for some law enforcement agencies. Lack of cellphone infrastructure in rural areas of Utah, and Tribes' lack of direct access, inhibits the effectiveness of AMBER Alerts and other missing person alert systems in Utah.

## *Gaps in communication*

There is a need for more consistent and effective communication and information-sharing among law enforcement, victims, and their families; among law enforcement agencies; and among victim service providers. Some victims and families receive little or infrequent communication from law enforcement and prosecutors throughout the investigation and prosecution process. Families' needs and expectations may conflict with law enforcement's priorities to protect the integrity of the investigation.

There are gaps in communication and information-sharing across law enforcement jurisdictions in Utah. Improved communication is especially needed right away when a person goes missing—both to notify Tribal governments when a Tribal member or descendent goes missing off of Tribal lands, and to notify local and county law enforcement agencies when a person goes missing from Tribal lands. Increased communication may bolster the effectiveness of law enforcement's investigation, search, and recovery of missing persons.

Victims and their families may encounter multiple victim service providers and advocates throughout the investigation and prosecution. There is a need for increased coordination and communication across victim service providers to ensure victims and families are fully and continuously supported throughout the process. These efforts may be inhibited by funding structures that encourage competition rather than collaboration.

# Recommendations

This table summarizes recommendations from each report section. For detailed recommendations, please reference each individual report section.

Report section	Recommendations
<b>Reporting and initial investigation of missing person cases</b>	<ul style="list-style-type: none"> <li>• Assess Tribes' interest and needs related to the potential development of Tribal Community Response Plans, and provide support and resources for Tribes' development of plans if of interest</li> <li>• Assess consistency and inclusion of best practices in law enforcement missing person response policies and procedures across jurisdictions through the development of guidance and model protocols, and updating statutory requirements</li> <li>• Build or rebuild trust between law enforcement and the community to encourage timely missing person reports and participation in investigation process</li> <li>• Increase education and communication with families about the steps that need to be taken in order to have a missing person posted on the Utah Missing Person Clearinghouse</li> </ul>
<b>Communication and alert systems</b>	<ul style="list-style-type: none"> <li>• Collaborate with local, county, state, and Tribal law enforcement to determine barriers to full utilization of the AMBER Alert and Endangered Missing Advisory systems to ensure the systems are comprehensive, accessible, and unbiased; barriers could include gaps in infrastructure, the need for cross-jurisdictional processes, and lack of training</li> <li>• Consider expanding the Missing Persons Alert system to include cellphone and/or highway sign communication networks in cases of missing and endangered adults</li> </ul>
<b>Review and investigation of unresolved ("cold") cases</b>	<ul style="list-style-type: none"> <li>• Expand cold case resources and increase utilization across Utah through expansion of the cold case review board or the development of a statewide cold case unit</li> <li>• Increase access to shared investigative resources</li> <li>• Encourage consistent implementation of best practices pertaining to cold cases across jurisdictions</li> </ul>
<b>Death investigation</b>	<ul style="list-style-type: none"> <li>• Encourage and support consistent communication with families among law enforcement and medical examiner staff throughout the investigation process</li> <li>• Build and expand upon working relationships among Tribal nations, Tribal and federal police, and the Utah Office of the Medical Examiner (OME) through the development of memorandums of understanding (MOUs) for death investigation and providing training to Tribal staff</li> <li>• Provide financial support to...               <ul style="list-style-type: none"> <li>– Rural law enforcement jurisdictions to increase access to technology and training necessary to conduct death investigations in line with best practices</li> <li>– If of Tribal interest, Tribes to cover the \$2,500 fee associated with Utah Office of the Medical Examiner death investigations to increase routine utilization</li> </ul> </li> <li>• Expand funding, resources, and staff capacity for the psychological autopsy examiner team at the Utah OME</li> <li>• Train law enforcement and medical examiner staff on cultural issues specific to Tribal nations in Utah</li> </ul>

Report section	Recommendations
<b>Jurisdiction issues and government-to-government collaboration</b>	<ul style="list-style-type: none"> <li>• Improve communication, relationship-building, and mutual trust and consider the development of MOUs, cross-deputizations, and other law enforcement agreements</li> <li>• Hold individual in-person meetings between Tribe’s leadership and the MMIR Task Force to tailor future planning and next steps to reflect the unique needs and priorities of each Tribe</li> <li>• Increase funding for expansion of law enforcement services among Tribes without local, immediate support</li> <li>• Create and implement a Utah-specific Tribal-State Relations Training for Utah state employees about the Tribal consultation process; the government-to-government relationship; and the Tribes in Utah’s governments, histories, and cultures to support and improve the Tribal consultation process</li> <li>• Create a state-level position focused on the MMIR issue to coordinate efforts across state agencies and with the Tribes</li> <li>• Increase collaboration between the Utah Department of Public Safety Tribal liaison and federal, state, county, and local law enforcement agencies</li> </ul>
<b>Data issues</b>	<ul style="list-style-type: none"> <li>• Ensure timely and consistent reporting to the National Crime Information Center (NCIC)</li> <li>• Develop and implement training for law enforcement on gathering accurate and complete information about race, ethnicity, and Tribal affiliation for cases involving Indigenous victims</li> <li>• Increase cross-agency notification when a person goes missing, including when Tribal members go missing off of Tribal lands</li> <li>• Increase data sharing and communication across jurisdictions</li> <li>• Create a specialized state analyst position dedicated to collecting, analyzing, and reporting data back to Tribes on issues of Tribal interest</li> </ul>
<b>Victim and family services</b>	<ul style="list-style-type: none"> <li>• Increase access to culturally responsive victim services and supports</li> <li>• Improve coordination of victim service providers across all stages of investigation and prosecution</li> <li>• Improve consistency and quality of communication with families, including the development of communication plans or guidance for law enforcement</li> <li>• Ensure mandated trauma-informed law enforcement trainings on domestic violence and sexual assault are comprehensive and informed by best practices</li> <li>• Identify and address barriers to utilization of the Crime Victims’ Reparations Program</li> <li>• Increase opportunities for victims to access flexible emergency funds</li> </ul>



Report section	Recommendations
<b>Prevention</b>	<ul style="list-style-type: none"> <li>• Provide financial support to Tribes and urban American Indian communities for cultural revitalization programming, violence prevention, emergency support, and victim services</li> <li>• Support the expansion of community education and public awareness efforts</li> <li>• Create and provide comprehensive supports for victims of trafficking</li> <li>• Continue and increase collaboration to address the intersection of child protection, human trafficking, and the MMIR injustice</li> <li>• Improve identification and intervention among those at high risk of continued violence and victimization, including individuals identified as survivors of domestic violence, sexual assault, or trafficking</li> <li>• Identify and address gaps in data-sharing regarding protective orders issued across jurisdictions in Utah, including those issued by Tribal courts</li> <li>• Examine and adjust duration of protection orders set in jail release agreements to address gaps in protection, and develop a domestic violence-specific risk assessment protocol</li> </ul>
<b>Media reporting</b>	<ul style="list-style-type: none"> <li>• Provide training or education to help facilitate self-examination of personal biases, which may impact which communities' cases receive more media coverage and attention than others</li> <li>• Adopt a survivor-centered approach when communicating with the media about missing persons or victims</li> <li>• Consistently and accurately report victims' race and Tribal affiliation, and other information about their Tribal identity (e.g., clans and lineage)</li> <li>• Provide contextual information about the MMIR injustice, its root causes, and government or community initiatives working to address it</li> <li>• When reporting on the MMIR injustice, include references to culturally specific supports and resources, such as the Restoring Ancestral Winds' StrongHearts Native Helpline</li> </ul>

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## List of abbreviations

**ACEs:** adverse childhood experiences

**BCI:** Bureau of Criminal Identification

**BIA:** Bureau of Indian Affairs

**CJIS:** Criminal Justice Information Services

**CSA:** CJIS Systems Agency

**DHHS:** Department of Health and Human Services

**DOJ:** Department of Justice

**DPS:** Department of Public Safety

**EMA:** Endangered Missing Advisory

**FBI:** Federal Bureau of Investigation

**FEMA:** Federal Emergency Management Administration

**FFPSA:** Family First Prevention Services Act

**FVPSA:** Family Violence Prevention and Services Act

**ICWA:** Indian Child Welfare Act

**IPAWS:** Integrated Public Alert and Warning System

**IPV:** intimate partner violence

**MMIP:** missing and murdered Indigenous persons

**MMIR:** murdered and missing Indigenous relatives

**MMIW:** missing and murdered Indigenous women

**MOU:** memorandum of understanding

**NamUs:** National Missing and Unidentified Persons System

**NCIC:** National Crime Information Center

**NCMEC:** National Center for Missing & Exploited Children

**NDA:** nondisclosure agreement

**N-DEx:** National Data Exchange

**NIBIN:** National Integrated Ballistic Information Network

**OME:** Office of the Medical Examiner

**ORI:** originating agency identifiers

**OVC:** Office for Victims of Crime

**PL 280:** Public Law 280

**POST:** Peace Officer Standards and Training

**SLEC:** Special Law Enforcement Commission

**SOAR:** Stop, Observe, Ask, and Respond

**TAP:** Tribal Access Program

**TCRP:** Tribal Community Response Plan

**TEP:** Tribal Engagement Program

**TLOA:** Tribal Law and Order Act

**UCJIS:** Utah Criminal Justice Information Services

**UPD (of Greater Salt Lake):** Unified Police Department of Greater Salt Lake

**USAO:** United States Attorney's Office

**VAWA:** Violence Against Women Act

**ViCAP:** Violent Criminal Apprehension Program

**VOCA:** Victims of Crime Act

**VSP:** victim service provider

# Introduction

Indigenous relatives are disproportionately likely to experience violence, be murdered, or go missing compared to other demographic groups. More than four in five American Indian and Alaska Native women and men report having experienced violence in their lifetime (Rosay, 2016). In Utah, although they make up just 1.5% of the population, American Indian and Alaska Native relatives account for over 5% of all murder victims (Utah Department of Health and Human Services, 2023).

In this report, we use the terms “Indigenous,” “Native American,” “Native,” 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 that the data system uses.

In some instances, we use the term “Indian” when referencing legal statutes in which this specific term was used. We recognize that some may perceive this term as harmful and problematic and that the term is rooted in European colonizer’s flawed and limited conceptualizations of communities indigenous to the Americas.

## Utah’s Murdered and Missing Indigenous Relatives Task Force

In 2020, the Utah Legislature created the Murdered and Missing Indigenous Women and Girls Task Force (Utah H.B. 116, 2020). The Task Force includes two members of the Utah Legislature and one representative each from the Utah Tribes, nonprofit and victim advocate organizations serving Native American communities, the Division of Indian Affairs, the Department of Human Services, the Utah Attorney General’s Office, and the Department of Public Safety (DPS). The Task Force’s responsibilities include conducting Tribal consultation on issues related to the murdered and missing Indigenous relatives (MMIR) injustice, developing model protocols and procedures, identifying best practices related to case investigation and prosecution, and conducting community education and outreach. The Task Force was renamed the Murdered and Missing Indigenous Relatives Task Force in 2023 (Utah H.B. 25, 2023).

In 2022, the Utah MMIR Task Force partnered with Wilder Research to examine the scope and nature of the MMIR injustice and make recommendations for improvements to the criminal justice and social service systems for preventing and addressing crimes involving Indigenous relatives in Utah. This report provides an overview of the federal- and state-level policy landscape, highlights best and emerging practices, summarizes current issues in Utah,

and provides recommendations related to addressing the crisis of MMIR in Utah related to nine major themes:

1. Reporting and initial investigation of missing person cases
2. Communication and alert systems
3. Review and investigation of unresolved (“cold”) cases
4. Death investigation
5. Jurisdiction issues and government to-government collaboration
6. Data issues
7. Victim and family services
8. Prevention
9. Media reporting

For each topic, the report presents major findings based on an analysis of the results from interviews with key informants, stakeholder feedback, and listening sessions with family members of MMIR victims and community members in Utah; an inspection of existing federal and state legislation; and a review of relevant research literature. For this report, we define best practices as those that have been well-researched and known by experts to be effective (e.g., steps in death investigation) and emerging practices as new and seemingly promising efforts to address the MMIR injustice (e.g., Tribal Community Response Plans).

At the time of this project, Wilder was working concurrently on a similar project with the Minnesota Office of Missing and Murdered Indigenous Relatives. Each study, and report, has been customized and tailored to each state using state-specific policies, protocols, and findings from local key informants. However, the background research on federal policies and best and emerging practices related to MMIR overlaps between the two projects, and has been included in both reports, as applicable.

Additionally, over the course of the project, Wilder met with researchers from several states with MMIR-related research efforts underway. Some of the recommendations included in this report are partially informed by the shared learning from those meetings.

## Data sources and methodology

This research includes three main sources of information: a literature review, key informant interviews, and listening sessions with family members of MMIR victims and community members.

The purpose of the literature review was to learn more about the existing federal- and state-level policy landscape related to MMIR issues and best and emerging practices for addressing the MMIR injustice in Utah. The literature review included a search of peer-reviewed academic journal articles, reports published by governmental and advocacy

organizations, media publications, and other sources. Wilder Research staff reviewed, synthesized, and summarized sources as cited throughout this report.

Wilder worked with the Utah MMIR Task Force to develop interview questions and to identify key informants who could provide insights to current issues in Utah related to the MMIR injustice. This included law enforcement officers (from state, county, and local agencies), Tribal leadership, Tribal liaisons, medical examiner staff, attorneys, advocates, service providers, researchers, and other experts. Wilder completed interviews with 28 key informants to ask about key issues and to identify potential recommendations that would address the MMIR injustice. Wilder Research scheduled and conducted all interviews. Respondents were experts in various aspects of missing persons and death investigations and/or other parts of the system. They were asked to speak from their own experiences, and their opinions and attitudes do not necessarily represent everyone from their field or the agencies they work for. Each interview protocol was tailored to the key informant and their particular area of expertise. Interview transcripts were thematically analyzed using ATLAS.ti software to identify current strengths, challenges and gaps, future opportunities, and recommendations.

In partnership with Restoring Ancestral Winds, Wilder held one listening session with 19 family members of missing and murdered Indigenous relatives (“family members”), community members, and some people who work with this population from Utah and the communities directly across Utah’s borders. The session was held in Bluff, Utah. We also reviewed and analyzed the public comments that were made during each of the MMIR Task Force’s meetings’ listening sessions held in Bluff (November 2021), Cedar City (June 2022), and Salt Lake City (November 2020 and October 2022). Listening session and public comment notes were thematically analyzed to identify challenges, gaps, and recommendations.

Several experts who participated in interviews and Tribal leaders were asked to review and provide feedback on an initial report draft. We also analyzed the testimony of Tribal leaders on this topic and presented to the Tribal Leaders meeting facilitated by the Utah Division of Indian Affairs in October 2023, where we received some feedback from Tribal leaders which was incorporated. Wilder made updates to the report to increase comprehensiveness and fix any inaccuracies.

## Limitations

This study is a point in time look at the current issues and best practices related to the investigation of MMIR cases, and related topics. The key findings are based on a synthesis of the published literature and feedback from key informants and family members/survivors. One limitation of this study is that, although we made attempts to reach out to leaders from across the Tribes in Utah, very few decided to participate in interviews, so the input of Tribes is not fully reflected here. When we presented the draft recommendations to Tribal leaders in October 2023, they suggested that the Task Force needs to visit and discuss the report recommendations and next steps with each Tribe individually, as needs and interests may be different across the Tribes. We strongly encourage the State of Utah, including the MMIR Task Force, to follow-up with Tribes through formal consultation mechanisms and other means to ensure the recommendations included here and the process for implementing those recommendations aligns with the Tribes' needs and expectations.

Another limitation of this study is that the primary focus was on investigation and related topics about services and support that happen *after* someone has gone missing or been the victim of violence. Additional research and work is needed to address the underlying factors that contribute to Indigenous people being at much higher risk for going missing or being the victim of violence.

Additionally, because Wilder Research is based outside of Utah, in Minnesota, it created some limitations as well as benefits throughout the research process. The research team had to learn as much as possible about the local social context of Utah in a short amount of time through conversations with project partners and key informants. Being located out-of-state, the research team had fewer opportunities for in-person engagement with key informants, community members, and Tribal leaders. This may have impacted the amount and nature of information gathered throughout the research process. However, participants may have also felt more comfortable sharing their candid perspectives with the Wilder Research team given our independent positionality and lack of interpersonal or political involvement within the state of Utah. Additionally, the Wilder Research team brought a depth of expertise in the MMIR issue and an understanding of broader issues and dynamics related to MMIR occurring in other states, which were crucial to our research within Utah.

# Reporting and initial investigation of missing person cases

## Policy context

### *There are federal requirements related to the reporting of missing children*

In 1990, Congress mandated that missing children reports be reported to the National Crime Information Center's (NCIC's) Missing Persons File, and began to establish requirements that prohibited law enforcement from requiring a waiting period before accepting reports of a missing child under age 18 (National Child Search Assistance Act, 1990). Introduced in 1999 and passed in 2003, Suzanne's Law expanded this prohibition to reports of missing youth, under age 21, who are physically or mentally disabled or whose circumstances indicate they may be in physical danger or that their disappearance was involuntary (PROTECT Act, 2003). Suzanne's Law was named for Suzanne Lyall, a 19-year-old woman who disappeared in 1998 on her way home from work, and who was never found (University of the District of Columbia, 2023).

For children missing from foster care, the Preventing Sex Trafficking and Strengthening Families Act of 2014 requires that state agencies develop and implement, "policies and procedures (including relevant training for caseworkers) for identifying, documenting in agency records, and determining appropriate services" for children who are missing from foster care. Another recent federal law expanded response requirements, specifically related to improving coordination and reporting to National Center for Missing & Exploited Children (NCMEC) and law enforcement for youth who go missing from foster care (Trafficking Victims Prevention and Protection Reauthorization Act of 2022, 2023).

### *There are no federal requirements for reporting or investigating cases of missing adults*

In contrast, there are no federal requirements or mandates related to reporting or investigating missing adults (Chakraborty, 2020). As a result, there is a lack of national standardization in adult missing person investigations across jurisdictions in the United States, which are governed by state, local, and Tribal laws and ordinances.

However, Congress has recently passed several pieces of legislation aimed at increasing cross-agency coordination, collaboration, and communication. These laws also provide guidance on best practices to address the MMIR injustice. In 2020, Savanna's Act directed the U.S. Department of Justice (DOJ) to review, revise, and develop law enforcement protocols to respond to cases of MMIR. The Act was named after Savanna LaFontaine-Greywind, a 22-year-old member of the Spirit Lake Nation of North Dakota who was

murdered in Fargo, North Dakota, while eight months pregnant (National Indigenous Women’s Resource Center, 2022a). The Act requires law enforcement protocols to include guidelines on inter-jurisdictional cooperation at the Tribal, federal, state, and local levels; search procedures on and off Tribal land; data collection and reporting standards (including recording Tribal enrollment or affiliation information); standards for law enforcement response and follow-up on cases of MMIR; and culturally appropriate victim services.

The same year, the Not Invisible Act of 2019 was signed into law, which mandated the creation of a commission to provide recommendations on intergovernmental coordination and establish best practices for state, Tribal, and federal law enforcement to address the MMIR injustice.

Most recently, the Office of the Deputy Attorney General published a memorandum that directed each U.S. Attorney with Indian Country jurisdiction to update and develop new public safety plans for Indian Country in consultation with the Tribes that share geography with their state (Office of the Deputy Attorney General, 2022). These plans must develop guidelines on: 1) how federal, Tribal, state, and local law enforcement will work together to respond to crime in Indian Country, including the establishment of an intergovernmental relationship between U.S. Attorney Offices and Tribes; 2) how to work with victims and families in a victim-centered, trauma-informed, and culturally responsive manner; and 3) addressing active and unresolved cases of MMIR, including each United States Attorney’s Office (USAO) developing a list of key contacts, law enforcement agencies, and resources to support missing person cases. The memorandum also includes the development of a mandatory annual cultural competency training for federal prosecutors and law enforcement related to investigations and prosecutions in Indian Country.

### ***There have been several federal initiatives to address the MMIR injustice***

At the federal government level, Executive Order No. 13,898 (2019) created Operation Lady Justice, the two-year Presidential Task Force on Missing and Murdered American Indians and Alaska Natives, which developed significant guidance for improving the response to MMIR cases.

Furthermore, in 2021, President Biden signed Executive Order No. 14,053, ordering federal agencies to develop a “coordinated and comprehensive Federal law enforcement strategy to prevent and respond to violence against Native Americans, including to address missing or murdered indigenous people where the federal government has jurisdiction.”



## Utah has some missing person reporting requirements

According to Utah law, a “missing person” is someone who cannot be located and who either “a) has a physical or mental disability, b) is missing under circumstances that indicate that the person is endangered, missing involuntarily, or a victim of a catastrophe, or c) is a missing child” (Utah Code 26B-8-130). In Utah, a “missing child” is someone younger than 18 years old whose whereabouts cannot be determined by the person responsible for the child’s care.

In Utah, law enforcement must report missing persons to the state registrar of Vital Statistics and the NCIC (Utah Code 53-10-203). Utah state law does not specify the timeliness with which law enforcement must accept missing person reports, conduct a preliminary investigation, or enter the report into NCIC.

Utah’s Missing Persons Clearinghouse (under the direction of the Utah Department of Public Safety) is responsible for establishing a statewide missing persons registry, a 24-hour communication network, and coordinating with NCMEC and other missing persons and law enforcement agencies statewide (Utah Bureau of Criminal Identification, 2021a). Unlike other states, the Utah Clearinghouse enters missing persons’ dental information into the NCIC database.

In order for a missing person to be included on Utah’s Missing Persons Clearinghouse public bulletin, a parent, spouse, or guardian must file a missing person report, sign a waiver, and provide a current photograph (Utah Bureau of Criminal Identification, 2021a). Law enforcement must approve the information upon receipt of the report.

In 2023, a bill was passed by the Utah Legislature that allows law enforcement to request the use of data from genetic genealogy databases to support the identification of criminal suspects, unidentified remains, or missing persons (Utah S.B. 156, 2023). Individuals who seek genealogy services must be notified that their data may be requested by law enforcement and must be able to opt out.

## Best and emerging practices

### Missing person investigations should follow standardized policies and procedures

*Documentation needs to come with training, oversight, and accountability for the way investigations are carried out that minimizes personal bias and definitions of what constitutes, for example, ‘foul play,’ [and] ‘missing,’ ... Standardization would ensure a tiered approach that clearly illustrates how cross-systems, jurisdictional collaborations would happen. Investigators need to be highly trained to work collaboratively with social workers and Tribal liaisons during an investigation, to recognize trafficking situations, and center prevention and trauma informed responses to investigations. (New Mexico Indian Affairs Department, 2022, p. 42)*

Best practices in the literature emphasize the need to balance the standardization of policies and procedures in missing person investigations with the flexibility to adapt the investigation to the specific circumstances of the case (Fillmore et al., 2021; Moran, 2021; Weyand & McPherson, 2021). While missing person investigations operate in different geographical, social, cultural, political, and organizational contexts, and should be customized to the specific case, there are some general investigative principles that should be appropriately applied in all missing persons cases (Moran, 2021; Weyand & McPherson, 2021).

These principles include:

- Assume that the missing person needs assistance until the evidence indicates otherwise—rather than waiting for evidence that their disappearance was suspicious or involuntary before acting (Moran, 2021).
- Accept missing person reports and initiate an investigation without delay, without requiring a specific amount of time to have passed (Moran, 2021).
- Create an effective command structure, and determine which law enforcement entity is the lead agency (Weyand & McPherson, 2021).
- Conduct a preliminary investigation immediately to collect vital information and determine whether the missing person is “high-risk,” and launch an appropriate search and investigation (Moran, 2021; Weyand & McPherson, 2021). “High-risk” missing persons are those whose whereabouts are “not known and whose circumstances indicate that the person may be at risk of injury and death” (Moran, 2021, p. 138).
  - These circumstances can include evidence of abduction; under suspicious, unknown, or known dangerous circumstances; being missing for more than 30 days; needing medical attention (including having dementia or needing prescription medication); not having a history of running away or leaving without notice; mental, developmental, or intellectual disability; under the age of 21; having received past threats or been the victim of acts of violence; or any other factor that, from the perspective of law enforcement, suggests the missing person may be at risk.
- Collect and document information (if applicable and available) that describes the missing person’s physical appearance, last known location, vehicle, clothing, and known medical problems and medication (National Indigenous Women’s Resource Center, 2020). Law enforcement should also verify and document contextual information, such as verifying that the missing person is not in a local hospital or jail; the name of the law enforcement dispatcher who received the report; confirmation that the missing person’s information was entered into the appropriate local, state, and NCIC database; and any assistance from other law enforcement departments or specialized units.

- For missing children or youth under age 18, contact NCMEC and notify schools and vital records agencies (Moran, 2021).
- Obtain information from the missing person’s phone, computer, and social media accounts (Moran, 2021).
- Quickly communicate information about missing children and other high-risk missing persons with law enforcement and other relevant agencies through radio and computer systems (Moran, 2021).
- Create a public alert policy for utilizing media outlets’ aid in locating high-risk missing persons (Moran, 2021; Weyand & McPherson, 2021).
- Collect evidence (including fingerprints, dental, and DNA) and document data in appropriate databases (Moran, 2021).
- Utilize National Missing and Unidentified Persons System’s (NamUs’) investigative support, training, and forensic services, which are provided at no cost to law enforcement, medical examiners, coroners, forensic professionals, and family members of missing persons (Moran, 2021).
- Expand the missing person investigation to incorporate outside agencies and other community-based resources, as appropriate (Weyand & McPherson, 2021).
- Frequently and consistently communicate with the individual who made the missing person report, particularly within the first 30 days of the initial investigation, and every 30 days after to obtain new or updated information (Moran, 2021).
- Introduce culturally appropriate, victim-centered, and trauma-informed victim services to support family members and law enforcement’s investigation (Weyand & McPherson, 2021).
- Transition unresolved cases to long-term missing person investigations, as appropriate, including determining staffing, allocated resources, communication strategies with the family and community, and preservation of evidence (Weyand & McPherson, 2021).
- Only close a missing person case when the individual has returned or been located (Moran, 2021).

***Follow guidelines for caregivers, caseworkers, and supervisors when a child goes missing from care***

A 2018-2019 audit, conducted by the Office of Inspector General (2023), found that state agencies did not always ensure that children missing from foster care were reported to NCMEC as required by federal statute. As one example of a state’s response to these concerns, the Minnesota Department of Human Services developed a guide for county and Tribal child welfare agencies for how to respond when a youth runs away from foster care.

The guide provides reporting requirements for caregivers, caseworkers, and supervisors; steps to locate youth; and what a caseworker should do when a youth is located within the state or another state and is returned. This resource also provides instruction for caseworkers for considering whether the youth who ran away will return to their current placement or go to a new or alternate placement. The guide includes the Runaway Debriefing Form, which must be completed for every child that is located (Minnesota Department of Human Services, 2020).

Additionally, the Minnesota Department of Human Services developed a best practice guide for county and Tribal child welfare agencies responding to cases of human trafficking and sexual exploitation of children and youth. The guide was updated in 2022 to expand content related to the co-occurrence of trafficking and missing youth (Minnesota Department of Human Services, 2022). As sovereign nations, Tribes are not obligated to adhere to state guidelines; however, the state provides guidance that Tribes could choose to follow to the extent that the guidance meets their needs.

### ***Develop law enforcement policy and procedures for reports of missing children based on best practice model policy***

In order for law enforcement to have a swift and carefully planned response to instances of missing children, a policy or procedure for reporting is necessary. NCMEC developed a model for law enforcement policy and procedures for reports of missing children that can be used by agencies to build their own policies for a planned and immediate strategic response to cases of missing children. Incorporating steps specific to children and youth in out-of-home placement (e.g., foster care) may increase the comprehensiveness of these policies. According to NCMEC, “it is also critical that agencies implement these policies with consistency and integrity to help ensure equality and inclusivity in practice, regardless of the child or family’s race, gender, sexual orientation, or community” (NCMEC, 2021, p. ii). The model policy states that law enforcement must assume the child is in danger “until significant facts to the contrary are confirmed” (NCMEC, 2021, p. i). A policy like this is intended to reduce bias in police response.

The model policy is meant to serve as a general reference for agencies developing their own policy specific to their organization. Having a policy, however, does not replace the need for pre-incident planning and resource development. These two factors, in addition to the development of written policies and procedures, will result in the most effective response when a child is missing. The model policy prompts agencies to: develop policy statements, describing the purpose, goals, and intention of the policy; outline conditions under which reports of missing children should be accepted (including defining “missing child” and describing what factors contribute to elevated risk), and develop detailed protocols and procedures for agencies responding, investigating, and communicating about cases of missing children (NCMEC, 2021).

## ***Prepare to respond to missing person cases on Tribal lands by developing and implementing Tribal Community Response Plans***

A Tribal Community Response Plan (TCRP) is a voluntary missing person investigation guidance document developed by a Tribe that is tailored to their own Tribal community's needs, resources, and culture (Bay Mills Indian Community, 2022; Fillmore et al., 2021; George et al., 2022; U.S. Department of Justice, 2022a; U.S. Department of Justice & U.S. Department of the Interior, 2022; Weyand & McPherson, 2021). A guide developed by the U.S. DOJ through Operation Lady Justice provides direction for Tribal governments and U.S. Attorney's Offices to develop customized TCRPs, including guidelines for law enforcement agency response, victim services, media and public communications, and community outreach (U.S. Department of Justice, 2022a). Operation Lady Justice and the attorney general's MMIR Initiative received input on the model protocols and procedures from Tribal leadership, Tribal law enforcement executives, and many others. Guides were developed in concert with Tribal nations that provide a resource for Tribal communities that wish to develop their own TCRPs for responding to emergent missing person cases.

Some Tribes have developed TCRPs since the emergence of these guidelines. Alaska, Michigan, Minnesota, Montana, Oklahoma, and Oregon were the six pilot states where efforts to develop TCRPs were supported by the U.S. attorney's office. The first was developed by the Confederated Salish and Kootenai Tribe of Montana (U.S. Attorney's Office for the District of Montana, 2021). The Yurok Tribe developed a TCRP based on U.S. DOJ recommendations (George et al., 2022). Their plan offers tools for other Tribes and their law enforcement and justice system partners to design their own TCRP. Another recent TCRP was developed by the Bay Mills Indian Community in Michigan and is publicly available as a resource for other Tribes hoping to develop this type of guidance for their community (Bay Mills Indian Community, 2022). There may be other TCRPs from other Tribes, but these are the ones we were able to find when searching public websites.

Key steps to working closely with Tribal leaders, community members, and outside agencies to create a TCRP include 1) inventory available resources from different investigative agencies that could be utilized in a missing person investigation; 2) identify and understand Tribal, federal, and state legal mandates and policies; 3) have a clearly defined purpose or mission statement; 4) develop policy statements to provide guidance to law enforcement, Tribal leaders, partner agencies and organizations, and volunteers; and 5) create a plan for missing person responses and investigations (U.S. Department of Justice, 2022a).

Other coordinated Tribal response plans have been developed in other sectors that could inform Tribal communities' responses to MMIR cases. For example, a multidisciplinary team approach from the Indian Child Protection Act is used for child abuse cases; practices from this approach could be incorporated into MMIR cases, when appropriate (Connell et al., 2021).

### ***Build trust in law enforcement to encourage timely reporting***

In 2020, Operation Lady Justice held listening sessions with Tribal leaders, community members, and law enforcement from across the United States (Weyand & McPherson, 2021). Tribal representatives emphasized that some of the most important components that contribute to an effective missing person investigation in their communities were timely reporting and community engagement.

Many factors may contribute to delays in family members or friends making a missing person report, including distrust of law enforcement, concerns their report won't be taken seriously, fear of child protective system involvement, and misimpressions or misbeliefs about 24- or 48-hour waiting periods before a person may be reported missing (Weyand & McPherson, 2021). As more time passes once loved ones first become aware someone is missing, the likelihood of success in locating and safely returning that missing person diminishes.

Law enforcement needs to work to build, earn, and maintain community trust and confidence in law enforcement's missing person response, so that they are more likely to come forward when they suspect a loved one is missing (Weyand & McPherson, 2021). This may be achieved through consistent community outreach, engagement, community-based policing methods, use of law enforcement victim advocate services, and partnering with trusted community-based organizations in missing person case responses.

### ***Bolster state-level resources and personnel focused on addressing the MMIR injustice***

Minnesota's Missing and Murdered Indigenous Women (MMIW) Task Force recommendations included offering more state resources and personnel to address the MMIR injustice, including the American Indian Human Trafficking Child Welfare Liaison and the Ombudsperson for American Indian Families (MartinRogers & Pendleton, 2020). More recent research in partnership with the Minnesota Office of Missing and Murdered Indigenous Relatives recommends greater cross-agency collaboration in response to youth who go missing from out-of-home placement (Austin et al., 2023). The New Mexico Legislature, in response to their task force's report, unanimously passed a bill that created a number of investments focused on MMIR (New Mexico Indian Affairs Department, 2022). This included a new position with the New Mexico Office of the Attorney General as well as Missing Indigenous Persons Specialist and liaison positions, each focused on improving collaboration across law enforcement agencies, data collection, reporting, outreach, and education.



New Mexico’s task force recommended the creation of a specific criminal investigation unit focused on MMIR incidents (New Mexico Indian Affairs Department, 2022). State-level departments devoted to MMIR can coordinate with the U.S. Department of the Interior’s recent efforts under the leadership of Secretary Deb Haaland in the creation of a Missing and Murdered Unit within the Bureau of Indian Affairs (BIA) Office of Justice Services.

## Current issues in Utah

### ***There is variation in law enforcement agencies’ approach and response to missing person reports across Utah***

Key informants and listening session participants reported variations and differences across law enforcement agencies in their attitude and approach towards reports of missing adults.

Some law enforcement agencies approach missing person reports with the assumption that the missing person may be in danger or need assistance until the evidence shows them otherwise. These law enforcement representatives described conducting a rigorous preliminary investigation, examining where the person was living, what they left behind, where their vehicle is, and reviewing activity in their bank accounts, cellphone records, and social media. They assess whether or not the circumstances around the person’s disappearance are in line with the individual’s normal behavior. Notably, these law enforcement personnel said how they consider the absence of any bank account, cellphone, or social media activity to be a sign that the missing person’s disappearance may be suspicious or involuntary. One law enforcement officer also reported that they have a standard practice of verifying the location and well-being of all missing persons in person rather than over the phone, so they can determine whether a person was the victim of any crime and, if so, connect them with services.

*We don’t assume people are fine unless the information or evidence shows us. We don’t just look at risk assessment, but where they’re living, what they left behind, bank accounts, cellphones, [and] social media. When someone disappears and there’s nothing, that’s a big red flag for us.*  
– Law enforcement

*Obviously just disappearing and not normal behavior, that is a red flag itself. Then, nowadays, we get social media activity. You look at bank activity [and] where their vehicle is. Did they bring stuff with them? So [we] really take in all the information and the more red flags you have, the more you are going to have to dig in to find out what is going on. Obviously, adults can choose to do whatever they want, but usually there is something out there that will let us know that they are still alive or out somewhere. It is hard to get off-grid nowadays. So when there’s a welfare check called in, or a missing persons report is made, the officers would conduct a preliminary investigation to look for those red flags and decide whether or not further investigation was needed.*  
– Law enforcement



Other law enforcement personnel spoke to the challenge of investigating missing adults and determining whether their disappearance is a criminal issue or if they left voluntarily (as, unlike children, adults can decide to leave without telling anyone where they are going). Some law enforcement agencies do not treat missing person reports as a criminal investigation unless there are clear red flags or signs in their preliminary investigation that a person went missing under suspicious or endangered circumstances (e.g., signs they were being groomed or trafficked, that there was a physical struggle, or that they were having a mental health crisis). One listening session participant reported that there is a need for law enforcement training on how to approach the investigation of missing persons “if it’s not a crime yet.”

*The law enforcement response varies by agency. Some take it seriously and others say, “It’s probably someone out drinking for a few days; call me when they get back.”*  
– Law enforcement

*That’s the challenge; an adult can leave. If I want to leave the reservation or Tribal land, pick up and don’t tell anyone, or am vague about what I’m doing, and I’m an adult... If someone is concerned and hasn’t heard from someone in a while, if there’s nothing else—social media posts, nothing concerning like information about being groomed, nothing else that would prompt reasonable suspicion something else is going on, then it’s an officer information report.*  
– Law enforcement

Some listening session participants reported that when their loved one went missing, the responding law enforcement agency did not conduct a thorough investigation in alignment with best practices. Some families felt the need to conduct an investigation of their own because they didn’t trust the official investigation.

### ***Without social support networks, missing persons cases may be delayed or deprioritized***

Key informants said missing persons reports and investigations may be delayed and deprioritized if the missing person doesn’t have a strong social support network of close family and friends. In particular, key informants emphasized that individuals experiencing homelessness may be not only at increased risk for being a victim of a violent crime but also less likely to have a social support network of family and friends to report them missing and follow up on their case. Indigenous people in Utah are disproportionately likely to experience homelessness, making up just 1% of the overall Utah population, but 6% of the population experiencing homelessness (Utah Homelessness Council, 2022).

Key informants discussed how the presence or absence of a social support network may impact missing person reporting and investigation in several ways. If a person who goes missing has close family and friends, they are more likely to have a missing person report submitted earlier. Their case will be “fresh,” and there may be more leads and opportunities for police to investigate than for someone who isn’t reported missing for days, weeks, or months. Cases where there is a delay in reporting may be more likely to go “cold” and be

unresolved. One key informant noted that close family members are better able to identify deviation in the person's normal patterns of behavior than a more peripheral connection (like a boss). Missing person reports made by others outside of a person's close social network may not be taken as seriously by law enforcement as a report made by a family member or close friend.

Additionally, missing persons with close family and friends are more likely to have others follow up with investigators about the status of their loved one's case. Law enforcement frequently have limited staff capacity, and cases that family members or the public are asking questions about and putting pressure on law enforcement to solve are more likely to be prioritized than cases no one is following up about.

*My concern is for some, and I'm specifically thinking about the unsheltered population that are Indigenous, is that there's no support network to report that person missing or to follow up. And because of that, I see delayed reports of people going missing, [and] no pressure on law enforcement to follow any potential leads. ... The sheer volume of cases that our office and the law enforcement agencies in [jurisdiction] are dealing with as far as offenses, means that the squeaky wheel gets the grease. ... If there's nobody who's following up, and there's no clear leads to go forward, that falls into a cold case status a lot more easily than when there is a social support network to report properly and follow up to make sure that someone in the agency is trying to follow all possible leads.*

– Attorney

*You have the biases and racism that occurs in the rural areas equally as much, but in urban areas, you still have the notion of the drunken Indians in the homeless sector, it makes them extremely vulnerable. This is not my feeling, but one, who is going to care if they've gone missing and two, who's going to notice? Three, who's going to put effort into finding someone who's perceived to not have a family? Some of those things really do come into play, as sad as it is to have to say that. It's a reality.*

– Service provider

### **Missing person reports from community members may be delayed due to lack of trust in law enforcement**

Key informants emphasized that Indigenous community members' lack of trust in law enforcement contributes to delays or complete lack of reporting of missing persons, and lack of participation or engagement with law enforcement investigations. Key informants and listening session participants reported that community members believe that if they make a missing person report to law enforcement, it won't be taken seriously and nothing will happen. In some cases, these beliefs are informed by prior negative experiences of contacting the police and receiving no response or follow up from the law enforcement agency. For example, one listening session participant shared a past experience where they found a woman screaming in a car, with her limbs zip-tied together. When they called the police, the police just cut off the zip-ties and sent the woman home. Community members

may also fear system involvement in their family life or other legal issues, or fear that law enforcement themselves may be the perpetrator of the violence or abuse.

*Do our people trust that if they report that something will be done? If that trust and relationship isn't there then people don't report because they think nothing will happen.*  
–Service provider

*Reporting issues have to do with trust. Certainly, there are trust issues between law enforcement, the federal government, [and] the sovereign nations. That's a challenge. If you don't trust, you don't report. You get the anecdotal—there's all these missing people, but we're like, where's the reporting? That's a challenge.*  
– Law enforcement

*The challenges in the investigation are just getting folks to trust us to return our phone calls, give us an interview, allow us to help with the investigation, and moving it forward. There's a lot of distrust in law enforcement, and it's our obligation to try to rebuild that.*  
– Law enforcement

Key informants also spoke to the community perception that biases and prejudices among law enforcement officers contribute to lack of response in their family members' cases. In particular, key informants discussed how if the missing person has a history of drug use, or if the law enforcement officer perceives they have a “high-risk lifestyle,” they may be less likely to take the case as seriously. One key informant observed that law enforcement has a slower, less immediate response to missing American Indian girls and women compared to their White counterparts.

*My [missing family member] had a lifestyle that wasn't pristine and upstanding. There was drug abuse. ... They didn't view her as a person, they viewed her off what they thought she was from her rap sheet.*  
– Service provider and relative of MMIR victim

Key informants and listening session participants spoke to the need for increased community connection, dialogue, and trust-building. One key informant spoke to the importance of relationship-building, communication, and consistent follow-through with family members and survivors to rebuild community trust in governmental systems and processes. One listening session participant talked about the importance of law enforcement getting involved, being present in the community, and talking to people.

*It's up to government and law enforcement to build bridges with these communities. You can increase trust and increase reporting. If your investigator doesn't answer all their emails or calls, that lack of belief in the process is huge. ... I answer my cell anytime it rings. It is important for government to show we are listening and doing what we can to create that trust.*  
– Attorney

## ***Issues with missing person cases vary greatly in rural versus urban Utah***

Key informants described important differences in issues related to missing person reporting and investigations in rural versus urban areas of Utah. Key informants reported that there is greater access to resources and specialized expertise (e.g., forensics laboratories) in urban areas of Utah, like Salt Lake City, than in rural areas of Utah. It can be challenging to get specialized investigative resources to rural locations to support missing persons investigations. However, despite greater access to resources and expertise, key informants noted disparities in whether and how Indigenous relatives benefit from these resources. Key informants noted that in urban areas of Utah, law enforcement resources aren't being used to protect vulnerable populations (rather, they may be used to target or criminalize these populations), and Indigenous relatives' cases may be deprioritized.

*Resources are focused toward other issues. We aren't seeing law enforcement and prosecutorial resources to protect those populations. Instead, we target these populations.*  
– Attorney

In rural Utah, key informants spoke to challenges law enforcement may encounter related to location determination. In Salt Lake City, law enforcement may be able to identify a specific address or known location of where someone was last seen, whereas in rural areas or on Tribal lands, sometimes determining an exact location of where missing persons reside or have been recently seen is a challenge (e.g., in areas where there aren't formal street addresses). This may be exacerbated if law enforcement officers responding to the report are unfamiliar with the area and are unsure how to track someone down. One key informant noted that this could be a potential gap in case investigation: if law enforcement officers are (consciously or unconsciously) less willing to pursue cases they are uncomfortable with versus cases in which they feel confident about what to do.

*One challenge is also literally tracking folks down. [A community member I knew] lived on a mesa that only had a Navajo name. You can't send mail there. I can drive there, and you can call someone at the gas station. But most cops wouldn't know where to go and how to find people there. ... The detectives take the cases that fit into their framework of "I know how to do this," so if there is a case where they don't know what resource to draw on, there's a gap.*  
– Law enforcement

## ***No Tribal Community Response Plans have been developed in Utah***

As of November 2023, no Tribal nations that share geography with Utah have developed TCRPs. Utah's Missing and Murdered Indigenous Persons (MMIP) coordinator was in the process of piloting development of TCRPs with Tribal communities in Utah when funding for the coordinator position ended; no TCRPs were planned or executed. Key informants emphasized the need for further communication and collaboration across law enforcement and social service entities when a Tribal community member goes missing. More exploration is needed to determine if or how TCRPs will be useful for Tribes.

## Recommendations

- **Assess Tribes' interest and needs related to the potential development of TCRPs**
  - If desired, provide resources and support for Tribal communities to develop TCRPs
  - Consider establishing multidisciplinary, collaborative response teams (involving Tribal leadership, law enforcement, victim services, and media) for responding to missing person cases
- **Assess consistency and inclusion of best practices in law enforcement missing person response policies and procedures across jurisdictions**
  - Create unified guidance or model protocols on law enforcement responses to missing person cases
  - Revise Utah state law (Utah Code 53-10-203) to:
    - Prohibit waiting periods for missing person reports for adults over age 21
    - Require immediate preliminary investigation in all missing person cases, except when law enforcement knows the person's location and well-being, to determine if the individual is missing and whether they are endangered
    - Require immediate entry of all individuals determined to be missing and endangered into NCIC
  - Development and implementation of further training for law enforcement on evidence collection, documentation, and report writing
- **Build or rebuild trust between law enforcement and the community** to encourage timely missing person reports and participation in investigation process
- **Increase education and communication with families** about the steps that need to be taken in order to have a missing person posted on the Utah Missing Person Clearinghouse

# Communication and alert systems

## Policy context

### *Existing national communication and alert networks*

In the 1980s, Congress passed several laws that authorized and created systems for the collection and exchange of information to assist in the location of missing persons, including national toll-free telephone lines and a national resource center and clearinghouse (Missing Children Act, 1982; Missing Children's Assistance Act, 1984). In the late 1990s, states began to establish AMBER Alert Systems (early warning systems to locate abducted children), but uptake and establishment was slow (U.S. Department of Justice, n.d.). In 2003, Congress passed the PROTECT Act, which established a national coordinator role for the purpose of supporting the development of state AMBER Alert plans, providing coordination and guidance, and eliminating gaps in communication networks.

In 2018, Congress also passed the Ashanti Alert Act, which established a voluntary national communications network to support search efforts for missing adults. The Ashanti Alert Act was catalyzed by and named for Ashanti Billie, who was abducted from Hampton Roads, Virginia, in 2017. Ashanti was found dead, 350 miles away in Charlotte, North Carolina, two weeks later. At 19 years old, Ashanti's disappearance did not qualify her for any of the existing alert programs and highlighted a gap in notification system infrastructure for missing and endangered adults (Bureau of Justice Assistance, 2021). Ashanti Alerts are intended for cases of missing adults whose mental capacity, or the circumstances of their disappearance (including history of domestic violence, sexual assault, child abuse, or human trafficking) warrant an alert (Ashanti Alert Act, 2018). However, as with AMBER Alerts, Ashanti Alerts are intended to be used on a limited basis, so that their effectiveness isn't reduced through overuse.

### *Efforts to expand communication and alert systems in Tribal nations*

In 2018, Congress passed the Ashlynnne Mike AMBER Alert in Indian Country Act, which created a grant program to assist Tribes in developing and integrating Tribal AMBER Alert Systems into state systems. The Act was named in memory of an 11-year-old girl, Ashlynnne, who was abducted in 2016 alongside her 9-year-old brother, Ian, on the Navajo reservation after getting off their school bus (Monroe, 2018; Walters & Blasing, 2021). Ian was found several hours later wandering alone in the desert. The next day, Ashlynnne was found sexually assaulted and murdered at a sacred volcanic rock formation. An AMBER Alert hadn't been issued until eight hours after the children's father first reported them

missing. The case exposed gaps in the AMBER Alert system in Indian Country (Harp, 2019b; Walters & Blasing, 2021).

A 2019 assessment of the Ashlynn Mike Act found that while 76 out of 100 Tribes surveyed participated in their state's AMBER Alert plan, some Tribes continued to experience implementation challenges and resource gaps. These challenges include lack of training, insufficient infrastructure (e.g., radio, broadcasting, road signs), lack of memorandums of understanding (MOUs) or agreements with the state with which they share geography and possibly jurisdiction to allow access to the AMBER Alert plan, staffing shortages, and lack of technological resources (e.g., software, computers; Harp, 2019b).

In 2022, Washington, Colorado, and California each passed legislation that required the expansion of their state's missing person alert systems to include a specific alert for missing Indigenous persons (Office of Missing and Murdered Indigenous Relatives, 2023). However, these alert systems are voluntary, and so far there is low public awareness of the new alerts, which may hamper community engagement and participation.

### ***Utah has several communication and alert systems***

Utah uses four different communication notification systems: AMBER Alerts (for abducted children), the Endangered Missing Advisory (EMA; for missing persons of any age with urgent needs), Silver Alerts (for endangered adults age 60 or older, or adults with dementia), and Blue Alerts (which support the apprehension of criminals who kill or seriously injure law enforcement officers).

Utah's AMBER Alert system alerts the public about abducted children through activating electronic roadway signs, cellphones, and emails. Utah does not require approval from a designated overarching entity before law enforcement agencies are able to activate an AMBER Alert. This may unintentionally contribute to overuse of the system, which could reduce its efficacy.

In 2023, Utah's AMBER Alert criteria were written into state statute (Utah H.B. 266, 2023). Alerts may be issued if: 1) there is a confirmed child abduction, 2) there is a credible threat of imminent danger of serious bodily injury or death, and 3) there is sufficient descriptive information about the child, abductor, and circumstances so that the issuance of an AMBER Alert could assist in the child's recovery. The statute states that AMBER Alerts may not be issued for a reported runaway or for parental abductions during a custody dispute, unless there is a credible threat of imminent danger.

EMAs are used for missing persons of any age with urgent needs. It is a voluntary communication system used by law enforcement and local broadcasters to disseminate



information about missing persons to Utah law enforcement agencies, news media, and the public. When the advisory is initiated, the media are alerted using an automated system, and then the media decides what to do with the information. No highway signs or community member cellphones or email addresses are activated. Law enforcement agencies initiate EMAs when a person is missing under unexplained, involuntary, or suspicious circumstances, and/or they are believed to be in danger due to age, health, mental disability, environment, weather conditions, the company of a potentially dangerous person, or other factors (Utah Bureau of Criminal Identification, 2020).

In 2023, a bill was passed by the Utah Legislature that amended Utah's Communications Authority Act to require the Radio Network Division to provide and maintain the public safety communication network for all political subdivisions in the state within the authority network (Utah S.B. 212, 2023). Previously, the network was provided for just state and local government public safety agencies.

## Best and emerging practices

### *State AMBER Alert systems should fit within a comprehensive child recovery strategy*

In 2019, the U.S. DOJ published updated best practice guidance on AMBER Alert systems (Harp, 2019a). The report provides guidance on topics including AMBER Alert issuance criteria, development of a comprehensive child recovery strategy, strategic inter-agency partnerships, and training and public awareness campaigns.

The DOJ's best practice guide emphasizes that alerts should not be issued if they do not meet the plan's criteria to avoid overuse of the system which may contribute to loss of efficacy (Harp, 2019a). Generally, AMBER Alerts issuance criteria require: 1) confirmation that the child has been abducted, 2) that the child is at risk of serious bodily injury or death, 3) that law enforcement has sufficient descriptive information about the child and suspected abductor, so releasing information to the public would help the investigation, and 4) that the child is below a certain age (generally, age 17 or younger). Law enforcement officers who receive reports of missing children that potentially qualify for an AMBER Alert should reach out to the state agency that activates the AMBER Alert System for support in assessing the situation.

However, AMBER Alert issuance criteria vary across states and jurisdictions, depending on legislative mandates and regional program design (Harp, 2019a). For example, one point of variance across states may be whether AMBER Alerts are issued for cases of familial abductions. While the AMBER Alert system was primarily designed to be implemented in cases of stranger abductions, the best practice guide emphasizes that familial abductions

should be taken equally seriously—particularly if there is a history of domestic violence in the family.

The best practice guide also emphasizes that AMBER Alerts should ideally be one component of a comprehensive child recovery strategy, which includes established policies (such as interagency MOUs), procedural guidance and resources, and training (Harp, 2019a). As a part of this response, states should support and work to build partnerships among law enforcement agencies, multi-disciplinary Child Abduction Response Teams, the State Attorney General Office, the Missing Persons Clearinghouse, emergency management, the Fusion Center, community advocate organizations, schools, the Department of Transportation, and mass transit.

### ***Cross-jurisdictional alert systems can expedite timing and increase the reach of an emergency alert***

In 2018, in response to the communication and jurisdictional challenges that were revealed by the abduction, rape, and murder of Ashlynn Mike, the Navajo Nation created a new emergency alert system for issuing AMBER Alerts and other emergency notifications (Walters & Blasing, 2021). The Navajo Nation shares geography with 11 counties, spanning three different states, and over 100 local government jurisdictions—which, in the past, created additional steps and delays in sending out alerts across all three states. With the new emergency alert system, the Navajo Division of Public Safety is able to send out alerts via radio, television, and text messaging to all 11 counties within the geographic boundaries of the reservation, including San Juan and Kane Counties in Utah.

The Federal Emergency Management Administration (FEMA) also created the Integrated Public Alert and Warning System (IPAWS), which provides the capability to notify the public of natural and human-made disasters and emergency and public safety information. Through this initiative, FEMA will support Tribal governments in using the system, including through supplementary funding for eligible public alert and warning activity expenses, as well as providing training through FEMA’s Emergency Management Institute (FEMA, 2022).

### ***Trainings help build Tribes’ capacity to respond to abducted children cases***

Starting in 2007, the U.S. Office of Juvenile Justice and Delinquency Prevention began to offer training and technical assistance to Tribal communities through the AMBER Alert in Indian Country Initiative (Walters & Blasing, 2021). The Initiative helps Tribes build capacity and capabilities to respond to cases of missing and abducted children, and build AMBER Alert systems within their community.

## Current issues in Utah

### **Barriers to Tribes' participation and utilization of the Utah AMBER Alert system**

Key informants and listening session participants reported that Utah's AMBER Alert system is not adequately effective on Tribal lands due to several factors. First, key informants reported that some Tribes may experience barriers to requesting an AMBER Alert from the Utah Bureau of Criminal Identification (BCI). While the Navajo Nation Police Department is able to request AMBER Alerts from the BCI directly, as a law enforcement agency, other Tribes need to utilize the state highway patrol or local county sheriff's office to activate the alert. Key informants report that while federal law enforcement agencies, including the BIA and Federal Bureau of Investigation (FBI), technically have access to state alert systems through designated originating agency identifiers (ORIs), AMBER Alerts are administered and authorized by state agencies. Both state and federal polices require federal agencies to coordinate with state agencies to request and issue AMBER Alerts. This process may be hampered by law enforcement staffing challenges and communication gaps among community members, federal agencies, and state agencies.

Key informants noted that, in some cases, there may be gaps in knowledge or insufficiently established relationships between the Tribes and local or county law enforcement to support this process. Key informants commented that they were unaware of any Tribe requesting an AMBER Alert coming from the state of Utah, aside from the Navajo Nation who has direct access to the system. Listening session participants reported a lack of understanding about how to request an AMBER Alert on Tribal lands, and expressed interest in developing protocols and receiving training to support implementation in their community.

### **Lack of cellphone infrastructure in rural areas of Utah impacts AMBER Alert system effectiveness**

Key informants and listening session participants reported that the effectiveness of AMBER Alerts is inhibited by the remote nature of some Tribal communities. Some remote, rural communities in Utah lack access to cell towers and don't have consistent cell service. Key informants and listening session participants reported that when AMBER Alerts are pushed out to cellphones, community members on Tribal lands and other rural areas may not receive the alert. This may compromise law enforcements' investigative efforts to locate missing abducted children.

*The rural-ness of the reservations and the apathy from society in general about what happens on the reservations are a huge challenge. There's no AMBER Alert that goes off when a child goes missing on a reservation. If there were, who's going to respond to it? There are huge issues. Where to start in breaking those down?*

*– Service provider*

## Recommendations

- Collaborate with local, county, state, and Tribal law enforcement to **determine barriers to full utilization of the AMBER Alert and EMA systems** to ensure the systems are comprehensive, accessible, and unbiased
  - Assess, identify, and address gaps in infrastructure (e.g., radio broadcasting, road signs, cellphone towers) inhibiting alert system effectiveness across Utah
  - If of Tribal interest, build relationships and establish MOUs between Tribes and local or county law enforcement agencies regarding requesting and activating alert systems
  - If of Tribal interest, offer training for Tribal and BIA law enforcement officers on the Utah State AMBER Alert system criteria and procedures for activation
- **Consider expanding the Missing Persons Alert system** to include cellphone and/or highway sign communication networks in cases of missing and endangered adults

## Review and investigation of unresolved (“cold”) cases

*Resources for cold case investigations are extremely limited. ... Such limitations are especially relevant for American Indian and Alaska Native communities, where a lack of law enforcement resources, and particularly of victim and survivor services, already lead to these communities being disproportionately affected by violent crime. (Budowle et al., 2022, p. 1)*

Unresolved (“cold”) missing person and homicide cases, generally characterized by lack of both resolution and further investigative leads, present numerous challenges to law enforcement and significant emotional trauma to all those involved (Budowle et al., 2022; Moran, 2021). Despite these impacts, unresolved missing person cases are frequently deprioritized due to law enforcement’s limited time and resources (Adcock, 2021; Budowle et al., 2022; Moran, 2021).

### Policy context

#### ***There are some federal-level resources for unresolved case review and investigation***

There is no existing federal policy related to the review, investigation, or reporting of unresolved missing person cases. However, in 2020-21, Operation Lady Justice established seven cold case teams throughout the country: in New Mexico, Arizona, South Dakota, Montana, Minnesota, Tennessee, and Alaska (U.S. Department of the Interior, 2021). The units are staffed with law enforcement and special agents from the U.S. BIA’s Office of Justice Services.

Additionally, in 2022, Congress passed the Homicide Victims’ Families’ Rights Act of 2021. Under this law, families of homicide victims whose cases have remained unresolved for at least three years may request a federal review of the victim’s case file. Cases are eligible if they were investigated by federal law enforcement, the investigators’ leads have been exhausted, and no suspect has been identified. Assessments are intended to identify whether any leads were missed during the preliminary investigation, whether to interview new witnesses or re-interview original witnesses, and whether to follow up with forensic testing and analysis (if the evidence is available). The act requires the National Institute of Justice to publish annual statistics on unresolved homicides.

There are no Utah state laws related to the review or investigation of unresolved missing persons or homicide cases. In 2018, Utah passed legislation that required the Utah DPS to develop and maintain a database of unresolved cases (Utah S.B. 160, 2018). This database is discussed in further detail in the “Data Issues” section of this report.

# Best and emerging practices

## ***Form a cold case unit or team***

Forming a cold case unit or team within a law enforcement agency or collective of agencies can ensure appropriate funding and attention to unresolved cases (Moran, 2021). Based on data from 2011, few U.S. law enforcement agencies (7%) have dedicated cold case units, and only one out of five departments has formal protocols for initiating cold case investigations (Davis et al., 2011).

Law enforcement agencies may work to establish an effective cold case unit or team by:

- Systematically gathering and organizing data on existing unresolved cases, including homicides, missing persons, unidentified persons, sexual assaults, and other violent crimes to better understand the scope of the issue (Adcock, 2021; Barcus et al., 2019; Moran, 2021)
- Committing agency time and resources for the duration of unresolved investigations, including minimizing the administrative burden on investigators so they have adequate time to dedicate to cases (Adcock, 2021; Barcus et al., 2019; Moran, 2021)
- Dedicating staff with sufficient time to focus on unresolved cases (Adcock, 2021; Barcus et al., 2019; Moran, 2021)
- Assembling a team with the right mix of varied skills and experience, and who are able to make a long-term commitment (Adcock, 2021; Barcus et al., 2019; Moran, 2021)
- Tailoring the unit to their agency's size or need, as large agencies may need and be able to resource permanent full-time cold case units, while smaller agencies may choose to incorporate cold case teams within other investigative units (Moran, 2021)

For further reference, the National Institute of Justice's Cold Case Investigation Working Group published [detailed guidance](#) on best practices for the creation of cold case investigation units, including sample documents on standard operating procedures, investigation checklists, sample investigative case files, MOUs, and nondisclosure agreements (NDAs) (Barcus et al., 2019).

## ***Prioritize cases based on solvability factors***

The use of solvability matrices or checklists is a well-established best practice for prioritizing which unresolved cases to dedicate investigative resources to (Adcock, 2021; Budowle et al., 2022). For example, the National Institute of Justice's Cold Case Investigation Working Group suggests that unresolved cases should be prioritized based on whether: 1) the statute of limitations on the crime has expired; 2) there is existing testable forensic evidence; 3)

victims and other witnesses are available to be interviewed; and 4) the case already has a suspect or person of interest (Barcus et al., 2019). See the Arizona Criminal Justice Commission's (n.d.) Cold Case Solvability Matrix for a sample tool.

### ***Learn from and build off of existing effective unresolved case investigative protocols***

Sample cold case investigation protocols are available through the National Institute of Justice's Cold Case Investigation Working Group, the Miami Police Department's Cold Case Team standard operating procedures, or through direct request to the U.S. BIA's Office of Justice Services and the FBI (Budowle et al., 2022).

### ***Re-examine the case file to determine investigative gaps and opportunities***

It is important to re-examine the original case file of unresolved missing persons cases with fresh eyes—specifically, by new investigators or volunteers with no prior involvement with the case (Adcock, 2021; Barcus et al., 2019; Budowle et al., 2022; Moran, 2021). It is possible that investigative leads or clues were previously overlooked, mistakes were made, or investigators had limited resources or training at their disposal (Budowle et al., 2022; Moran, 2021). All unresolved case files should be reviewed periodically to ensure that the investigation meets current standards and best practices (Barcus et al., 2019).

### ***Submit evidence for forensic testing or retesting***

Submitting viable DNA evidence for forensic testing or retesting may reveal new information that can inform the case (Adcock, 2021; Barcus et al., 2019; Budowle et al., 2022; Moran, 2021). At the time of the initial investigation, forensic technology may not have been available, may not have been advanced enough to detect DNA evidence or make identification, may have been cost prohibitive, or DNA databases may have been incomplete or unknown to investigators (Budowle et al., 2022). Forensic testing results that were originally inconclusive or negative may now lead to new evidence or investigative leads (Barcus et al., 2019).

**Community trust and informed consent in forensic testing.** Indigenous community members may have concerns about sharing DNA samples with investigative agencies due to past violations of trust (Budowle et al., 2022). For example, in 1989, members of the Havasupai Tribe provided blood samples to contribute to a research study on diabetes. Without their consent, researchers used their DNA for other research purposes. Investigators should develop and implement thorough informed consent procedures that clearly articulate data collection processes, data sovereignty and ownership, storage procedures for the sample and DNA profiles, privacy protections, and how the data will be used. Investigators should provide open and regular communication to the family members about the status of the case, the efforts that are being taken, and any other information that can be provided in a way that doesn't jeopardize the investigation.



## **Re-interview witnesses who may be willing to share new information**

Investigators should revisit witnesses who were interviewed in the original investigation (Barcus et al., 2019; Budowle et al., 2022; Moran, 2021). With the passage of time, personal circumstances or relationships may have changed, and witnesses may be willing to divulge new information about the case they had not shared before. This may uncover new investigative leads.

*Time may be the perfect ally in a cold case investigation. People and situations change. Those who were formerly unwilling to cooperate with an investigation may now cooperate. Marriages, friendships, and other trust relationships may deteriorate with the passage of years. Friends can become adversaries, business relationships may sour, and people may mature or relocate. ... Other similar changes may lead to witnesses who are now willing to cooperate with an investigation. (Barcus et al., 2019, pp. 17-18)*

## **Current issue in Utah**

### **Utah's cold case review board is a crucial resource for investigators across the state, but there are opportunities for further partnership**

Utah has found success in the establishment of a cold case review board, comprised of approximately 30 multidisciplinary experts from across the state (including investigators, prosecutors, and representatives from the crime lab and medical examiner's office). Once per month, Utah investigators can present their unresolved cases in front of the board. While the onus is on individual agencies to do the "leg work" and solve their own cases, the board may be a source of direction, suggestions, and education about new investigative techniques. One key informant reported that law enforcement agencies find the review board's assistance highly beneficial, and there is growing interest among investigators. At the time of the interview, the cold case review board had not yet reviewed any cases originating on Tribal lands, where Tribal police or the BIA have jurisdiction. However, one key informant reported that the cold case review board was in the process of engaging with the BIA to identify opportunities to work together in the future.

### **Some law enforcement agencies in Utah are prioritizing cold cases and maintaining long-term relationships with families**

The Unified Police Department (UPD) of Greater Salt Lake has adequate resources and administrative support to staff a cold case unit and maintain long-term ongoing relationships with the family members of long-term missing persons. Cases are reviewed on a quarterly basis, or more frequently if tips or new leads come in. The administration of UPD of Greater Salt Lake gives their investigators the time and resources they need to investigate cases, as they trust their investigators to know what is necessary. Key informants emphasized how important it is for law enforcement leadership to support and put resources behind the investigation of unresolved cases.

Additionally, key informants discussed how the UPD of Greater Salt Lake holds an annual “Hope Conference” with the families of long-term unresolved missing persons and homicide cases. They provide lunch, display photographs of the families’ missing and murdered loved ones, and take voluntary DNA samples and fingerprints to potentially help support the investigation. One key informant reported that this event provides opportunities for connection among families who are sharing the same anguish, and provides reassurance to families that UPD has not forgotten about their missing and murdered loved ones.

### **Limited resources and staff capacity create barriers to the investigation of long-term unresolved cases**

Key informants report that there are few financial and personnel resources dedicated to the investigation of long-term unresolved cases in most law enforcement agencies across Utah. There is no centralized cold case unit at the Utah DPS, and there are few cold case units within individual law enforcement agencies across the state. While Utah has a successful cold case review board, individual law enforcement agencies are still responsible for investigating the cases with their own staff. Maintaining cold case units is expensive, so, more frequently, criminal investigators are assigned long-term unresolved cases alongside their other investigative responsibilities. Key informants report that long-term unresolved cases (particularly unidentified homicides) are frequently deprioritized given limited staff capacity and competing demands on their time.

*There's no support for investigating after local resources are tapped out. To not have a centralized way to focus on these cases is a big gap. – Attorney*

### **The investigation of unresolved cases is dependent on, and often hampered by, the quality and rigor of the original investigation**

Key informants reported that the investigation of long-term unresolved cases is often hindered by the quality and rigor of the original investigation. Law enforcement officers who are assigned to investigate unresolved cases are dependent on the actions of the original investigators, including whether the missing person report was verified, if the missing person was reported to NCIC, whether the investigator kept accurate records, and if the evidence was gathered, protected, well maintained, and documented. These cases, even when solved, may be less eligible for prosecution due to gaps in the evidence or records-keeping that undermine prosecutors’ ability to prosecute a case. Key informants emphasized the importance and impact of law enforcement being adequately trained in evidence collection, interviewing, and documentation during the preliminary investigation.

*A 20-year-old case is going to have issues. Records, evidence, all that comes into play. That's a challenge. Especially when it comes down to, where's the evidence now? Sometimes it's gone missing. That goes back to the local or Tribal police department. How was it reported? Was it given to the feds? It can get really convoluted when it comes to the cold cases. – Law enforcement*

# Recommendations

- **Expand cold case resources and increase utilization across Utah**
  - Bring all unresolved MMIR cases in front of the Utah cold case review board (or statewide cold case unit, if created)
  - Increase outreach and communication with Tribes and rural communities about cold case resources available (e.g., a cold case review board, cold case unit at UPD of Greater Salt Lake, crime lab, Office of the Medical Examiner [OME])
  - Consider creation of a statewide cold case unit, including sworn law enforcement officers and analysts
- **Increase access to shared investigative resources**
  - Establish formalized arrangements for cross-jurisdiction and cross-agency sharing of investigative resources and specialized expertise
  - Remove barriers to increase Tribal communities' and law enforcement's access to forensic testing resources
- **Encourage consistent implementation of best practices** pertaining to cold cases across jurisdictions
  - Allocate dedicated law enforcement resources to focus on unresolved cases
  - Digitize all case records and use a searchable data system, if possible, to record all cold case records and details to aid in future investigative efforts
  - Review and re-review unresolved cases on a periodic basis by investigators not previously involved in the case, perhaps recruiting retired detectives and others as volunteers
  - Prioritize cases using standardized solvability factor assessments
    - Over time, assess the impact the use of solvability factor assessments has on the prioritization (or deprioritization) of MMIR cases
  - Implement quality forensic data collection and storage procedures to protect DNA evidence from degradation, so it is available for future testing and re-examination

# Death investigation

## Policy context

### *Policies and procedures for medicolegal investigation, including autopsies, are determined at the state level*

When someone dies, a coroner or medical examiner conducts a medicolegal investigation to understand the cause and manner of the death (Centers for Disease Control and Prevention, 2015). The protocols, procedures, and required qualifications around medicolegal investigation are determined by each state. Resultantly, there is a large amount of variation across states regarding which deaths require investigation by a coroner or medical examiner and what educational or certification requirements investigators must possess. In most states, coroners are not required to be physicians or have any medical training (Centers for Disease Control and Prevention, 2023a).

### *Utah uses a centralized medical examiner system*

Utah uses a centralized medical examiner system housed within the Utah Department of Health and Human Services (DHHS; Utah Code 26B-8-2). The chief medical examiner is appointed by the executive director of Utah DHHS, must be licensed to practice medicine in Utah, and must be a certified forensic pathologist, which includes extensive training in death investigation. Autopsies in Utah must be performed by the medical examiner or by a regional pathologist appointed by the medical examiner. Currently, there are no appointed regional pathologists. Only the medical examiner or their designee may certify the cause of death. If the medical examiner determines there may be criminal responsibility for a death, they must notify the district attorney, county attorney, or head of the law enforcement agency responsible for investigating the death.

### *The medical examiner determines whether an autopsy is necessary*

Under Utah state law, the medical examiner must assume custody over a deceased body under some specific circumstances (Utah Code 26B-8-2). These circumstances include if it appears that the death was a result of violence, suicide, or accident; if the death was sudden and the decedent was previously in good health; if the death was unattended; and if the death occurred under suspicious or unusual circumstances. Autopsies must be performed if determined as necessary by the medical examiner, or if requested by the attorney general, district attorney, or county attorney with criminal jurisdiction. The medical examiner must perform an autopsy to 1) support the investigation and prosecution of a crime, 2) to protect innocent persons accused of a crime, and 3) to identify hazards to public health. The medical

examiner determines the level of examination required and whether to perform a full or partial autopsy (Utah Office of the Medical Examiner, n.d.).

### ***Utah created the first psychological autopsy examiner position in the country***

In 2017, the Utah legislature appropriated funds to create a psychological autopsy examiner position within the Utah OME (Utah H.B. 346, 2017). The psychological autopsy examiner is responsible for working with the medical examiner to compile data on suicide-related deaths and collect information from family members of the decedent to better understand the psychological contributions to the person's death. In Utah, the psychological autopsy examiner and their team conduct interviews with family members of individuals who died by suicide, drug overdose, or maternal death (Ghorayshi, 2023). These interviews collect detailed information about the decedent's life, including information about their housing, mental health, drug problems, social media use, gender, and sexual relationships.

### ***There are few statutory guidelines about communication with families during a death investigation***

In Utah, there are few statutes governing communication with family members of the deceased during a death investigation related to the availability of the medical examiner report and procedures for autopsy. The decedent's immediate relatives and legal representatives may request a copy of the medical examiner's record (including the findings of the autopsy and/or investigation) for a \$10 fee (Utah Code 26B-8-2; Utah Office of the Medical Examiner, n.d.).

If a district or county attorney files an action in court to exhume a body for further investigation, a notice of the order must be delivered to the executor of the deceased's estate or, if unavailable, their nearest heir (Utah Code 26B-8-2). The executor or heir has 24 hours to object to the exhumation. However, if the death was believed to have occurred in certain circumstances (such as deaths involving violence, or under suspicious or unusual circumstances), the district or county attorney can motion to exhume the body immediately and without notice.

There are no state laws in Utah that govern family notification of an intended autopsy or establish guidelines for when and how to communicate with families during a death investigation.

## Best and emerging practices

### *There are established best practice procedures for investigators responding to death scenes*

In 1999, the U.S. DOJ published guidance on death scene investigation, compiled and reviewed by a technical panel of content experts and practitioners (updated in 2011; Holder et al., 2011). The guide provides detailed guidelines and protocols for conducting death investigations. See below for a summary of the guidance; for further details, see the guide.

#### **Coordinate with other responding officials and agencies**

When first arriving at the scene of a death, law enforcement investigators should introduce themselves and explain their role to other law enforcement, fire, EMS, and social service professionals present at the scene (Holder et al., 2011). Investigators should participate in a scene briefing with other participating agencies to share preliminary information and establish goals, roles, and responsibilities in the investigation. This includes establishing the scene location, whether the death is being considered as suspicious, and confirming that initial witness statements about the incident have been collected.

After the scene investigation is complete, as described below, the investigator and all other responding agencies should participate in a scene debriefing to allocate remaining responsibilities, share pertinent information, and identify the need to involve other specialists (such as the pathologist for an autopsy, as needed).

#### **Perform a preliminary assessment of the death scene**

Before entering a scene, investigators should address environmental and physical risks that could compromise scene safety and contribute to further injury or mortality, including hostile individuals, environmental or physical threats, or biohazards (Holder et al., 2011).

Additionally, investigators should note that the deceased person may have died in a different location from where they were found (Holder et al., 2011). And, though uncommon, it is important to consider that the decedent or the crime scene may have been staged/posed. Investigators should locate and determine any additional locations where injury contributing to the death may have occurred to help establish the cause, manner, and circumstances of the death.

## **Establish photographic and descriptive documentation of the scene**

Investigators should take detailed photographs and video of the scene of the death to serve as a future reference point (Holder et al., 2011). Photographs and video should be taken before the deceased person or any evidence is removed from the scene or disturbed in any way. Photographs and video should be taken of the overall scene (to put it in the context of the surrounding area) and more detailed views of specific areas or pieces of evidence within the scene. A 360-degree camera is advisable if it is within the law enforcement agency's budget. Investigators should also document the scene (via diagram or written narrative), describing the characteristics and location of the evidence and the scene environment (e.g., temperature, scents, light). If the scene has been disturbed or conditions have changed before the scene has been documented, those changes should be included in the report.

## **Identify, document, and preserve evidence**

Investigators should identify the first official who responded to the scene (the “first responder”) and determine whether the integrity of the scene has been altered or contaminated (Holder et al., 2011). Investigators should perform a scene “walk through” to: identify evidence; document, photograph, and collect fragile evidence immediately; locate and view the deceased person; and determine strategies for reducing scene disturbance (e.g., path of entry and exit, scene boundaries) to prevent loss of evidence. It is important to establish and maintain a chain of custody for evidence, including securing and preserving evidence; documenting the location, time, and person who collected the evidence; and developing lists of personnel and witnesses present at the scene. Evidence may also include cellphone and smart device data, CCTV/Ring camera video, social media data, router data, etc. When collecting evidence, investigators must follow all relevant laws to ensure that the evidence collected is admissible in court (e.g., laws related to search warrants, medical examiner/coroner statutes and procedures).

Along with evidence, investigators should also identify the deceased person's valuables and property at the scene. Personal property and valuables should be properly collected, documented, and securely stored so they may be returned to the next of kin as required by law.

## **Interview witnesses**

Investigators should interview witnesses present at the scene of the death (Holder et al., 2011) and individuals who were present just before the time of death. They should document names and other identifying information (state-issued ID and/or a photo), whether the witness has a relationship to the deceased person, and the circumstances of how the witness discovered the death. Investigators should also take note of inconsistencies in witness statements (e.g., compared to what was shared in the scene briefing) and follow up to clarify and verify statements.



### **Examine and document the condition of the deceased person's body**

Investigators should take detailed photographs of the deceased person's location, appearance, and condition—both as the deceased person was originally found and the underlying surface after the deceased person has been removed (Holder et al., 2011). Investigators should conduct a preliminary external examination of the deceased person and document physical characteristics (including scars and tattoos), clothing and other personal effects (including whether they are present or absent), and any visible injury or trauma. Evidence that is present on the body (including blood or other body fluids, hair, or fibers) should be thoroughly photographed, documented, collected, and stored before removal and transportation of the deceased person.

Additionally, investigators should identify and document all post-mortem changes they observe—including skin discoloration (livor), the degree of stiffening of the joints and muscles (rigor mortis), stage of decomposition, any insect or animal activity, and both the scene and body temperature.

Once the examination is complete, investigators should supervise the preparation and removal of the remains to ensure that the deceased person's body and associated evidence is protected and preserved, that the deceased person is properly identified using an identification tag, and that an appropriate chain of custody is followed. Investigators should maintain jurisdiction over the deceased person's body throughout the process of transportation to a medical or autopsy facility to protect the chain of custody, determine who is responsible for completing the death certificate, and release the body to an authorized entity (e.g., funeral director, medical examiner, or coroner).

### **Identify the deceased person, notify the next of kin, and assist the family**

Investigators should work to establish the deceased person's identity via photographic identification (if possible given their condition), forensic methods (e.g., fingerprints, dental records, DNA comparisons), and other circumstantial evidence such as physical characteristics, tattoos, and circumstances surrounding the death (Holder et al., 2011). Investigators should identify, locate, and notify the deceased person's next of kin in a timely manner, and the notification should take place in person barring inexorable circumstances. When possible, an advocate or victim service provider (VSP) should be present for the notification or made available immediately afterward.

Investigators should work with a victim service coordinator or social worker to provide the deceased person's family with information about the next steps (including whether an autopsy is required and the timeline for releasing the deceased person's body), available community support resources (including victim services, social services, and death scene clean-up), and who they can contact with questions.

## **Develop and document victimology of the deceased person**

Investigators should develop comprehensive victimology (the study of the victims of crime and the psychological effects on them of their experience) of the deceased person, with information about the discovery of their body; the circumstances around their death; and their medical, mental health, and social history (Holder et al., 2011).

Investigators should document information about the discovery of the deceased person, including who, when, where, and how the discovery was made (Holder et al., 2011). Investigators should also document known circumstances and conditions leading up to the death (including when the person was last known to be alive, notable incidents, physical complaints or symptoms, and emergency medical services records).

Investigators should obtain and document the deceased person's medical history (including prescription medications, alcohol or drug use, and family medical history), and mental health history (including behavioral issues, hospitalizations, medications, and history of suicidal ideation or attempts on their life). They should also obtain and document information about the person's social history, including: information about their marital, family, and friendship relationships; employment, education, and financial history; daily routines and activities; internet activity; religious and cultural information (including religious objection to autopsy); and criminal history. Investigators should also gather information, when available, about the individual's tribal affiliation (if any), their sexual orientation, and their gender identity. This information helps to inform the determination of the cause, manner, and circumstances of the death and whether further post-mortem examination and testing is necessary.

### ***Appropriate training for death investigators is critical***

Medical examiners and coroners who determine the cause and circumstances of death in criminal and unexplained cases play a critical role in the investigative process. The expertise and availability of these professionals varies widely by state and by county or city (Young, 2022). Some states, including Utah, have pushed to improve their death investigation system by using medical examiners only, as they are deemed to have the best and most appropriate training to make the determinations required of them (e.g., whether or not to order an autopsy, the invasiveness required). However, in other states, because many rural counties across the country are challenged to afford the expertise of medical examiners due to limited budgets and the shortage of medical examiners, it may be impractical to eliminate the coroner system altogether (Young, 2022).

### ***Cultural considerations for autopsies are important among Indigenous populations***

Death investigators should show willingness to listen to the desires and concerns of families, answer their questions, and respect families' religious and cultural practices. It is not appropriate for death investigators to doubt or express skepticism about families' religious

beliefs (Smiles, n.d.). Some Indigenous religions and cultural practices around death are not well known or understood by death investigators. If death investigators have some prior awareness of the family’s cultural beliefs and practices around death and burial, it may facilitate better communication and coordination with families during the investigative process and ensure that practices are taken into consideration, while still performing the procedures necessary to gather evidence needed in suspicious death investigations.

### ***There are established best practice procedures for homicide investigation***

In 2013, the U.S. DOJ published the findings of a research study describing the practices of homicide investigative agencies that were associated with high rates of case clearance (Carter, 2013). Investigators from seven different law enforcement agencies across the United States, all with a case clearance rate of at least 80%, were interviewed about their agency’s strategies and tactics when investigating homicides. The report outlines 32 best practices associated with high clearance rates (Carter, 2013, summarized on pp. 27-31). Additionally, the functions and tasks critical to conduct in the first 48 hours are described in three intervals via a process map. The map details tasks specific to different responders within each interval (crime scene investigators, district attorneys, medical examiners, digital forensics, homicide investigators, patrol officers, patrol supervisor, and public information officers; Carter, 2013). The process map covers 80 separate tasks to be performed; however, “the key issue is not ‘what’ tasks are performed but ‘how effectively’ they are performed” (Carter, 2013, p. 32).

### **The success of investigative strategies and tactics is predicated on community relationships and trust**

It is important to note that the investigative information collected will be limited if trust in and support for law enforcement is lacking. A lack of trust can result in fewer anonymous tips and make it difficult or impossible to collect substantive information helpful to the investigation (Carter, 2013). Family members and witnesses are imperative to missing person and death investigations, so establishing trust with them is key.

An important part of the investigative process is performing a comprehensive canvass of the neighborhood or surrounding area to gather relevant information from community members for the case. For agencies with high clearance rates, the canvasses were conducted by a patrol officer that was known and trusted by community members, leading to discussions with community members that were in-depth rather than “simple ‘knock-and-talk’ exercises” (Carter, 2013, p. 7). Cooperation and engagement from community members was given to agencies that had “laid a strategic foundation in community relationships” (Carter, 2013, p. 7).

## **Strategic staffing, scheduling, and training impact clearance rates**

Adequate staffing is critical to increasing clearance rates (Carter, 2013). The optimal number of investigators is four investigators rotating as the lead investigator with one supervisor. The ideal is to have an investigator lead three homicide cases annually. However, this may vary or not be feasible for small agencies. An alternative approach to assigning a lead investigator is to have a team of investigators, with the needed skill set, work together and divide up tasks among team members. It is best to have investigative squads assigned to day and evening shifts and have the overnight shift on call. This schedule is most cost-effective and ensures investigators are available at peak hours and can get to an investigative scene quickly. Mentorship from experienced investigators, recommended for at least three months, is core to the training of new homicide investigators. In addition to partnering with an experienced investigator on the job, “the optimum training and preparation for the position of homicide investigator is a minimum of three years as a patrol officer, followed by at least two years as an investigator with general investigative experience” (Carter, 2013, p. 10). Additional training on death investigation, homicide crime scene investigation, and interviewing and interrogation is also recommended for new homicide investigators.

## **Current issues in Utah**

### ***Utah’s medical examiner system is a crucial resource but lacks jurisdiction over deaths occurring on Tribal land***

Key informants spoke to how Utah’s centralized medical examiner system helps ensure that all deaths under their jurisdiction are investigated thoroughly and in accordance with best practices by a qualified forensic pathologist with specialized expertise. However, key informants noted that the Utah OME’s jurisdiction does not extend to any deaths that occur on Tribal lands in Utah. For these deaths, the Utah OME only gets involved at the request of the FBI or the BIA, who pay a fee of \$2,500 for every examination.

Key informants reported that the OME receives requests from the FBI and BIA to support death investigations on Tribal lands somewhat regularly. However, these cases are predominantly suspicious deaths or potential homicides. Key informants noted that other types of deaths, including suicides and overdoses, are not referred to their office for examination. Key informants expressed uncertainty about whether and how other deaths are being investigated on Tribal lands, given that the Utah OME is the only medical examiner investigative authority in the state qualified to do forensic autopsies. One key informant noted that there are no uniform death investigation protocols on Tribal lands in Utah, and practices and resources differ based on which investigative body has jurisdiction over each Tribal nation.

When cases are referred to the Utah OME from Tribal lands, one key informant noted that it can sometimes be difficult to obtain preliminary scene reports and documentation from law enforcement to support the medicolegal investigation. This is because the Utah OME has no jurisdictional authority to require the FBI or BIA share materials.

*I don't know who is doing those types of investigations on reservations, on Tribal lands, but if they're not trained, which I can guarantee you they're not forensic pathologists certainly, or probably [not] even certified death investigators. I'm not aware of any certified [medicolegal] death investigators operating in the state of Utah, except in our office. ... Things are getting missed that shouldn't be.*

– Medical examiner staff

*The quality of death investigation is so uneven, and I think that's true frankly of even places here in Utah where we don't have jurisdiction. ... Access to resources can help solve crime. We aren't without our limitations, but by and large, [the OME] is [among] the top 15 organizations in the country when it comes to investigating death. I don't know if our reservation partners utilize us, partly because of cost, because we don't have jurisdiction. Every time they send us a death to investigate, it's \$2500 out of the FBI or BIA's pocket. I'm not saying that law should change and we should get jurisdiction, but how do we provide the degree and quality of death investigation to Indigenous people that everybody else in the state gets? They deserve that and deserve justice.*

– Medical examiner staff

### **Resource challenges may impact death investigation in rural parts of Utah and on Tribal lands**

Key informants spoke to how lack of resources (including financial resources, training, expertise, and personnel) make death investigation more challenging for some law enforcement agencies in rural parts of Utah or on Tribal lands. Some technology that is very helpful, or even necessary, to do a thorough death investigation (e.g., 3D scanners) is expensive and cost-prohibitive for some agencies. One key informant also noted that some law enforcement agencies may not have the resources to invest in regular death investigation training for their officers, due to the cost as well as the time required (e.g., for a week-long training) that takes away time from their other responsibilities.

Additionally, one key informant noted that some law enforcement agencies lack expertise in death investigations due to the fact that suspicious deaths happen infrequently within their jurisdiction. In contrast, in places like Salt Lake City, law enforcement has the (unfortunate) opportunity to build experience and knowledge through the sheer number of cases they handle. Even trained law enforcement may begin to lose their skillset if they aren't handling homicide cases on a regular basis.

One key informant noted that some smaller law enforcement agencies in Utah are addressing these challenges by forming task forces and working together to investigate deaths in each of their jurisdictions. There is an opportunity for more agencies to work collaboratively and share resources in the future.

## ***Communication with families***

Key informants reported that some investigators are communicating proactively and openly with families during death investigations, but also indicated opportunities for further improvement. On the law enforcement side, one key informant explained how they utilize victim advocates when communicating with families and also let families provide direction about whether and how frequently they want to communicate with law enforcement investigators.

Key informants reported that the Utah OME's medicolegal investigators will speak with families at the scene of the death, if they are present, to interview them about the decedent and find out further information about their life. One key informant noted that when medicolegal investigators have contact with families at the scene, they frequently have follow-up conversations to answer families' questions throughout the investigation. Some investigators maintain longer-term communication and relationships with families.

Following an autopsy, medical examiners currently do not proactively reach out to families about the results of the autopsy. Families only receive a report on the medical examiner's findings if they ask for it; when families do request the report, the medical examiner makes it clear that they should call if they have questions and someone from the office will walk them through it. However, one key informant indicated that the Utah OME is in the process of adding a family advocate role to their office, who will proactively make contact with the family of every new case that comes in, provide some information about what to expect, and be available answer any questions.

## ***Rigorous death investigation helps families gain confidence in conclusions***

Key informants spoke to the importance of law enforcement and medical examiners completing a thorough, rigorous death investigation to help build families' confidence in and be able to justify their conclusions. In listening sessions, some family members of victims reported that they did not believe in or trust the official cause of death (i.e., their loved one's death was determined to be a suicide or accidental, but they believed it to be homicide). One key informant spoke to the importance of law enforcement treating all unknown deaths as suspicious and considering them as possible homicides up front until the evidence proves otherwise. The preliminary death scene investigation and documentation should be taken seriously, the way they would be if it were a homicide. If law enforcement officers are not diligent with the investigation up front, there are evidence and investigative steps they cannot go back and recreate. However, as noted above, this approach may be more challenging among law enforcement agencies with fewer resources. By being thorough

up front, law enforcement is better able to answer families' questions and be able to explain how and why they ruled out alternative scenarios to arrive at their conclusion.

*So by taking that tactic up front of looking at it as a homicide, who were they with? You verify that nobody else was with them. You take the steps to verify and look at and do all those things to determine is it or is it not a suspicious death as opposed to just an unattended death? So you have to take that tactic. If you don't do that, then you leave yourself open with the questions you can't answer because you didn't do it the right way up front.*

– Law enforcement

Additionally, medical examiners spoke to their decision-making process for determining the level of examination needed to adequately determine the cause and manner of death. Due to staff time and budgetary constraints, full autopsies are not completed on some cases if the cause and manner of death can be determined through less invasive examination. However, key informants noted that the majority of their cases do receive a full autopsy and that if there is any degree of suspicion around a death, it is immediately upgraded to a full autopsy. One key informant noted that even when it is unlikely that a death was suspicious, full autopsies can be helpful to rule the possibility out definitively.

### ***There can be time delays in law enforcement and death investigators' responses to the scene of the death***

Key informants described delays in response time among law enforcement and medicolegal death investigators due to limited staffing and travel times to remote parts of Utah. One key informant noted that, in some parts of the state, there are delays in the BIA's response times to the scene of a death due to the large geographic area under their jurisdiction. They noted that sometimes, depending on the relationship between the Tribe and the county, the county sheriff will hold the scene to protect and maintain the integrity of the evidence.

Key informants also described some delays in the time it can take for medicolegal death investigators to arrive on the scene and take possession of the decedent. The Utah OME employs some full-time, some part-time, and some contracted medicolegal death investigators, depending on the demand in the area of the state. In some cases, medicolegal death investigators can be 4-5 hours away. One key informant emphasized that this wasn't a major problem, so long as officers contacted the Utah OME right away upon arriving at the scene. However, another key informant noted that, frequently, law enforcement will be on the scene for hours before they contact the medical examiner.

### ***Understanding personal and social circumstances is crucial for investigators' understanding of what factors contribute to a death***

Key informants reported that both law enforcement and medical examiner staff will interview witnesses, family members, and known associates of the decedent to gain a more comprehensive understanding of who they were, what their life was like, and what factors



may have contributed to their death. This may include their medical history, social history, history of addiction, past experiences of abuse, and whether there have been any deviations from their normal patterns of behavior. Key informants noted that these interviews, alongside scene documentation, are crucial for establishing the cause and manner of death, and possible motivations surrounding the death (if the death was a homicide or suicide).

Additionally, some deaths are more deeply investigated through an interviewing process called psychological autopsy examination. Currently, the Utah OME's psychological autopsy examination team conducts in-depth interviews with family members and friends of individuals who passed away due to suicide and overdose, as well as maternal deaths. These interviews help investigators understand the full range of factors that may have contributed to someone's death—including discrimination, vulnerabilities, and risk factors.

### ***There is a need for law enforcement training on Tribes' cultural and religious practices***

Key informants spoke to the need for further training for law enforcement on Tribal issues, culture, and religious practices—particularly as pertaining to death. Some key informants expressed uncertainty and a lack of knowledge about the cultural and religious practices of Tribes in Utah; one key informant also expressed concern for how they may unknowingly be impacting their relationships with Tribal communities due to their lack of knowledge. Specifically, key informants reported needing support in understanding how to approach the discussion of deceased loved ones with their family members.

Key informants specifically pointed to the need for greater awareness around practices such as using the name of or sharing photographs of deceased Indigenous relatives. For example, law enforcement key informants described an incident at a meeting with a Tribal partner when a photograph of a deceased victim was shared, which caused a large amount of upset and chaos. One key informant noted that when it is absolutely necessary to show a photograph or likeness of the decedent (e.g., for identification purposes), law enforcement should proactively, clearly, and carefully explain their reasons for needing to do it.

*Certainly, I don't know all the cultural, the religious, those things that come up and sometimes create some barriers with the community because you don't know you're offending them, but you are and you have to be careful with that.*

*– Law enforcement*

*I know we had a situation here where an officer did present at an Indigenous conference, and one of the PowerPoints had a picture of the victim who was dead, but it looked like she was just sleeping. ... But, when the officer presented and pulled the picture up, it caused all kinds of chaos. They started calling in, condemning him, said he was horrible. He's the most loveable officer, it was totally innocent. I wish there was training or communication because we didn't know how they felt about [using photos of] the dead. [It is] important for the future for there to be communication and training about what's offensive and what's not.*

*– Law enforcement*

## Recommendations

- **Encourage and support consistent communication with families** among law enforcement and medical examiner staff throughout the investigation process
  - Expand the availability of family advocates within the Utah OME and law enforcement agencies across Utah
- **Build and expand upon working relationships among Tribal nations, Tribal and federal police, and the Utah OME**
  - If of Tribal interest, consider establishing MOUs regarding Utah OME investigations for deaths occurring on Tribal lands
  - If of Tribal interest, provide training for Tribal staff on preliminary medicolegal death investigation
- Provide financial support to rural law enforcement jurisdictions to **increase access to technology and training necessary to conduct death investigations** in line with best practices
- Provide financial support to Tribes, if of Tribal interest, to **cover the \$2,500 fee associated with Utah OME death investigations** to increase routine utilization
- **Expand funding, resources, and staff capacity for the psychological autopsy examiner team** at the Utah OME
  - Expand focus to include case reviews of deaths involving Indigenous victims, especially when there were factors such as domestic violence and trafficking involved
  - Utilize psychological autopsy approaches to better understand the context and circumstances contributing to a person's death, and identify areas where intervention from the system for groups of individuals who are at extreme risk of going missing or being murdered could have resulted in a different outcome
- **Train law enforcement and medical examiner staff on cultural issues specific to Tribal nations in Utah**, specifically on religious and cultural beliefs, practices, and expectations related to death and deceased individuals

# Jurisdiction issues and government-to-government collaboration

Missing person and homicide investigations involving Indigenous community members have an additional layer of complexity due to the maze of possible concurrent law enforcement jurisdictions due to a series of Congressional acts and Supreme Court decisions over the past 200 years (Denke et al., 2021; Fox et al., 2020). Depending on the racial/Tribal identity of both the offender and the victim in a crime, the type of crime, and where the offense was located, then Tribal, local, county, state, and/or federal law enforcement may have jurisdiction to investigate or prosecute a case (Denke et al., 2021; Fox et al., 2020). This complexity may contribute to delays in the investigation of missing persons and homicide cases and other crimes involving American Indians (Fox et al., 2020; New Mexico Indian Affairs Department, 2022).

## Policy context

### *There is a complex web of jurisdictional issues in Indian Country*

The United States government has affirmed Tribal nations' sovereignty numerous times and across all branches of government (National Congress of American Indians, 2020). However, several acts of Congress and key Supreme Court decisions throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries have undermined and limited Tribal sovereignty in exercising criminal jurisdiction via investigation and prosecution.

### **Several acts of Congress have extended federal and state authority over Tribes and Indian Country**

The General Crimes Act of 1817 established that the laws of the United States extend to Indian Country—however, offenses “committed by one Indian against the person or property of another Indian” are exempt. The Major Crimes Act (1885) extended federal jurisdiction over “Indians” who commit one of the listed offenses (which include offenses such as murder, manslaughter, kidnapping, and sexual abuse), regardless of the identity of the victim.

Public Law 280 (PL 280) is an act of Congress which granted certain states criminal jurisdiction over “Indians” on reservations (Act of 1953, 1953; Administration for Native Americans, 2014). In six states (Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin), Congress mandated state jurisdiction in Indian Country (the “mandatory” PL 280 states). Other states (referred to as the “optional” states) also exercised expanded state criminal jurisdiction. Following opposition by Tribal nations due to the failure of PL 280 to recognize Tribal sovereignty and self-determination, PL 280 was amended in 1968 to

require Tribal consent before additional states could extend their jurisdiction to Indian Country (Gonzales et al., 2005).

The Tribal Law and Order Act (TLOA) of 2010 allowed Tribes to request the federal government re-assume concurrent jurisdiction to prosecute crimes within the Tribe's jurisdictional boundaries (Administration for Native Americans, 2014).

More recently, the Supreme Court's *Oklahoma v. Castro-Huerta* (2022) court decision ruled that the federal and state governments have concurrent jurisdiction to prosecute crimes committed by "non-Indians against Indians in Indian Country." The ruling stated that while previous statutes (the General Crimes Act, Major Crimes Act, and PL 280) affirmed federal jurisdiction, and some select states' jurisdiction, they do not preempt state jurisdiction. That is, these previous statutes extended federal authority, and specific states' authority, to prosecute crimes in Indian Country, but they did not actively limit or prohibit state jurisdiction. The Supreme Court's ruling established that states have criminal jurisdiction in Indian Country unless jurisdiction is explicitly limited or eliminated.

### **Other statutes and rulings have placed limitations on Tribal criminal jurisdiction**

The Indian Civil Rights Act of 1968 established that Tribal nations exercising powers of self-government may not impose a conviction for any one offense greater than an imprisonment term of six months, a fine of \$500, or both. These sentencing restrictions were amended to one year and \$5,000 in 1986, and amended again in 2010 to three years and \$15,000 (under some circumstances) under TLOA (Tribal Court Clearinghouse, n.d.).

Additionally, a 1978 Supreme Court decision (*Oliphant v. Suquamish Indian Tribe*) ruled that Tribes lack criminal jurisdiction over all crimes committed by "non-Indians," unless they have express Congressional authorization. This ruling severely hindered Tribal law enforcement and Tribal courts' ability to prosecute crimes committed by "non-Indians" within and against their communities.

### **Violence Against Women Act 2013 and 2022 established Tribal jurisdiction to prosecute some crimes, regardless of the defendant's identity**

More recently, several acts of Congress have extended Tribes' jurisdiction to prosecute certain crimes in Indian Country, regardless of the identity of the defendant. The Violence Against Women Reauthorization Act of 2013 allowed participating Tribes to exercise Special Domestic Violence Criminal Jurisdiction over defendants who commit domestic violence, dating violence, or violate protection orders in Indian Country, regardless of their "Indian" vs. "non-Indian" status. In 2022, the Act was amended to include an expanded list of crimes included in Tribes' Special Tribal Criminal Jurisdiction—including sexual violence, sex trafficking, stalking, and child violence.

## **Tribal courts must meet specific requirements to exercise criminal jurisdiction**

The Indian Civil Rights Act, TLOA, and the Violence Against Women Act (VAWA) outline due process protections for defendants being prosecuted in Tribal courts. They must meet the rights of defendants outlined in the Indian Civil Rights Act, which parallels the U.S. Constitution's Bill of Rights, including the right to due process. The TLOA also outlines rights of defendants, including: effective assistance of counsel; public defenders paid for by the Tribal government; law-trained licensed Tribal judges; publicly available Tribal criminal laws; and recorded criminal proceedings. VAWA (2013) also established that jury pools in Tribal courts must represent a fair cross-section of the community, which "do not systematically exclude any distinctive group in the community, including non-Indians." While VAWA 2013 and 2022 authorized grant and reimbursement programs to support Tribes' participation in Special Domestic Violence Criminal Jurisdiction and Special Tribal Criminal Jurisdiction, these requirements pose a barrier to Tribes establishing sovereign courts and exercising criminal jurisdiction to prosecute cases (New Mexico Indian Affairs Department, 2022). As of May 2022, only 31 of the 574 federally recognized Tribes had been able to implement Special Domestic Violence Criminal Jurisdiction under VAWA 2013 (National Congress of American Indians, 2022).

## **Federal prosecution challenges**

Many crimes that take place in Indian Country in non-PL 280 states fall under the jurisdiction of the USAO (Branton et al., 2021). The federal government may decline cases that are submitted for federal prosecution through an "immediate declination" if they find that the case is ineligible for prosecution in federal court due to jurisdictional issues, or through a "later declination" due to insufficient evidence or other reasons (Native American Budget Policy Institute, 2020).

TLOA (2010) mandated that the U.S. DOJ must publish annual statistics on declination rates of criminal cases occurring in Indian Country and the reasons for declination. The most common reason for federal declination is due to insufficient evidence for prosecution. The U.S. Attorney's Office reports that declination statistics have remained stable over time (U.S. Department of Justice, 2019a). In 2019, 32% of cases in Indian Country referred to the U.S. Attorney's Office were declined for prosecution; of those, the most common reason for declination was insufficient evidence (79%). A 2009 Senate report that accompanied the TLOA said:

*Declination statistics likely reflect difficulties caused by the justice system in place. The lack of police on the ground in Indian Country often results in delayed responses to criminal activity, which prevents officers from securing the crime scene and gathering evidence. ... Declination data could be used to target the appropriate federal district for increased funding to meet the shortfalls for training, forensics equipment, personnel, or to address other needs caused by the system. (S. Rep. No. 111-93, 2009 as cited in U.S. Department of Justice, 2019a )*

A recent study found that, overall, criminal cases in Indian Country are significantly more likely to be declined for prosecution than cases outside of Indian Country (Branton et al., 2021). However, rates of declination in Indian Country have been significantly lower since the passage of TLOA in 2010, which aimed to address law enforcement gaps in Indian Country by expanding Tribal courts' sentencing authority; hiring more BIA and Tribal police officers; and increasing Tribes' access to law enforcement databases.

### **The state of Utah has limited criminal jurisdiction in Indian Country**

Utah is a PL 280 optional state. In 1971, the Utah Division of Indian Affairs Act established that the state of Utah assumed criminal jurisdiction over Indian Country, per PL 280. However, their jurisdiction on Tribal lands was subject to approval through a majority vote in a special election among adult enrolled members of each Tribe (Utah Code 9-9). Without approval, Utah does not have criminal jurisdiction in Indian Country—except in cases involving “non-Indian” perpetrators and Indian victims that give the state concurrent jurisdiction under *Oklahoma v. Castro-Huerta* (2022).

In 1954, the Paiute Indian Tribe of Utah's federal recognition and federal trust responsibility were terminated (Act of 1954). In 1980, as a condition of a federal land transfer agreement, the Paiute Indian Tribe of Utah adopted PL 280 status. Therefore, the Paiute Nation and the state of Utah share concurrent jurisdiction on Paiute Tribal lands (Paiute Indian Tribe of Utah Restoration Act, 1980).

No other Tribes in Utah have consented to state criminal jurisdiction. These non-PL 280 Tribes (the Confederated Tribes of Goshute, Navajo Nation, Northwestern Band of Shoshone Nation, San Juan Southern Paiute Tribe, Skull Valley Band of Goshute, Ute Indian Tribe of the Uintah and Ouray Reservation, and the Ute Mountain Ute Tribe) would need MOUs with each state, county, or local law enforcement agency in order to allow those agencies to provide services or assistance. One Tribal nation that shares some geography with Utah (as well as three other states), the Navajo Nation, operates its own police department within the Navajo Division of Public Safety. However, the Navajo Nation Police Department lacks a permanent police force and public safety substation facility in the “Utah strip” of the Navajo Nation.

The other non-PL 280 Tribes rely on the U.S. BIA for Tribal court and law enforcement services, as well as the FBI and the USAO for investigation and prosecution.

## **Utah state agencies are mandated to develop and execute Tribal consultation policies**

*Communication, coordination, and collaboration are the primary tools in overcoming jurisdictional challenges especially when more than one government is involved. Successful investigation and prosecution of MMIWR cases also require close working relationships between state, federal, and Tribal governments. Solving MMIWR cases will require a multi-jurisdictional approach; this can be accomplished with creating Tribal liaison positions, establishing task forces, and holding formal meetings/convenings of public safety partners to exchange information and tips. Each of these strategies are important to explore and implement to improve relationships between the state and surrounding Tribes. (New Mexico Indian Affairs Department, 2022, p. 67)*

In Utah, the Criminal Investigations and Technical Services Act (1998) laid some foundational groundwork for intergovernmental coordination on criminal investigations with Tribal nations. It stated that the Criminal Investigations and Technical Services Division “shall cooperate with appropriate agencies of any state or nation in developing uniform standards of criminal identification, crime reporting, and information exchange” (Utah Code 53-10-106).

In 1999, the Utah Division of Indian Affairs was created to promote self-determination, address community problems, and promote intergovernmental relations between state and Tribal governments (Utah Code 9-9-103). The Division convenes bimonthly meetings with representatives from the Tribal governments; representatives must attend these meetings three times a year. Utah’s Office of American Indian-Alaska Native Health and Family Services also holds regular meetings with the state’s Tribes, monitors agreements, and oversees department services for Tribal communities in Utah.

In 2014, Utah’s Governor Gary Herbert signed an executive order that directed each state agency to develop a Tribal consultation policy, to promote regular and meaningful engagement with Tribes on issues that have implications for: 1) Tribal cultural practices, lands, resources, and access to traditional areas of cultural or religious significance; 2) the ability of the Tribe to govern or provide services to its members; 3) the Tribe’s formal relationship with the state; and 4) the state’s responsibilities to Indian Tribes (Utah Exec. Order No. 2014-005, 2014). This order recognized Utah’s government-to-government relationship with the Tribal nations. The order established an annual Native American Summit, bringing together Tribal leaders, state agencies, community partners, and members. The Director of the Division of Indian Affairs is responsible for preparing and submitting an annual report to the governor on agency compliance with Tribal consultation policies mandated in this executive order.



## Best and emerging practices

### *Law enforcement agreements may help address jurisdictional issues and bolster coordination*

Reports to the legislatures for Arizona, New Mexico, and Nebraska and other literature highlight the need for law enforcement agreements between Tribal, local, county, and state law enforcement to address jurisdictional issues and improve outcomes in MMIR cases (Denke et al., 2021; Fox et al., 2020; New Mexico Indian Affairs Department, 2022; Sutter et al., 2020). These law enforcement agreements can take many forms: MOUs between Tribal and local law enforcement, cross-deputizations, state recognition of Tribal law enforcement officers, and Special Law Enforcement Commissions (SLECs) from the BIA (Denke et al., 2021). Currently, there is a cross-deputization agreement between the Navajo Nation and the San Juan County Sheriff's Office; however, no other Tribal nations in Utah have cross-deputization agreements or MOUs established.

**Memorandums of understanding.** MOUs are agreements between Tribal law enforcement and local and county law enforcement with whom they share geography (Denke et al., 2021). These agreements clarify the roles and responsibilities of each agency, with the intention of providing comprehensive and coordinated law enforcement support to the areas that the agencies serve. Some agreements establish shared resources and infrastructure across agencies, like dispatch and other communication systems; access to law enforcement data systems; booking and jail services for state-charged offenders; and forensic testing resources. Having these agreements in place is likely to support improved responses to missing person investigations, in particular for cases where it is unclear where the person was last seen or it is possible that they could have been in several jurisdictions. However, Tribes may have to negotiate MOUs with multiple local jurisdictions with whom they share geography, and MOUs may dissolve with transitions in law enforcement and/or Tribal leadership.

**Cross-deputizations.** Cross-deputizations empower Tribal law enforcement to “enforce laws outside of their primary jurisdiction, and regardless of the identity of the offender” (National Sheriffs' Association, 2018, p. 8). In Idaho's MMIR task force report, a key recommendation among stakeholders interviewed was cross-deputization agreements to “(a) increase Tribal partners' access to information related to crimes on Tribal land involving non-Tribal suspects, (b) increase the ability of Tribal police to detain or arrest non-Tribal suspects on Tribal land, and (c) increase the likelihood, in cross-jurisdiction cases, for all partners to track the case and for Tribal prosecutors to have better data on crimes involving Tribal suspects and/or victims” (Fillmore et al., 2021, p. 39). Arizona's report calls for facilitating cross-deputization in the interest of forming multi-agency teams (Fox et al., 2020). The U.S. DOJ's Center for Community Oriented Policing provides guidance on

establishing cross-deputizations, including sample documents and law enforcement agreements (National Sheriffs' Association, 2018).

**State recognition of Tribal officers.** Some states have passed laws that allow Tribal officers to become certified through their Peace Officer Standards and Training (POST) Board programs, giving them police powers to enforce state law (Denke et al., 2021; National Sheriffs' Association, 2018; New Mexico Indian Affairs Department, 2022). In Oklahoma, certified Tribal law enforcement officers have full police powers throughout the state (National Sheriffs' Association, 2018). With state certification, Tribal officers may no longer be burdened by navigating jurisdictional complications, or dependent on individual cross-deputization agreements to enforce law in Utah.

**Special Law Enforcement Commissions.** Another way Tribal law enforcement can address jurisdictional challenges are SLECs from the BIA (Denke et al, 2021; Fillmore et al., 2021). SLECs permit Tribal, local, and county officers to assist in federal investigations of major crimes occurring in Indian Country. State recognition and authority for POST Board-certified Tribal police officers to enforce state law is an important component of investigating missing or murdered Indigenous relatives (Denke et al, 2021; Fillmore et al., 2021). Providing this authority and training can contribute to fewer jurisdictional concerns or confusion.

### ***Building strong government-to-government relationships***

The Tribal Law and Policy Institute published comprehensive guidance for state and local agencies seeking to consult or collaborate with Tribes (Thorne & Garcia, 2019). Their report, "Crossing the Bridge: Tribal-State-Local Collaboration," provides recommendations on the process of internal planning, developing Tribal-state-local partnerships, and maintaining ongoing working relationships.

The Tribal Law and Policy Institute encourages state and local agencies to do internal reflection and planning work before attempting to engage in collaboration with potential Tribal partners (Thorne & Garcia, 2019). These steps should include establishing shared goals, assembling an internal team with the right set of interpersonal and technical skills and experience, coming to consensus about what level and type of collaboration the team would like to have with their Tribal partners, assessing individual and organizational readiness to engage in collaboration, setting internal ground rules for communication and decision-making, and working to understand the impact of institutional history on current organizational and interpersonal relationships with Tribal partners. Some states, like Minnesota, have developed a Tribal-State Relations Training, which provides education to Minnesota state employees about the Tribes in Minnesota's governments, histories, and cultures to help support state employees to engage in Tribal consultation in a respectful and conscientious way (Minnesota Department of Transportation, 2023).

When beginning to work with, or re-engage with, a Tribal partner, state and local agencies should engage in most steps listed above to ensure that all participants are on the same page and in consensus about the prospective collaborative partnership (Thorne & Garcia, 2019). Additionally, the authors emphasized the importance of listening to understand others' perspectives, coming to the table with an appreciation and love for learning about new ideas, setting ground rules and shared values, building relationships (for example, through sharing meals and personal stories), and establishing or rebuilding trust among the parties (including bringing in a mediator when necessary).

When trying to maintain ongoing working relationships, Thorne & Garcia (2019) emphasized the importance of not only celebrating successes and sharing credit, but also accepting blame and acknowledging past harm when things do not go well, in order to earn partners' trust and respect.

Utah has Tribal liaisons housed in each state agency that work to build relationships with Tribal nations.

## Current issues in Utah

### *There may be limited law enforcement staff capacity in some Tribal communities in Utah*

Key informants spoke to the challenges experienced by Tribal police (including BIA agents and Navajo Nation police officers), who are in some cases responsible for providing law enforcement over a vast geographic area with limited staffing. For some Tribal communities, their assigned law enforcement agents are based several hours away. For example, the Navajo Nation police agency that provides law enforcement services for the “Utah strip” of the Navajo Nation is based out of Shiprock, New Mexico. Key informants and listening session participants reported that in some cases it can take hours, if not days, for law enforcement to respond to a call. One key informant reported that BIA agents have a set number of hours allocated to each Tribal community, and that most if not all of the time was depleted by the travel time from their base location to the Tribal community. One key informant reported that law enforcement is non-responsive to calls from specific areas of Utah altogether, due to how remote and distant they are.

*The BIA officer would leave [their] office, and he would have six hours a week of service to give to [Tribe]. ... The officer would leave and his six-hour clock would start. ... And then what's left of the six hours by the time you get out there, right? He could barely go down their main street one time, [and then have to] turn around and drive back.*  
– Utah public safety official

To help address these gaps in law enforcement services, in October 2022, the Ute Mountain Ute Tribe was awarded a federal grant to establish local law enforcement services in the White Mesa community (Mimiaga, 2022). However, the Ute Mountain Ute Chairman Manuel Heart emphasized the lack of BIA criminal investigators and called for more assigned investigators in his testimony at the U.S. DOJ Office of Violence Against Women Tribal Consultation in September 2023 (Heart, 2023). One key informant noted that local and county law enforcement may be hesitant to lend support to Tribes because they are often already spread thin over a wide geography.

Key informants expressed concern that, due to limited staff capacity, missing person investigations may be deprioritized; there may be a delay or lack of response to missing person reports, and the investigation may not be thorough or follow recommended best practices.

*The Skull Valley Band of Goshute doesn't have [law enforcement] resources. They have to rely on BIA and those cops are in Fort Duchesne, and that's hours they have to wait. Just because of jurisdictional issues. It's a system of failure. If a crime happens, a kidnapping, they can call the sheriffs to help, but it gets murky because of jurisdiction, so they have to wait hours for BIA. They are spread thin at Navajo Nation too; they do not have enough law enforcement personnel to get to a place like the minutes response time in urban areas. – Tribal representative*

*Tribal police officers are spread so thin, their jurisdiction is so large. Their ability to respond and to be able to spend the time necessary to look into MMIR is a challenge. – Law enforcement*

While the FBI has concurrent jurisdiction on non-PL 280 Tribal lands in Utah to investigate and prosecute federal crimes, they are not first responders and generally wouldn't be involved in missing person cases unless there were specific indications of criminal involvement. Key informants report that there are few FBI personnel assigned to the entire state of Utah, which creates delays in response times and staff capacity challenges. Key informants expressed concerns that crimes may be inconsistently reported to the FBI by the responding agency. Additionally, key informants noted that cases on Tribal lands are rarely brought to federal court—due to the crimes not meeting the criteria for federal jurisdiction, the intensive resources involved in bringing forward a federal case, and the perception that crimes on reservations aren't prioritized by the federal government.

*If it's a federal crime, of course the FBI has the authority to come in there and take a role, but that takes a while. They're not there, they're not first responders by any means. Often by the time they get there it's way too late. Especially if you're talking about a missing person. By the time they get someone on the ground, that victim's probably long, long gone by now. – Service provider*

*Obviously, if it were to occur on the reservation, the FBI can only do what the FBI knows about and if they don't know about it, they won't be able to investigate. I cannot imagine that every crime that occurs is reported as they should be. So without reporting, there is no investigation. – Law enforcement*

*There are only a few FBI agents, and they may have other things going on too. What's going to rise to the level in the community to even bring it to [the FBI's] attention, and to a federal prosecutor? It's a higher mountain to climb versus a Salt Lake City cop reporting it to a Salt Lake City commissioner.*

*– Law enforcement*

### **Jurisdictional complications may impact missing person investigations**

Key informants and listening session participants reported that jurisdiction issues on Tribal lands in Utah contribute to confusion around the reporting and investigation of missing persons. It may at times be unclear which law enforcement jurisdiction has the authority to conduct the investigation. Key informants and listening session participants commented that this jurisdictional confusion takes up precious time and contributes to delays in reporting and investigation, which may decrease the likelihood of a positive outcome in the case.

*Looking at the big picture, one of the things I have seen is the jurisdictional challenges that happen between different law enforcement groups. There is always a lot of confusion when anything like this happens about who can do what, and when.*

*– Service provider*

*Reporting issues come up—who reports to who about who's missing, and how is that shared?*

*– Law enforcement*

In particular, key informants and listening session participants noted that jurisdictional confusion may come into play in cases involving Tribal members who go missing off the reservation. Law enforcement's ability to investigate a case may be limited by the boundaries of their jurisdictional authority. One listening session participant shared an example of the Navajo Nation Police Department being unable to pursue a lead in a missing person case because they were unable to leave their jurisdiction.

*If a girl is here in Salt Lake City and no one knows where she is. So what is it to be called? The Navajo police don't have an ability to reach into Salt Lake City to find out where she is and then the family can call the Salt Lake City [police] and they will say that they don't have a crime.*

*– Attorney*

### **Established MOUs have been helpful, but there are barriers to implementation**

Key informants report that the Utah DPS's Highway Patrol has established a mutual aid agreement with the Navajo Nation and Navajo Police Department to provide assistance if they request support, and, at the time of the interview, a MOU was under discussion with the San Juan County sheriff's office. Key informants report that the Navajo Nation agreement is a supportive communication tool, and that having a shared understanding of expectations for co-response is extremely helpful, so that agencies don't need to navigate and negotiate an agreement in real-time when an incident occurs. To date, no other MOUs are currently in place with other Tribes in the state. However, one key informant reported that Tribes have

discussed their need for law enforcement support with the state of Utah while maintaining respect for Tribal sovereignty. Some listening session participants emphasized the need for a law enforcement agreement between the Navajo Police Department and San Juan County to address concerns about law enforcement response times to the Utah strip of the Navajo Nation.

*If you can get MOUs in place about co-response or expectations, that's super helpful. If those aren't in place, every time something comes up, you're recreating the wheel, starting over with everything. If you have a MOU, this is what we've agreed to. If we need to tweak something, great, but we're not starting over.*  
MOUs are key. – Law enforcement

*We need to develop relationships with the police and sheriffs so they can determine what can be done on reservation and what sovereignty the Tribe wants to hold. ... As a whole with the state, what I've seen is trying to figure out the fine line of sovereignty and when the Tribe needs assistance. ... One major issue is drunk drivers on reservations. We can't legally detain them, and they have to wait for the BIA. By that time, hours pass and [the driver is] sober and then they have to let them go. Can the local agency come over and help us deal with some of these issues?*  
– Tribal leadership

Key informants reported there are some barriers to getting MOUs in place. MOUs must be approved by Tribal leadership. Depending on what the relationships between Tribal leadership and the local county sheriff are like, it could make establishing an MOU easier or much more challenging. For example, one key informant shared that the reason the Utah DPS is able to have an MOU in place with the Navajo Police Department is because of existing positive working relationships with the Navajo Chief of Police and law enforcement officers. One key informant shared an anecdote about helping to facilitate the MOU process between a Tribe and the local county sheriff. They came close to success numerous times, but, repeatedly, something would happen to break trust, and the agreement would fall apart.

### ***Tribal-state relationships impact interpersonal working relationships on the ground***

Key informants reported that working relationships between Tribal communities and governments, and state law enforcement and governments, have been impacted by local, political, and historical events. In some cases, key informants reported that there is a total lack of relationship between local county sheriff's offices and the Tribes they share geography with. In other cases, relationships may be actively contentious. Key informants discussed how past local events and conflicts (e.g., litigation between a Tribe and the county government, or law enforcement officer misconduct) continue to impact interpersonal working relationships between Tribal communities and the surrounding county, including law enforcement's response and level of engagement. Key informants also pointed to how legislative actions and Supreme Court decisions can have a lasting impact on local relationships. For example, the Utah state-level Indian Child Welfare Act (ICWA) Bill did



not pass in the 2023 legislative session, which one key informant reported had a negative impact on Tribal-state relationships.

*It's an ongoing issue to try to build coalitions and relationships. Across the country this is hard. Trying to be more intentional in how we can work together, put the history aside to work together going forward. When I meet people individually, no one says outright that we don't want to help those people. So, how can we do the hard work to get the supervisors and heads of these organizations to establish working agreements about how we're doing this work together? Those agreements are sometimes key in being able to work together.*

– Service provider

Key informants noted the value of Utah DPS Tribal liaison position, who provides effective and timely communication support between Tribal leadership and the state agency. Tribes will reach out to the Tribal liaison to request consultation meetings; Utah DPS proactively requests consultation with Tribes less frequently. There may be opportunities for the Utah DPS (and other state agencies) to engage and consult with the Tribes more consistently and proactively, and for the DPS Tribal liaison position to be more consistently and fully utilized by local, county, and state law enforcement agencies across the state of Utah, in each of their individual interactions with Tribes.

Additionally, Tribal leaders emphasized the importance of the Utah MMIR Task Force showing up in-person and meeting with each Tribe to better understand how the MMIR issue impacts each Tribal community individually. Tribal leaders also recommended that the Task Force's planning and next steps should be tailored to reflect the needs and priorities of each individual Tribal community.

### ***Prosecutorial declinations of cases limit opportunities for victims and survivors to find justice***

Key informants reported that some criminal cases are not brought to court because they don't meet prosecutors' ethical threshold of being able to prove the case beyond a reasonable doubt. While law enforcement can arrest suspects based on probable cause that someone committed a crime, prosecutors may not always be able to file charges based on their higher threshold of evidence required. One key informant noted that in cases involving violence, prosecutors must also be able to disprove claims of self-defense with clear and convincing evidence due to Utah's justification statute (Utah Code 76-2-309).

*We can solve a case, but that doesn't mean we can prosecute it. Knowing who killed someone is different than being able to prosecute it, and that's a very concerning thing for families and Tribal governments.*

– Attorney

*When my officers arrest someone they take the case to the local defense attorney, who may not have authority for the offender. So, they screen the case for the U.S. Attorney, and they may be more picky about the cases, [and] want a case tied in a box with a silk ribbon with the smoking gun and a signed confession. You may not get charges in the case. That may be a gap in the justice for MMIR cases.*

– Law enforcement



One key informant noted that prosecutors' decisions about whether or not to file charges may be impacted by individual and societal prejudices and biases because they need to consider how the jury is going to view the case, and how that impacts the likelihood of success. If the prosecutor believes that the jury won't view the individual as a credible witness (e.g., due to factors such as a history of drug use) they may be less likely to bring a case to trial.

*If you're thinking about reasonable success at trial, there are some things that come in that correlate with disparity. You have to think about credibility of witnesses—will they be believed? Why or why not? Assessing how they'll be viewed by a jury, who has biases too. They don't take those things into account intentionally, but they probably color how we view credibility of witnesses at times, and we're learning alongside society how to do better self-assessments about these things. And we're learning there's high profile cases recently that you might have thought were challenges, that actually prevailed in court, and juries are more likely to believe victims than a few years back. I think our assessment of cases will change as that changes, as well.*

– Attorney

In many cases, prosecutors may decline a case if they feel the collected evidence is insufficient in quantity or quality, or request further evidence from the original investigators. Key informants emphasized how good evidence collection, interviewing, and report writing serve all cases and increase the likelihood of a case being brought to trial. One key informant observed that when law enforcement receives requests for additional evidence, sometimes they conduct additional investigation and respond with further evidence (and then the prosecutor can file charges), but some law enforcement treat the request as a hard declination and do not pursue further investigation or evidence collection. Key informants spoke to differences in expectations between law enforcement and prosecution; specifically, sometimes prosecutors request more evidence than law enforcement believes to be necessary. One key informant noted that cases declined with a request for further evidence are more likely to be continued by law enforcement if the victim or survivor has close friends and family advocating on their behalf (which makes it less likely that law enforcement will deprioritize the case).

### ***Barriers to Tribes exercising Special Tribal Criminal Jurisdiction and imposing adequate criminal penalties***

Key informants reported that only the Navajo Nation and the Ute Indian Tribe have been able to exercise Special Tribal Criminal Jurisdiction. Other Tribes in Utah have faced barriers to implementation related to the high cost of establishing judicial system infrastructure outweighing demand in their community. In his September 2023 testimony to the U.S. DOJ Violence Against Women Tribal Consultation, Ute Mountain Ute Chairman Heart called for funding support for Ute Mountain Ute Tribe to be able to revise Tribal codes, policies, and procedures to meet the requirements and be able to exercise Special Tribal Criminal Jurisdiction (Heart, 2023). Additionally, key informants commented on how federal legislation (Indian Civil Rights Act and TLOA) has limited the criminal penalties that Tribes

have the authority to impose. One key informant commented on how there is a substantive gap between criminal penalties imposed by Tribal courts and those associated with being charged with federal crimes. Non-PL 280 Tribes do not have the state court system to “fill the gap” with cases that may fall in the middle or are perceived as too risky to expend federal resources on.

*if I understand right, some Tribes have a local court and police force, but the penalties in that system are pretty limited. ... That's a big gap between federal prosecution, which are 5-20 years or life cases, versus less than a year. In our regular system, the rest of [Utah], you have the state system to fill those gaps—the Attorney General's office and county prosecutors. Generally they are more willing to take a risky case or resolve cases that are those in the middle categories. On Tribal land, with that piece not existing, or being confusion about that piece, it's an all or nothing proposition.*

— Attorney

## Recommendations

- **Improve communication, relationship-building, and mutual trust**
  - Engage Tribes through the Division of Indian Affairs or other venues to further explore their interest in MOUs, cross-deputizations, state recognition of Tribal law enforcement officers, or other ways of increasing collaboration, access to state and local law enforcement resources, and reducing barriers to Tribal law enforcement effectiveness
  - If of Tribal interest, consider holding regular meetings between local or county law enforcement and Tribal leaders to discuss issues of mutual concern and identify shared solutions
  - Consider ways to strengthen the Tribal consultation process by state agencies, for example by legislatively requiring Tribal consultation
- **Hold individual in-person meetings between Tribes' leadership and the MMIR Task Force** to better understand how the MMIR issue uniquely impacts each Tribe in Utah, and tailor future planning and next steps to reflect the needs and priorities of each Tribe
- **Increase funding for expansion of law enforcement services** among Tribes without local, immediate support
- **Create and implement a Utah-specific Tribal-State Relations Training** for Utah state employees about the Tribal consultation process; the government-to-government relationship; and the Tribes in Utah's governments, histories, and cultures to support and improve the Tribal consultation process
- **Create a state-level position focused on the MMIR issue** to coordinate efforts across state agencies and with the Tribes
- **Increase collaboration** between the Utah DPS Tribal liaison and federal, state, county, and local law enforcement agencies

## Data issues

There are numerous issues related to the collection, reporting, and sharing of data related to MMIR cases—including underreporting, lack of data collection on demographic information, racial misidentification of victims, and barriers to data sharing across law enforcement agencies and with the public (Cristobal, 2022). Additionally, data on missing persons are inherently complex to measure and interpret because the status of cases frequently changes, and one person may go missing multiple times (Fillmore et al., 2021). Hawaii’s MMIR task force, for example, calls for “more structured, systematic, and streamlined data collection between governmental agencies” in order to “understand the full scope of violence” (Cristobal, 2022, p. 18).

### Race, ethnicity, and Tribal enrollment/affiliation

**Race** refers to how people are perceived and grouped by their physical characteristics (e.g., skin, hair, or eye color), ancestry, or language, while **ethnicity** is determined by a person’s identification with a specific cultural or ethnic group (Lewis et al., 2023).

**Tribal nations** have been governing in North America for many generations prior to European colonization and the formation of the United States (National Congress of American Indians, 2020). At the time of this report’s publication, 574 Tribes have received federal recognition from the United States which establishes a formal government-to-government relationship (known as “federally-recognized Tribes”). Tribes establish criteria for **Tribal enrollment or affiliation** in Tribal constitutions, articles of incorporation, or ordinances; these criteria vary by Tribe (U.S. Department of the Interior, n.d.). Some Tribes set enrollment criteria based on culture, lineage, or blood quantum (a concept created by European settlers referring to the amount of “Indian blood” a person possesses; Native Governance Center, 2023; U.S. Department of the Interior, n.d.). In some cases, people who are descendants but who are not eligible for Tribal enrollment due to blood quantum or other issues still claim affiliation with that Tribe.

## 1. MMIR-relevant databases, available information, and access

MMIR-relevant database	Information and resources available	Demographic data availability	Participation and access
National Crime Information Center (NCIC) <i>Federal Bureau of Investigation</i>	Computerized index of criminal justice information, including records of missing persons who meet certain criteria due to age or concern for safety <sup>a</sup>	Race/ethnicity <sup>a</sup>	Law enforcement are legislatively mandated to report all cases of missing persons under age 21. States and law enforcement agencies have discretion to set policies regarding missing adults. Available to Tribal police through their state Criminal Justice Information Services (CJIS) Systems Agency (CSA) or the DOJ’s Tribal Access Program (TAP), though there have been challenges and barriers to access <sup>a</sup>

<sup>a</sup> Budowle et al. (2022)

## 1. MMIR-relevant databases, available information, and access (continued)

MMIR-relevant database	Information and resources available	Demographic data availability	Participation and access
The National Missing and Unidentified Persons System (NamUs) <i>U.S. Department of Justice</i>	National clearinghouse for missing, unidentified, and unclaimed person cases in the U.S., as well as a resource center with free forensic services <sup>a</sup>	Race/ethnicity <sup>a</sup> Tribal enrollment/affiliation <sup>a</sup>	Publicly accessible database ( <a href="http://www.NamUs.gov">www.NamUs.gov</a> ), though some information (e.g., biometric data) is restricted to law enforcement and other verified users <sup>a</sup>
The National Center for Missing & Exploited Children (NCMEC)	National clearinghouse for missing and exploited children, as well as resources for case investigation and forensic supports <sup>a</sup>	Race/ethnicity <sup>b</sup> Tribal affiliation <sup>b</sup>	Maintains a public searchable database of missing children cases, and publishes analyses of data on missing and exploited children <sup>c</sup>
National Data Exchange (N-DEX) <i>Federal Bureau of Investigation</i>	National web-based system of criminal justice records not contained in NCIC, including incident and arrest reports, calls for emergency support, and supervised release reports <sup>a</sup>	Unknown	Available to Tribal police through their state CSA or the DOJ's TAP, though there have been challenges and barriers to access <sup>a</sup>
Violent Criminal Apprehension Program (ViCAP) <i>Federal Bureau of Investigation</i>	National database of violent crime information, for homicides, missing persons that may involve foul play, unidentified human remains, and sexual assault; including a behavior-based crime analysis tool to support investigation of unresolved cases and developing leads <sup>a</sup>	Unknown	Law enforcement agencies, including Tribal police, must go through an application process and designate a single agency point of contact in order to gain agency-wide access to ViCAP <sup>a</sup>
National Integrated Ballistic Information Network (NIBIN) <i>Bureau of Alcohol, Tobacco, Firearms and Explosives</i>	Database of ballistic evidence (from bullets, cartridge casings, and test-fired recovered firearms) from homicides, suicide deaths, and other cases involving firearms <sup>a</sup>	N/A	Relies on participation from local, state, Tribal, and federal law enforcement agencies to contribute to the ballistics evidence database. <sup>a</sup>
Utah Missing Person Clearinghouse <i>Utah Department of Public Safety</i>	Database of missing and unidentified deceased persons in the state of Utah <sup>d</sup>	Race/ethnicity <sup>d</sup>	Cases with signed waivers are posted on the public-facing website <sup>d</sup>
Utah Cold Case Database <i>Utah Department of Public Safety</i>	Database of unresolved homicides, missing persons, and unidentified deceased persons in the state of Utah whose cases have been unsolved for at least 3 years <sup>e</sup>	Race/ethnicity <sup>e</sup>	Maintains a public-facing, searchable website  All law enforcement agencies in Utah are legislatively mandated to report all unresolved cases at least 3 years old <sup>e</sup>

<sup>a</sup> Budowle et al. (2022), <sup>b</sup> National Center for Missing & Exploited Children (2020), <sup>c</sup> National Center for Missing & Exploited Children (2023), <sup>d</sup> Utah Bureau of Criminal Identification (2021a), <sup>e</sup> Utah Bureau of Criminal Identification (n.d.),

## 1. MMIR-relevant databases, available information, and access (continued)

MMIR-relevant database	Information and resources available	Demographic data availability	Participation and access
Missing and Murdered Indigenous People (MMIP) Database <i>Sovereign Bodies Institute</i>	Non-governmental database of cases of missing and murdered Indigenous people from 1900 to present, including from the U.S., Canada, and other colonized regions of the world <sup>f,g</sup>	Tribal affiliation(s) <sup>f</sup> Indigenous name and translation <sup>f</sup> Location type (tribal, rural, urban) <sup>f</sup> Relevant issues (e.g., domestic violence, sexual assault, trafficking, foster care, unsheltered) <sup>f</sup>	Members of the public may submit cases for review and inclusion in the MMIP database <sup>f</sup>  Database access is available on request, in accordance with the Sovereign Bodies Institute's data sharing protocols <sup>f</sup>

<sup>f</sup> Sovereign Bodies Institute (2022), <sup>g</sup> Please note that some experts have raised concerns that cases are not consistently removed from the MMIP Database when resolved; the total number of cases may be inflated.

**Tribal data sovereignty.** Central to the discussion of data-related issues and data sharing is Tribal sovereignty. Tribal sovereignty refers to Tribes' inherent rights and powers of self-governance, which has been affirmed numerous times by all branches of the U.S. government (National Congress of American Indians, 2020). Tribal sovereignty must be respected through inter-jurisdictional communication, inter-governmental agreements, and increased coordination (Hanson, 2022). State governments and the U.S. Congress should work to support Tribal nations' ownership and management of data relevant to and about their community, and should also include Indigenous representatives on data system advisory boards, such as for the National Crime Information Center.

## Policy context

### *There are federal requirements for reporting data on missing children and youth*

In 1990, the National Child Search Assistance Act began requiring all law enforcement agencies to report each case of a missing child to the U.S. DOJ's NCIC. In 2003, this act was amended by Suzanne's Law, which required agencies to report all cases of missing persons up to age 21 (PROTECT Act, 2003). The act was again amended in 2006 by the Adam Walsh Child Protection and Safety Act to specify that law enforcement was required to enter information about missing children and youth into NCIC within two hours of receiving the report. There is no federal requirement for entering information into NCIC about missing adults age 21 and older.

## ***Savanna's Act and Not Invisible Act aim to address Tribal data collection and reporting challenges***

Recent federal legislation has attempted to enhance data collection about violent crime on Tribal lands (Not Invisible Act, 2020; Savanna's Act, 2020). Savanna's Act requires the U.S. DOJ to provide law enforcement training on entering Tribal enrollment information in federal databases, and outreach and education on NamUs and other publicly accessible databases. The act requires the U.S. DOJ to provide statistics on missing and murdered Native Americans, and the FBI to report annual disaggregated gender data on missing and unidentified persons. As a part of the Not Invisible Act (2020), the commission is charged with identifying recommendations for tracking and reporting data on missing persons, homicides, and human trafficking in Indian Country.

### ***In Utah, missing persons must be reported to NCIC***

In Utah, law enforcement must report missing persons to the state registrar of Vital Statistics and the NCIC (Utah Code 53-10-203). If the missing person is known to be enrolled in a school in the state of Utah, the school must also be notified by the responding law enforcement agency. However, there is no specific timeframe in which missing person reports must be entered into NCIC.

### ***In 2018, Utah developed and established a cold case database***

In 2018, Utah passed legislation that requires Utah DPS to develop and maintain a database of unresolved cases (Utah S.B. 160, 2018). All missing person cases, and unresolved homicides, manslaughter, kidnapping, and other capital felony cases that remain unresolved at least three years after the case was initiated must be entered into the database. This applies to all missing person cases within any jurisdiction in the state.

## **Best and emerging practices**

### ***Increase Tribes' access to and participation in federal databases***

One of the greatest data and crime reporting gaps related to MMIR is Tribal communities' limited access to and participation in federal crime data collection efforts. Tribes may experience barriers to database access due to state statutes, jurisdictional issues, internet access, insufficient funding to establish physical and staffing infrastructure, or Tribal leadership declining to participate (Naternicola, 2021). These barriers can hamper both Tribal and non-Tribal law enforcement's access to information about protective orders, registered sex offenders, illegal gun purchases, arrest warrants, and other information important to protecting members of the community (U.S. Department of Justice, 2019b).



To address these issues, in 2015, the U.S. DOJ launched several programs aimed at increasing Tribes' access to and participation in federal data systems: TAP and the Tribal Engagement Program (TEP; Naternicola, 2021; U.S. Department of Justice, 2019b). The TAP provides some federally recognized Tribes, selected through an application process, with the personnel, infrastructure, and training to access CJIS, including NCIC and other national crime information systems (U.S. Department of Justice, 2019b). TEP is an outreach program that partners with Tribal agencies to identify needs and overcome barriers to Tribal access to CJIS Division services (Naternicola, 2021).

### ***Mandate reporting missing person cases to shared data systems***

Several state MMIR task forces have recommended that policy be implemented at a state or federal level to require all missing person cases, regardless of age, be reported to NCIC, NamUs, and other shared data systems (Fillmore et al., 2021; Fox et al., 2020; New Mexico Indian Affairs Department, 2022; Sutter et al., 2020).

Reporting missing person cases to shared data systems helps support case investigations. When missing person cases are reported to NCIC, law enforcement agencies statewide (with NCIC access) are informed and have access to information about the missing person, which may facilitate a more coordinated and comprehensive response (New Mexico Indian Affairs Department, 2022). Additionally, the state's missing person clearinghouse is notified, which can also support the missing person response through accessing other nationwide missing person databases like NamUs and activating applicable alert systems like AMBER Alerts, Silver Alerts, or other endangered missing person alert systems. Through NamUs, it is possible to record Tribal affiliation and for families to submit forensic data to support the investigation (Fillmore et al., 2021; New Mexico Indian Affairs Department, 2022).

### ***Consistent and accurate collection and reporting of race, ethnicity, and Tribal affiliation***

Consistent collection; reporting; and inclusion of race, ethnicity, and Tribal affiliation data in missing person reports and data systems is critical to understanding the breadth and scope of the MMIR issue (Fillmore et al., 2021; New Mexico Indian Affairs Department, 2022). However, in many cases, the victim's race, ethnicity, and Tribal affiliation may be unknown, or their identity may be misidentified and inaccurately reported as Hispanic, White, or Asian (Fillmore et al., 2021; Fox et al., 2020). Additionally, while NamUs includes data fields on Tribal affiliation, there is no data field specific to Tribal affiliation in NCIC (New Mexico Indian Affairs Department, 2022). There are NCIC codes for each Tribal nation, but they must be used in other fields, including Citizenship, License State, Place of Birth, or Place of Crime (see for example, NCIC Code Manual, 2021). Lack of, or inaccurate collection and reporting of race, ethnicity, and Tribal affiliation erases the Indigenous identity of MMIR



victims and undermines Tribal communities' abilities to understand and report on the scope of the issue (Fox et al., 2020).

It is also important to consistently collect and document information related to gender and sexual identity to better understand how the MMIR issue may intersect with other marginalized identities (Ghorayshi, 2023).

## Current issues in Utah

### *There are opportunities to improve data completeness and accuracy*

Key informants spoke to the need for improvements to support consistent and accurate data collection and reporting across law enforcement agencies in Utah. Sometimes there are inconsistencies in the way data are collected by responding law enforcement officers. Key informants commented that law enforcement officers responding to the scene of a crime have many competing priorities, which may lead to data collection being deprioritized (particularly among understaffed agencies).

Additionally, key informants commented on how demographic information (including race and ethnicity, age, and gender) is frequently collected based on how the victim and perpetrator are perceived by the responding law enforcement officer. In particular, while race and ethnicity data are supposed to be routinely tracked, they are often recorded as "unknown," or individuals' racial-ethnic identity may be misclassified. Indigenous relatives' race and ethnicity are known to be frequently misidentified (Fox et al., 2020; U.S. Department of Justice & U.S. Department of the Interior, 2022). However, to the extent possible, the Utah BCI validates the data they receive from law enforcement agencies by checking for completeness and reaching out to law enforcement agencies to check for accuracy.

Key informants pointed to several gaps in data that are not collected at all. Key informants report that data on Tribal affiliation are not collected or tracked. This may contribute to gaps in communication between law enforcement agencies and Tribal governments about Tribal members or descendants who are victims of crimes off the reservation. Additionally, one key informant reported that it is difficult to track rates of domestic violence because in federal and state legal systems, it is grouped within larger categories of assaults, and not treated or counted separately. Utah's BCI is able to conduct further analysis to identify cases of domestic violence by examining the relationship between the perpetrator and victim. Utah's Domestic Violence Data Task Force, established in the 2023 legislative session, has been tasked with assessing current data collection efforts related to domestic violence across the state and identifying areas for further data collection requirements or efforts (Utah H.B. 43, 2023).

### ***Lack of participation in Utah data systems***

Key informants expressed some concerns about some law enforcement agencies' lack of participation in Utah data systems. While some data reporting is legislatively mandated (e.g., crimes, cold cases, missing person cases), there is no accountability or penalty if law enforcement agencies do not participate. One key informant noted that there are around 10 law enforcement agencies in the state that don't participate in Utah data systems. These legislative mandates do not apply to Tribes, as sovereign nations; Tribes' criminal data are reported to the BIA and FBI and are not reflected in Utah state data systems. When law enforcement agencies do not participate in shared data systems, it may give the impression that there are no incidents (e.g., that there are no cold cases in a particular jurisdiction).

Utah's cold case analyst has made great efforts to do individual-level outreach with law enforcement agencies to encourage participation in the database. The analyst has contacted all law enforcement agencies to talk to them about their cases, inform them of any additional cases they don't already know about, and enter the information into the database. The analyst has also provided support to law enforcement agencies to enter cold cases in NamUS and ViCAP.

### ***Lack of shared data systems across law enforcement agencies***

Key informants report that law enforcement agencies in Utah are using 4-5 different record management systems, where missing person reports are tracked locally. While NCIC is an important tool for communicating about missing persons across jurisdictions, one key informant expressed uncertainty and concern about how consistently agencies are entering missing persons into NCIC.

The Utah Criminal Justice Information Services (UCJIS) houses federal and Utah criminal justice files, including in- and out-of-state criminal history records, warrants, jail release agreements, and missing person files (Utah Bureau of Criminal Identification, 2021b). Key informants reported that some Tribes (i.e., those without their own criminal justice entities) lack access to UCJIS. One key informant shared that in the past, Tribes expressed a need for information on sex offender registries specific to the area around their communities but were unable to get access.

Key informants pointed to the need for increased communication and information sharing between Tribes and the state, and across law enforcement jurisdictions in Utah. Key informants emphasized the importance of cross-agency notification when a person goes missing from Tribal land, so that other law enforcement entities across the state can help with the search and location of the missing person. Key informants pointed to the need for shared data systems, or data-sharing agreements between Tribal governments, law

enforcement, and other entities. One key informant reported that law enforcement experiences extensive bureaucratic barriers (e.g., paperwork, required approvals up the chain of command) when requesting data from other law enforcement jurisdictions, which can take several months. Additionally, if an individual affiliated with a Tribe in Utah goes missing or is the victim of a crime off the reservation, there is a need for increased communication and collaboration between the state and Tribal governments.

### ***Lack of alignment across data sources***

Key informants reported concerns about inconsistency in data reported on the MMIR issue across data sources and in the media. Key informants commented that the number of MMIR cases reported by different sources varies widely and that there are sometimes discrepancies between the data represented in government data systems (which sometimes reflect a relatively small number of cases) compared to the scope of the crisis understood by the community, or presented by advocacy groups and in the media.

Key informants also spoke to factors that may contribute to discrepancies and inconsistencies in the reported number of MMIR cases. For example, key informants shared concerns about how under-reporting of missing persons to law enforcement in communities may contribute to data underestimating the number of MMIR cases. Additionally, one key informant commented that, in some cases, law enforcement may be dismissive, refuse to accept missing person reports, or fail to enter them in the data systems when they do receive a report.

On the flipside, one key informant spoke to how technicalities in the data system can contribute to the number of missing persons being inflated and cases being over-estimated. Specifically, they pointed to how individuals who go missing multiple times (e.g., youth who voluntarily leave, or “runaways”) show up multiple times in the data as separate missing persons reports. For example, a young person who was reported missing eight times would show up in some data as eight missing person reports, even if they were located and safely returned each time. Without this context, someone may understand the number of missing person reports to be much larger than it actually is.

## Recommendations

- **Ensure timely and consistent reporting to NCIC**
  - Collaborate with the FBI to ensure that all missing person cases in Utah are included in NCIC, and that resolved cases are removed appropriately
- **Develop and implement training for law enforcement on gathering **accurate and complete information about race, ethnicity, and Tribal affiliation** for cases involving Indigenous victims**
- **Increase cross-agency notification when a person goes missing**
  - Notify Tribal governments when a person who is affiliated with the Tribe is reported missing off of Tribal lands
  - Notify state, county, and local law enforcement agencies when a person goes missing from Tribal lands
- **Increase data sharing and communication across jurisdictions**
  - Encourage and support participation in state data systems across jurisdictions in Utah
  - Explore opportunities to develop or expand shared data systems across jurisdictions
  - Develop law enforcement agreements pertaining to data and information sharing across jurisdictions
- **Create a specialized state analyst position** dedicated to collecting, analyzing, and reporting data back to Tribes on issues of Tribal interest

# Victim and family services

## Policy context

### *Crime victims have specific rights and entitlements under federal law*

Two federal statutes, the Crime Victims' Rights Act and the Victims' Rights and Restitution Act, outline the rights and entitlements of crime victims in the United States (U.S. Department of Justice, 2022b).

The Crime Victims' Rights Act outlines rights given to the victims of crimes by the federal government. These include, but are not limited to, the right to protection from the alleged offender, the right to be informed of relevant court proceedings, the right to be treated with fairness and respect to their dignity and privacy, and the right to full and timely restitution.

Under the Victims' Rights and Restitution Act, crime victims are entitled to certain services provided by the federal government, including: information about where to receive medical and social services, counseling, treatment, and other services; reasonable protection from the alleged offender; and information about the status of the criminal investigation (to the extent appropriate). If the victim is deceased, services are provided to their spouse, legal guardian, parent, sibling, or other family members.

### *In Utah, victims have a network of legal rights, supports, and services*

According to the Utah Constitution (Article 1, Section 28), victims of crimes have the constitutional right to be treated with fairness, respect, and dignity; be free from harassment and abuse throughout the criminal justice process; be informed of relevant hearings; and be provided with a sentencing judge. Crime victims in Utah also have access to a network of supports, services, and protections.

## **Victim reparations**

The Utah Office for Victims of Crime (OVC) has a Crime Victim Reparations and Assistance Board that provides victims with reparations for criminal conduct that occurred in Utah (Utah Code 63M-7). Reparations of up to \$25,000 (or \$50,000 for medical expenses) are available for products, services, medical treatment, mental health counseling, loss of earnings, child care, funeral and burial expenses, and loss of financial support to a dependent. Indigenous community members can use the Crime Victim Reparations Program to cover the costs of a medicine person to support them in their grieving and healing process. However, there may be limited awareness of this resource among some Native community

members in Utah. Victims are required to report the crime to and cooperate with law enforcement, with the exception of victims of sexual assault or strangulation (exemptions added in the 2022 Utah legislative session).

Victims of sexual assault are not required to report the assault to law enforcement or cooperate with law enforcement in order to be eligible for a reparations award if they seek assistance from a victim advocate who completes a questionnaire on their behalf (Utah Code 63M-7). Similarly, victims of strangulation are not required to cooperate with law enforcement to be eligible for a reparations award if they report the strangulation to law enforcement or seek medical care for the strangulation immediately after it occurs.

### **Services for sexually exploited children**

Under Utah law, with some limited exemptions, if someone believes that a child is or was subject to abuse or neglect, it must be reported to law enforcement immediately (Utah Code 80-2-602). When law enforcement officers encounter sexually exploited children, they must refer them for child welfare services and protective custody (Utah H.B. 291, 2020).

### **Law enforcement training on working with survivors**

Law enforcement officers in Utah are legislatively mandated to complete training on responding to cases of sexual assault or sexual abuse when seeking certification as a peace officer (Utah H.B. 200, 2017). These trainings must include material on recognizing the symptoms and impact of trauma on victims; responding to victims' needs and concerns; delivering compassionate, sensitive, and nonjudgmental services; and understanding cultural perceptions and myths related to sexual assault.

Trauma-informed and victim-centered training requirements for law enforcement were bolstered in the 2023 Utah legislative session. As of 2023, law enforcement officers must complete a one-hour annual training on responding to cases involving sexual trauma, assault, and abuse (Utah H.B. 297, 2023). Additionally, the DPS must create and offer an online training course on domestic violence issues for all law enforcement officers in the state and those seeking certification (including on responding to domestic violence incidents, trauma-informed and victim-centered interviewing techniques, lethality assessment protocols, and standards for report writing; Utah H.B. 43, 2023).

### **Required policies on procedures for handling sexual assault investigations**

In 2023, the Utah Legislature passed a bill that requires law enforcement agencies to create and maintain a policy on procedures for sexual assault investigations, beginning January 1, 2024 (Utah H.B. 297, 2023). These policies must include best practices for handling

sexual assault investigations, including protocols and training on responses to sexual trauma, emergency response procedures, and referrals to sexual assault support services.

### **Coordination across victim service providers**

In 2023, the Utah Legislature created the Utah Victim Services Commission (Utah H.B. 244, 2023). The Commission’s responsibilities include developing public and private partnerships to assess, develop, and coordinate services and resources throughout the state; supporting the creation of statewide policies and plans; and developing a clearinghouse for the systematic collection and dissemination of domestic violence and sexual assault data.

## **Best and emerging practices**

### ***Culturally responsive, victim-centered, survivor-informed, and trauma-sensitive approaches to victim and family services***

*Without a robust understanding of the dynamics of intergenerational and historical trauma and the cultural resources available to Indigenous victims, these service providers, at best, fail to provide optimal care and, at worst, can actively harm victims. Understanding the concepts of trauma-informed and culturally-informed care are requirements for every professional who interacts with Indigenous people. (Gordon & Roberts, 2021, p. 62)*

**Culturally-responsive.** Law enforcement, VSPs, and other professionals who interact with Indigenous victims and families during an MMIR investigation should provide culturally-informed services, supports, and communication (Gordon & Roberts, 2021; U.S. Department of Justice, 2022a). Law enforcement should tailor their investigative approach to the cultural norms and expectations of each specific Tribal community, taking into account the “background, belief system, family structure, history, language, and customs of the family” (Bay Mills Indian Community, 2022, p. 7; Stewart et al., 2021). Recruiting, training, and hiring Indigenous service providers, or VSPs, with other shared identities may serve victims and families with more “immediate expertise in their conditions and culture” (Gordon & Roberts, 2021, p. 62). If law enforcement and VSPs are not adequately informed about cultural norms and expectations in the community, they may inadvertently contribute to misunderstandings, perceptions of disrespect, and harm during an already traumatic experience (Stewart et al., 2021).

VSPs and law enforcement should support and honor families’ belief systems and connections to cultural practices, traditions, and ceremonies (Stewart et al., 2021). In particular, law enforcement should take care in understanding family and community beliefs and practices with regard to handling the deceased’s remains, personal belongings, funeral practices and requirements, and use of the deceased’s name and image (Budowle et al., 2022; Dennis, 2021; Stewart et al., 2021). Notably, the Bay Mills Indian Community TCRP



incorporates a Cultural Specialist Liaison into their victim services response team, who is available to offer spiritual guidance, prayer, fire, storytelling, and any other cultural practices requested by the family (2022).

### **Historical and current trauma in Indigenous communities**

A trauma-informed approach to law enforcement for Indigenous communities should incorporate an awareness of and response to historical trauma—a term for “the emotional and psychological damage to Indigenous people from the generation of wars, massacres, removal policies, criminalization of culture, and boarding schools” (Gordon & Roberts, 2021, p. 57). For example, in Utah, many Indigenous children were separated from their families and forced into at least eight boarding schools across the state, where they suffered abuse and neglect, and were forbidden from speaking their language or praying (Tanner et al., n.d.). Many children died due to tuberculosis, measles, poor living conditions, and other causes.

Law enforcement played a significant role in enforcing settler colonialist laws, including confining Indigenous communities to reservation boundaries and prohibiting cultural practices (Redner-Vera & Galeste, 2015). This history of law enforcement maltreatment, paired with ongoing discrimination and disproportionate rates of arrest and incarceration among American Indian communities, may contribute to distrust of law enforcement among Indigenous communities.

**Victim-centered.** “A victim-centered practice focuses on concerns of victims and their needs while reducing system impacts of trauma when families are involved in the criminal justice system” through providing services with compassion and empathy, and without judgment (Office for Victims of Crime Training and Technical Assistance Center, n.d.; Stewart et al., 2021, p. 29). With a victim-centered approach, law enforcement and service providers center the victim’s needs, safety, and well-being in each decision throughout the investigative process.

**Survivor-informed.** Survivor-informed services are defined as “a program, policy, intervention, or product that is designed, implemented, or evaluated with intentional partnership, collaboration, and input from survivors to ensure that the program or product accurately represents the needs, interests and perceptions of the target victim population” (Cho, n.d., p. 2). The U.S. DOJ OVC commissioned the development of a practical guide for service providers who are looking to review or develop services that are informed by survivors of domestic violence or trafficking. The guide includes several exercises that providers can use in a variety of situations (e.g., reviewing a policy or program with survivors; Cho, n.d.). Survivor-informed approaches were identified as a best practice by a collaborative that worked to identify factors for the long-term well-being of survivors (Vatne Bintliff et al., 2018). In some cases, it is appropriate or advised to compensate survivors for their contributions that inform services.

**Trauma-sensitive.** Survivors of violence and loved ones of missing persons and homicide victims who are involved in investigations are coping with significant

emotional trauma (Moran, 2021). It is imperative for law enforcement and VSPs to adopt a trauma-sensitive approach to interacting with survivors, family members, and community members throughout the investigation to build trust and avoid contributing to further harm (Budowle et al., 2022; Gordon & Roberts, 2021). For example, law enforcement should give survivors as much decision-making agency as possible throughout the investigative process to restore their sense of self-determination and control (Office for Victims of Crime Training and Technical Assistance Center, n.d.).

When interviewing survivors, law enforcement should ask open-ended questions; avoid questions that imply or place blame on the survivor; and be aware of how trauma can impact memory storage, retention, and recall, which may affect the survivor's ability to provide consistent testimony about their experience (International Association of Chiefs of Police, 2020). See further guidance on trauma-informed victim interviewing developed by the International Association of Chiefs of Police (2020).

### **Utilization of victim service providers**

*Victim service providers are on the front lines of the [MMIP] crisis, yet their efforts often go unheralded despite the many ways they advocate for victims and survivors on a daily basis. ... [They] are the linchpin between law enforcement, the justice system, and families and survivors. No matter where a crime occurs or who is ultimately responsible for investigation and prosecution, a direct line of communication should be established with every family for key case updates, the sharing of leads as possible, and other case information. For many, that point of contact is often victim service providers. (George et al., 2021, p. 117)*

VSPs are crucial supports for impacted survivors/victims and family members, as well as members of the investigative law enforcement team (U.S. Department of Justice, 2022a). VSPs can connect victims/survivors and families to needed services and supports, ensure victims are aware of their rights, provide guidance and emotional support throughout the case investigation and prosecution, and serve as a liaison between the victim and family members and law enforcement. Additionally, VSPs can help law enforcement further their investigation by building family trust and participation in the investigation, and helping law enforcement understand victim and family “vulnerabilities, victimology, and historical context” (Stewart et al., 2021, p. 35).

VSPs can either be integrated into the investigative team (systems-based) or work for independent organizations, like nonprofit organizations outside of law enforcement (community-based; U.S. Department of Justice, 2022a). System-based VSPs are required to share information with law enforcement as a part of the investigation; community-based VSPs may have “advocate privileges” and a higher level of confidentiality to keep some information private. However, there may be insufficient access to VSPs in some Tribal communities (Weyand & McPherson, 2021). For example, Restoring Ancestral Winds is

the only Tribal dual domestic violence and sexual assault coalition serving the Great Basin region, including Utah and Nevada.

### ***Consistent communication with families of missing persons***

Law enforcement officers, or a designated liaison like a VSP, should communicate with family members of missing persons consistently and respectfully about the progress of the investigation (Adcock, 2021; Budowle et al., 2022; Woolnough et al., 2015). In interviews with family members of missing persons, families had positive experiences with law enforcement when the communication was professional, compassionate, frequent, and indicated investment in their loved one's case (Woolnough et al., 2015). In contrast, families had negative experiences when law enforcements' communication was irregular and uncoordinated, when they were uninformed about the progress of the case, and when they had to seek out updates rather than receiving proactive updates from law enforcement themselves. Woolnough et al. (2015) recommend that law enforcement proactively schedule regular check-ins with family members and coordinate introductions and warm hand-offs when the investigation transitions from one law enforcement officer to another.

### ***Flexible funding to support victims and their families***

When a person goes missing or is the victim of a violent crime, they and their family may face increased financial hardship due to incurred expenses related to the investigation or reduced income (Stewart et al., 2021). However, there may be barriers to governmental financial support for family members of missing persons in particular. While there are reparation funds available for victims of crime, being missing itself is not considered a crime. Because of this, family members who depend on the missing person for income may be unable to claim reparations support.

Flexible financial funds, such as the Snowbird Fund in Montana, may help families in need during MMIR case investigation and prosecution for Indigenous families in Montana (Montana Community Foundation, n.d.; New Mexico Department of Indian Affairs, 2022). The Snowbird Fund supports family members of missing Indigenous relatives who are leading their own community searches by providing money for travel expenses, cellphone costs, tools, public awareness communication resources, and community vigils (Montana Community Foundation, n.d.).

## Current issues in Utah

### *There are gaps in communication with victims and families*

Key informants and listening session participants reported gaps in communication between law enforcement with family members about their loved one's case. Listening session participants emphasized the importance of law enforcement providing family members with regular updates. Listening session participants reported that families often don't hear anything from law enforcement for weeks, and that the responsibility is frequently on families to follow-up on their loved one's case to request updates. One listening session participant, whose loved one has been missing for over 20 years from a jurisdiction just outside the boundaries of Utah, reported that the investigating law enforcement agency had only re-contacted them once with an update about the case. Another listening session participant reported that law enforcement is very limited in the amount or type of information they are able or willing to provide families.

Key informants noted that these lapses in communication may be due, in part, to tensions between law enforcement's investigative priorities and a family's need to understand what happened to their loved one. Law enforcement may need to withhold certain information about the case to avoid compromising the integrity of the investigation.

*[Families] would be the ones to have to call the law enforcement agency again and again. And they would get no answers or updates since the last time they connected. It's really tiring and adds to the feeling of irrelevancy that families sometimes feel, less prioritized in terms of their loved ones going missing or being found murdered.*

*– Community member*

*There was a tension between information people need to get for investigation and what information they provide to families. [Families] get frustrated about not knowing or being unsure of what law enforcement can tell them. ... How do the police work with families to explain to them why they can't offer certain information or to explain why things have to happen [in] a certain way?*

*– Service provider*

*[Families] want more answers than you can give them, because sometimes the stuff that you have information on, nobody but the perpetrator is going to know that. So you don't really want to divulge that because you're still trying to figure out. ... There's things that only the person that caused the death is going to know. If you let that out, then you've compromised some of your information, and potentially your suspect.*

*– Law enforcement*

One key informant reported that victims have experienced challenges with a lack of communication from prosecutors about their own case. For example, sometimes prosecutors inconsistently communicate with victims when they are going to file a charge, despite legal requirements that require them to provide this information.

Key informants and listening session participants emphasized the importance of law enforcement and legal professionals clearly communicating with victims and families about the steps in the legal process, police procedures, and how they can support the investigation and prosecution. One key informant pointed to the need for more advocates available to represent victims' rights in court. While the Utah Crime Victims Legal Clinic provides some support and representation, its resources may be insufficient to meet needs and demands.

### ***While some law enforcement officers and prosecutors are effectively using trauma-informed and victim-centered practices, others need further training***

Key informants reported that while some law enforcement officers and prosecutors work effectively and compassionately with survivors, others lack an understanding of how trauma impacts individuals and their behavior, and some hold harmful and problematic attitudes. For example, key informants and listening session participants reported that some law enforcement officers treat survivors as criminals rather than victims, or hold attitudes that implicitly blame survivors for their own victimization (e.g., asking them how much they had to drink). Listening session participants, including domestic violence survivors, reported that some law enforcement did not take their domestic violence reports seriously (or failed to file reports altogether), and used language that blamed the survivor for their own victimization.

*Law enforcement is not trained to be trauma-informed, but this may be the worst thing that happens to someone. So when you are talking to the family, understanding that people may react in different ways, and the police may not consider it appropriate, but it may be triggering previous trauma or historical trauma.*

*– Service provider*

*I remember working a case with a trafficking of a child, there was a runaway child who was sex trafficked, but the officer described the case as a 16-year-old who likes to run away from home and have sex for money. ... First of all, that is probably not true. Second of all, even if it is true, anyone who has sex with a child for money, that is a first-degree felony crime. That is a serious crime, it's not a behavioral issue for the child. ... Someone might see an Indigenous woman or child on the street, acting out, maybe doing some low-level criminal behavior, and the target becomes about that behavior, and that person is a suspect, instead of using a victim-centered approach.*

*– Prosecutor*

However, other criminal justice professionals are successfully adopting a trauma-informed and victim-centered approach. Key informants described how the Utah Attorney General's Office prioritizes the well-being of the victim throughout the prosecution process. Their strategies include avoiding putting the victim on the stand to the extent possible to avoid re-traumatization, having a specific "soft" interviewing room that makes it clear to victims they are not being interrogated, and working with system- and community-based advocates to navigate both the criminal justice system and their other family needs (and making it

clear that the community-based advocate is there and available, regardless of whether the victim chooses to cooperate with law enforcement).

Key informants spoke to the need for further training on being victim-centered and trauma-informed, for not only law enforcement but also other players in the legal system like prosecutors and judges. Key informants spoke to a need for law enforcement to reorient their approach to put victims' well-being and interests first, and to create a sense of safety, stability, dignity, and control throughout the process. In particular, one key informant noted the importance of prosecutors receiving trauma-informed training so they can effectively communicate with juries and judges on victims' behalf. For example, if prosecutors are able to explain how trauma impacts memory, they may be better able to counter the narrative that a victim may have made up their story because their statement in court differs from their original police statement. In the 2023 legislative session, Utah passed several bills bolstering law enforcement training requirements related to trauma-informed and victim-centered investigative techniques for sexual assault and domestic violence (Utah H.B. 43, 2023; Utah H.B. 297, 2023). In his September 2023 testimony to the U.S. DOJ Violence Against Women Tribal Consultation, Ute Mountain Ute Chairman Heart also emphasized the need for culturally responsive domestic violence shelters, sexual assault services, and rape recovery centers (Heart, 2023).

*[We need] education on appropriate questions to ask when someone is the victim of a sexual assault. When can the questions be asked? How can I get the person feeling stable and safe and treated with dignity, and give them back a small amount of control?*  
– Prosecutor

### **Community- and system-based victim advocates carry respective strengths and challenges**

Key informants report that community- and system-based victim advocates fill important and complementary roles, but each navigates challenges specific to their positions.

For community-based victim advocates, key informants spoke to the value of having advocates who come from victims' communities and who understand their needs. Sometimes, there are pre-existing relationships in place that make community-based advocates a natural place for victims and families to go in times of need. However, key informants and listening session participants reported that some community-based advocates lack positive working relationships with law enforcement. In some cases, law enforcement may be disrespectful, unresponsive, or unwilling to work with community-based advocates.

Law enforcement spoke to the value that system-based advocates add when co-responding with law enforcement officers. When advocates join law enforcement in delivering death notifications or responding to calls involving crisis intervention, advocates can provide



emotional support and de-escalation while law enforcement can focus on the investigation. One key informant commented that in-house advocates can help change attitudes in law enforcement agencies, including how agencies approach cases of domestic violence and sexual assault. One listening session participant described the value of having advocates as a resource and channel through which they could ask law enforcement questions, noting that sometimes information families receive from law enforcement is “too direct.”

However, one key informant noted that when working with system-based advocates, victims may experience more pressure to cooperate with law enforcement in the investigation and prosecution process. This may be a barrier to accessing the support of system-based advocates among communities who aren’t comfortable interacting with law enforcement or distrust the criminal justice system.

Key informants noted that resources available for victim services are always limited—either there aren’t enough services available, or they are inadequate. For example, the Utah Attorney General’s Office has one highly effective and responsive victim advocate, but there is far more demand than the advocate has time available. Key informants emphasized the need for increased funding for victim services.

*We have the services, the question is always, do we have enough or are they adequate? Resources are always limited. There’s never enough resources, whether it’s substance abuse, mental health, or in this case, victims’ services.*

*– Law enforcement*

### ***There is a need for increased coordination and communication among victim service providers and advocates***

Key informants report that, throughout the investigation and prosecution, victims may encounter and work with VSPs and advocates from several different agencies involved in their cases (for example, providers associated with the police department, prosecutor’s office, court system, and community-based organizations). While this creates complications, one key informant noted that having a single advocate assigned to a victim’s case (an approach called “vertical advocacy”) would be infeasible and unsustainable for the advocate to manage the relationship and provide support 24/7. Key informants spoke to the need for increased communication and coordination among advocates throughout the process, and the importance of warm hand-offs and personal introductions between advocates. For example, one key informant noted when victims receive pamphlets that include victim advocates’ information, they are unlikely to reach out and contact the advocate unless they know the person who handed it to them.

One key informant also spoke to the need for improvements to Utah’s funding structure for health and social services, which currently hampers service providers’ ability to innovate



and do coordinated, collaborative work. The key informant reported that social service programs are frequently operating on a deficit, which constricts available services and limits financial compensation offered to service providers. This impacts victims' access to services and may contribute to staff turnover (particularly in high-stress positions). This continual financial deficit contributes to a culture of competition across service provider organizations, rather than one of partnership and innovation.

*What we've seen is perpetual loss of funds which has put all of our programs in crisis mode, and then you see services constrict. Instead of them saying, "I want to partner with you and get innovative," you have them saying, "I am a competitor against you because there is a lack of resources. So, I'm not going to be innovative with you. I actually have to show that I'm serving more people than you." Then you have competition for who can do work for cheaper and serve more people. So those pieces come in, and you have these competitive based formulas. It's not incentivizing collaboration. Everyone is setting their stake and saying, "This is what I do and I do it the best!" And because we've had this continued messaging of reduction of resources, programs have become fighters as opposed to innovators.*  
– Service provider

Key informants expressed optimism that the Utah Victim Services Commission, created by the 2023 Utah State Legislature, will help bolster partnership, coordination, and collaboration among VSPs across the state.

### **Law enforcement cooperation requirements create some barriers to utilization of the crime victim reparations fund**

To access the Utah OVC reparations fund, victims of crimes must provide documentation that they are in cooperation with law enforcement. Key informants described how this requirement creates barriers for victims to access the crime victim reparations fund, particularly among community members who distrust law enforcement or do not want to file charges against the perpetrator (e.g., in cases of domestic violence). While exemptions are in place for victims of strangulation and sexual violence (who can file a report with a community advocate), other victims of crime could benefit from similar exemptions. One key informant observed that there has been an uptick in utilization of the reparations fund since these exemptions were put in place. Another key informant commented that the exemptions applied to strangulation and sexual assault may not have been expanded to all cases of domestic violence victimization due to concern about increased use and heightened cost burden on the fund.

One key informant also shared that it is even more difficult to meet the law enforcement cooperation requirement of the reparations fund in areas of Utah where delays in law enforcement response times are a concern (e.g., remote areas of Utah and Tribal lands that depend on law enforcement based several miles away). Additionally, sometimes law enforcement agencies do not share police reports with the Utah OVC in a timely manner.

However, the Utah OVC has partnered with community-based VSPs to find ways of navigating these barriers within the boundaries of the statutory guidelines. For example, the Utah OVC will accept victim witness statement forms, completed with a victim advocate and faxed to the appropriate law enforcement agency, as appropriate documentation for the reparations fund. This enables the Utah OVC to meet the statutory requirement of having reviewed an investigative report from an investigative entity, which allows them to engage with the victim and provide services. However, key informants noted the importance of re-examining statutory requirements to remove systemic barriers and increase access to services.

*It's the willingness to stick your neck out a little bit, but fortunately our statute is written broadly enough. Decision-makers have clarification in statute that they are the authority to determine the eligibility under their discretion. We as an agency need to make sure that discretion falls in favor of the victim. – Service provider*

### **Flexible financial supports help to better meet victims' needs**

The Utah OVC has adopted several successful approaches to providing victims with flexible financial supports. The Office created an advocacy program within the reparations program, which provides expendable emergency funds for crime victims who have applied for the reparations funds but need short-term assistance in the 30-40 days it can take to process their claim. These funds can be used to pay for things like groceries, rent, or a plane ticket home.

The Utah OVC has begun using federal Victims of Crime Act (VOCA) funding for flexible emergency funds. This allows their providers to approach conversations with victims differently. Rather than presenting victims with options of supports and resources and asking which would help them the most (sometimes, none of them would be helpful), they can instead have an open-ended conversation about what is most needed at that moment. For example, instead of offering a victim a place to stay in a domestic violence shelter, this fund could pay for a few month's rent, groceries, and other emergency needs. These supports may allow the victim and their family, if otherwise safe, to remain where they are rather than destabilizing their lives by leaving their home, changing jobs, and uprooting their children from schools. Flexible emergency funds may help victims achieve stability more quickly and without having to leave everything and start all over. One key informant commented that this approach to providing services is often less expensive and more effective, and that there is a need for additional funding for these flexible financial supports.

*If there was additional funding made available, it needs to be in this flexible funding area. It staves off homelessness. We will always need domestic violence shelters, but we have to acknowledge we don't need shelter space for every victim of domestic violence. If that's been the goal, it has to stop. We have to think about, what do we really need to do to keep people safe? So they can move on and remain stable under the resources they have so they're not relying on their abuser. That looks different than a domestic violence shelter most of the time. – Service provider*

## ***There are gaps in access and availability of mental health services***

Key informants reported a lack of access to mental health services among victims and family members. Key informants reported a lack of awareness of families' needs around processing grief, particularly in Indigenous communities, within the context of possible familial and historical trauma. Key informants commented on the lack of availability of mental health services on Tribal lands, and one person commented that in Utah there is at least a six-month wait to see a mental health professional. This lack of access to mental health services may contribute to self-medication and substance use concerns. However, the Paiute Tribe offers talking circles and feasts every year where community members can use medicine and have a space to talk about grief and trauma.

*That's a whole other challenge in and of itself. Those resources are limited, generally speaking, and, in Tribal lands, even worse as far as resources that the family can draw upon to deal with the mental health problems or things that come up because of the death investigation.*

– Law enforcement

Additionally, listening session participants emphasized the need for earlier identification, response, and supports (e.g., mental health services or anger management supports) for community members who perpetrate violence to reduce the risk of future and increased violence perpetration.

## ***There is a need for comprehensive supports and resources for victims of human trafficking***

Key informants commented on the lack of comprehensive supports available to victims of human trafficking. In particular, key informants pointed to a need for shelter space or emergency housing that is specialized for victims of human trafficking. Currently, there are service agencies in Utah that specialize in supporting victims of human trafficking, but they do not provide housing or shelter services. Key informants report that domestic violence shelters will provide support to victims of human trafficking, but that they aren't well-equipped to provide services because victims of human trafficking have different and more complex needs for services than victims of other types of violence like domestic violence or sexual assault. Key informants pointed to the need for a cross-sector, multidisciplinary coordinated response to human trafficking involving law enforcement, victim advocates, juvenile justice, and other nonprofit organizations.

*I know, speaking from experience on [the] human trafficking side, [the] biggest challenge was shelter space and emergency housing for victims. If there was a situation where we found someone and they were working with us, getting them into stable housing was challenging because of lack of beds.*

– Attorney

*We have a human trafficking task force here in our state, but the issue is [that] our dual programs are where human trafficking victims come for shelter. The problem is we don't have enough training. A trafficking victim is a lot more complex in terms of the services that they need than domestic violence or sexual assault [victims]. I would need my staff to be better trained for the need. They need more therapy. ... We did the best we could to bridge services, but we were not the best agency to provide those services. ... There are agencies that specialize in meeting the needs of human trafficking survivors, but they do not have shelter.*

– Service provider

# Recommendations

- **Increase access to victim services and supports**
  - Increase availability and access to VSPs, advocates, and family liaisons
  - Increase the availability of culturally responsive victim services
  - Identify and pursue strategies to increase the availability of culturally responsive, victim-centered, and healing-centered services, including mental health supports for victims and their families (including spiritual healers)
- **Improve coordination of VSPs** across all stages of investigation and prosecution
- **Improve consistency and quality of communication with families**
  - Encourage consistent communication between law enforcement, prosecutors, and families about the progress of case investigation and prosecution
  - Develop communication plans or guidance for law enforcement about when and how to provide case updates to families
- Ensure mandated **trauma-informed law enforcement trainings** on domestic violence and sexual assault are **comprehensive and informed by best practices**
  - Incorporate MMIR-specific topics into trauma-informed law enforcement training on responding to domestic violence and sexual assault (including historical trauma and effective strategies for building trust with Indigenous victims and families)
  - Provide law enforcement with sufficient technical support and assistance on best practices from experts to help them develop their policies
- **Identify and address barriers to utilization of the Crime Victims' Reparations Program**
  - Expand law enforcement exemption to include victims of all categories of domestic violence and sex trafficking
  - Expand eligibility to include family members of long-term, unresolved missing persons who are facing financial hardship (e.g., due to loss of income)
  - Increase communication and outreach to build awareness among Native American community members and Tribes regarding how Crime Victims' Reparation Program funds may be used for a traditional medicine person
- Increase opportunities for victims to access **flexible emergency funds**

## Prevention

*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 [LGBTQ+] people more vulnerable to violence and exploitation. ... 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. (MartinRogers & Pendleton, 2020, p. 36)*

Approached through a public health model of prevention, the risk of violence victimization among Indigenous relatives may be reduced via primary or secondary prevention strategies (Gordon & Roberts, 2021). Primary prevention reduces risk and bolsters protective factors at the community level before violence perpetration or victimization occurs through building cultural and community connections, healthy relationship skills, and public awareness (Gordon & Roberts, 2021; Niolon et al., 2017; Satter et al. 2021; U.S. Department of State, n.d.). Secondary prevention aims to intervene in earlier stages of violence, abuse, and exploitation through the provision of legal, medical, and social services so that violence does not recur or escalate to disappearance or homicide.

## Policy context

### **Social-emotional and healthy relationships education**

In the United States, the federal government has a limited role in the education system, including the provision of sexual health education; states are primarily responsible for developing curricula and establishing standards (U.S. Department of Education, 2021). As of February 2023, just 38 states and the District of Columbia (DC) mandate sex and/or HIV education be taught in public schools, and the requirements that these programs must meet vary widely across states (Guttmacher Institute, 2023). Thirty-one states and DC require that information on healthy relationships be provided in sexual health education, and 40 states require curricula to incorporate intimate partner violence (IPV) prevention.

In Utah, schools must obtain prior written consent from a child’s parent before providing sexual health education to the student (Utah Code 53G-10-403). Utah code mandates that the state board establish a health curriculum that includes instruction in “community and personal health; physiology; personal hygiene; prevention of communicable disease; refusal skills; and the harmful effects of pornography” (Utah Code 53G-10-402). Though not mandated by legislation, the Utah State Board of Education’s Core Standards for Health Education incorporates education on healthy relationships starting in kindergarten (Utah State Board of Education, 2019).

### ***Several federal laws have established a network of supports and protections for victims of domestic or sexual violence***

VAWA first passed in 1994, created and provides support for numerous programs that work to prevent domestic violence, sexual assault, dating violence, and stalking. The Act has been reauthorized four times, most recently in 2022. Each reauthorization has built upon and strengthened the original Act and previous reauthorizations, establishing programs like legal assistance programs, housing protections, rape crisis centers, and culturally and linguistically specific services; increasing equitable access to services among survivors from marginalized communities; and promoting trauma-informed and victim-centered training among law enforcement and health care professionals (National Network to End Domestic Violence, 2017).

The Family Violence Prevention and Services Act (FVPSA), first passed in 1984, provides federal funding for domestic violence shelters, crisis hotlines, counseling, and programs. Notably, this act was reauthorized in 2021, and included grants for Tribal domestic violence coalitions, a national Indian domestic violence hotline, and culturally specific services for domestic violence victims (Billings, 2022).

However, Tribal leaders have reported to the attorney general that there is insufficient federal funding allocated to violence prevention, emergency services, and victim support for Tribal and urban American Indian communities (Satter et al., 2021). While some FVPSA funds are earmarked specifically for Tribal community services, many grants are competitive with stringent reporting requirements, or are awarded to states who re-allocate a portion of these funds to Tribes, or directly administer programs to Tribes who share their geography. These barriers limit Tribes' access to resources to administer programming tailored to their communities' needs.

### ***Federal policy infrastructure for communicating and enforcing protective orders***

The 1994 VAWA also required that every jurisdiction in the United States recognize and enforce valid protection orders, including those issued by Tribal governments (Violence Against Women Act, 1994).

### ***Reduced access to lethal means of violence***

The 1968 Gun Control Act prohibited anyone convicted of a felony and anyone subject to a domestic violence protective order from possessing a firearm. In 1996, this prohibition was extended to anyone convicted of a misdemeanor crime of domestic violence (U.S. Department of Justice, 2013).



### ***Federal law promotes the security and stability of Native American families, keeping children with Native American families when possible***

ICWA was enacted in 1978 as a response to several decades of U.S. government policies that supported the removal of Native American children from their homes and families to attend boarding schools or to be placed in homes with non-Native families. The act established minimum federal standards for the removal of Native American children from their families and established a preference for placement of Native American children with extended family or other families from their Tribe with the intent to “protect the best interests of Indian children and to promote the stability and security of Indian Tribes and families” (Indian Child Welfare Act of 1978). The legislation also provides guidance to states for handling child abuse, neglect, and adoption cases involving Native American children. States have varying interpretations of the federal law despite the law’s original intent for standards. Guidelines for implementation were updated in 2015 and again in 2016.

### ***Federal law improves system response to protect and prevent children and youth from becoming victims of trafficking***

The Preventing Sex Trafficking and Strengthening Families Act (2014), signed into law in 2014, amends the federal foster care program (Title IV-E) to protect and prevent children and youth in foster care from becoming victims of trafficking. It includes several provisions for a system response to the identification of children who are victims of, or at risk for, trafficking and assistance for them. State agencies had two years to comply with the requirement to report all missing children to NCMEC as part of this legislation, which resulted in a dramatic rise in numbers of endangered runaways during 2015-2017 (NCMEC, 2022). An undercount of missing Native children is assumed as Tribes are not included in this mandate due to Tribal sovereignty.

### ***A recent federal law provides financial support to help keep children from going into out-of-home placement***

New federal financial support for placement prevention services for eligible children at imminent risk of out-of-home placement was provided by the Family First Prevention Services Act (FFPSA), signed into law in 2018 as part of P.L. 115-123. Specifically, it gives state, county, and Tribal welfare agencies up to 50% reimbursement for federally approved services that help keep children in their homes. Some of the services include mental health; substance abuse; and in-home parent skill-based programs for children or youth who are candidates for foster care, pregnant or parenting youth in foster care, and the parents or kin caregivers of those children and youth (Minnesota Department of Human Services, 2023).



## *Utah law enforcement first response*

Utah's Cohabitant Abuse Procedures Act outlines the duties of law enforcement officers when responding to allegations of domestic violence, victims' rights, procedures for investigating and prosecuting domestic violence cases, and requirements for mandatory training for law enforcement officers in the state of Utah (Utah Code 77-36). Officers responding to domestic violence calls must take all reasonable actions to protect the victim and prevent further violence—this includes confiscating any weapons involved, making arrangements for emergency housing or shelter, helping the victim obtain medical treatment, and notifying the victim of their rights and resources available to them.

When responding to a domestic violence call, officers may issue a citation or make an arrest without a warrant. However, if they believe there will be continued violence, or there is evidence that the victim suffered serious bodily injury or that a dangerous weapon was involved, the alleged perpetrator must be taken into custody—there is no option to issue a citation. Additionally, when an individual is arrested for alleged domestic violence, with substantial evidence and where they pose a danger, they do not have the right to bail under Utah Code 77-20-201.

Under the Cohabitant Abuse Procedures Act, law enforcement officers in Utah are required to receive domestic violence training that stresses the protection of the victim; enforcement of criminal laws in domestic situations; and availability of community shelters, services, and resources (Utah Code 77-36).

In 2023, a bill was passed by the Utah Legislature that would require law enforcement officers to conduct lethality assessments when responding to reports of domestic violence, in order to assess the risk of future lethal violence (Utah S.B. 117, 2023). Under the proposed new policy, law enforcement officers would be required to ask the victim about twelve different risk factors, largely aligned with the Maryland Network Against Domestic Violence's research-based [lethality screen for first responders](#) (Maryland Network Against Domestic Violence, 2016). These factors include past acts or threats of violence made with a weapon; threats against the victim's life or their children's lives; if the victim believes the perpetrator may kill them; history of strangulation; access to firearms; and other factors such as history of a break-up or separation, jealousy, unemployment, suicidality, and stalking. If the victim meets a threshold of risk according to the protocol, law enforcement must refer the victim to a victim advocate at a nonprofit domestic violence service organization, and courts may use the findings from the lethality assessment when determining the need for a pretrial protective order or conditions of pretrial release.

## *Utah resources for victim relief and protection from further victimization*

The Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (2008) established that the state of Utah must recognize and enforce valid domestic protection orders from other jurisdictions. This includes Tribal governments with jurisdiction to issue protection orders (Utah Code 78B-7). This may lay the policy groundwork for Tribes in Utah to exercise their jurisdiction to issue protective orders and have those orders be enforced in collaboration with other law enforcement agencies in the state. Utah Code 78B-7-113 establishes that law enforcement agencies must utilize statewide procedures to ensure that law enforcement officers at the scene of an alleged protection order violation have immediate access to information about the existence and terms of that order.

The Utah Fit Premises Act (1999) established rights of tenants in rental housing agreements (Utah Code 57-22). This includes a requirement that victims of domestic violence have a right to install new locks and terminate their lease in order to protect themselves from their abuser. However, there are some documentation and financial requirements for victims to avail themselves of these rights. In both cases, victims must provide an acceptable form of documentation of the domestic violence, which could include a protective order or a copy of a police report. Additionally, victims must pay for the cost of installing a new lock, and, in the case of lease termination, pay the owner the equivalent of 45 days' rent. These requirements were amended in the 2023 Utah legislative session (Utah H.B. 314, 2023). Renters do not need to pay the owner 45 days' rent but must pay the owner a termination fee equivalent to one month's rent under the rental agreement. It is possible that these requirements may pose a barrier to victims exercising the rights outlined in the Fit Premises Act and removing themselves from a dangerous domestic violence situation with a current or former cohabitant.

Under Utah Code 78B-7-117, if a victim obtains a protective order, the court may order the transfer of a wireless telephone number, if it is a number used by a victim but the perpetrator is the account holder, and the victim requests it.

In 2022, a bill was signed into Utah law that created a free address confidentiality program for victims of abuse, domestic violence, human trafficking, stalking, or sexual assault who fear for their safety (Utah H.B. 117, 2022). Applicants may use the assigned state address to send and receive mail. Applicants are eligible to participate in the program regardless of whether a criminal charge is filed against an assailant, they have a restraining order or injunction in place, or the applicant reported the criminal act or threat to law enforcement. To apply, victims may submit a law enforcement or other government agency record, or a document from a domestic violence program; sexual assault program; or a religious, medical, or other professional from whom the applicant sought assistance.

## ***Protections for victims of trafficking and exploitation***

In 2020, Utah passed Human Trafficking Amendments through H.B. 291. This bill included important provisions that established Safe Harbor protections for children under age 18 engaged in commercial sex or sexual solicitation. Under Utah's Safe Harbor Law, children may not be criminalized for their victimization, and officers who encounter children engaged in commercial sex or prostitution must conduct an investigation related to human trafficking and refer the child to child welfare services and protective custody. The bill also mandated the development of human trafficking training for all law enforcement and made human trafficking an offense subject to sex offender registration. In 2023, the Utah legislature also passed H.B. 60, which allows individuals to petition the juvenile court to vacate adjudicated offenses related to human trafficking, prostitution, aiding prostitution, or sexual solicitation.

Additionally, in Utah, individuals may not be prosecuted for prostitution if they are a victim of offenses such as assault, rape, kidnapping, or sexual assault, and make a report of the crime to law enforcement (Utah Code 76-10-1302).

## **Best and emerging practices**

### ***Primary prevention strategies***

Primary prevention reduces risk and bolsters protective factors at the community level before violence perpetration or victimization occurs through building cultural and community connections, healthy relationship skills, and public awareness (Gordon & Roberts, 2021; Niolon et al., 2017; Satter et al. 2021; U.S. Department of State, n.d.). Primary prevention strategies can include things like cultural and community connection, healthy relationship skills, and public awareness.

### **Cultural and community connection**

There is evidence that cultural and community connectivity may be protective against violence exposure or victimization (Gordon & Roberts, 2021; Satter et al., 2021). Indigenous cultural and community assets are linked to a number of factors that may be protective against violence victimization, including self-efficacy, parental involvement, community connectedness, and reduced substance use and self-harm, as well as overall reduced exposure to violence (Gordon & Roberts, 2021; Satter et al., 2021). By increasing these protective factors, Indigenous cultural activities, practices, and resources may contribute to the primary prevention of violence victimization.

*Primary prevention works to stop violence before it happens. By utilizing existing cultural resources, Indigenous communities can integrate their members into both their cultures and their immediate families in order to build the community bonds that can prevent violence or victimization. (Gordon & Roberts, 2021, p. 58)*

## Cultural and community disruption

Generations of colonization, displacement, criminalization of religious and cultural practices, boarding school era separations, forced assimilation, and abuses that continue with today's child protection systems have disrupted Indigenous family, community, and cultural systems and have contributed to significant historical trauma that lives on today (Gordon & Roberts, 2021; Satter et al., 2021). The emotional and psychological trauma to Indigenous communities from these experiences is linked with adverse health, social, and economic outcomes and increased risk for violence (Gordon & Roberts, 2021; Satter et al., 2021).

## Healthy relationship skills taught early in life

The prevention of IPV and other forms of violence begins early in life, during the critical developmental period of adolescence (Niolon et al., 2017). The normalization of violence in relationships and challenges with communication and emotional regulation can increase an individual's risk for both violence perpetration and victimization. There are evidence-based social-emotional learning programs, such as *Safe Dates*, *The Fourth R: Strategies for Healthy Teen Relationships*, and *Expect Respect Support Groups*, that provide youth the opportunity to learn about positive communication and conflict resolution skills, healthy sexuality, personal safety, and recognizing the signs of abuse. These programs, assessed through rigorous evaluation, have been associated with reduced youth violence victimization and perpetration over time.

Youth who run away from home are more likely to have had adverse childhood experiences (ACEs; Earle & Selfridge, 2023). ACEs put youth at greater risk for human trafficking compared to those without ACEs. Trainings are available for implementing various tools to identify children with ACEs and at risk of running away. These tools should not be used to remove children from homes or to support out-of-home placement of youth. Service providers must work together to identify youth at risk and promote protective factors among families and in communities.

## Building community awareness of trafficking

Increasing community awareness about the risks and signs of trafficking is an important component of preventing victimization and exploitation (U.S. Department of State, n.d.). This can be approached in several ways.

*Not a Number* (<https://love146.org/notanumber/>) is a research-based child trafficking and exploitation prevention curriculum for youth age 12-18 designed by experts in the fields of human trafficking, sexual exploitation, education, research, and evaluation. *Not a Number* teaches youth what human trafficking is, how to recognize traffickers' grooming and recruitment strategies, how to challenge harmful stereotypes, healthy relationship skills,

risk and vulnerability factors, and community resources and supports. As of March 2023, no agencies in Utah are currently licensed to provide the *Not a Number* curriculum.

There are other public awareness campaigns and programs aimed at increasing awareness of human trafficking among community members, law enforcement, health care providers, and other service providers (U.S. Department of State, n.d.). For example, the U.S. Department of Human Service's Blue Campaign educates the public, law enforcement, and businesses about recognizing the signs of human trafficking and how to respond.

There are also public awareness trainings for professionals who are more likely to encounter victims of exploitation and trafficking in their line of work, like health and social service providers, transportation workers, and airline and travel professionals (U.S. Department of State, n.d.). For example, Minnesota mandated the creation and implementation of sex trafficking prevention and response training for hotel and motel staff, where exploitation frequently happens (Minnesota Department of Health, 2022b). In an evaluation of Minnesota's Safe Harbor program, hotel and motel staff who received the training self-reported increased knowledge about sex trafficking prevention and identification (Atella & Turner, 2019).

### **Secondary prevention strategies**

Secondary prevention aims to intervene in earlier stages of violence, abuse, and exploitation through the provision of legal, medical, and social services so that violence does not recur or escalate to disappearance or homicide.

#### **Domestic violence advocates help connect victims to networks of supports and services**

Domestic violence advocates can help victims navigate and access resources to meet their basic needs and gain independence from their former partner (Niolon et al., 2017). Advocates can connect victims to "legal, medical, housing, employment, child care, and social support services" (Niolon et al., 2017, p. 39). In one randomized controlled trial among women with a history of domestic violence, women who received 10 weeks of community-based advocacy services were twice as likely to experience no violence for two years, compared to women who received no advocacy services (Sullivan & Bybee, 1999).

#### **Flexible financial assistance program helps survivors establish independence and stability**

The Domestic Violence Housing First program in Washington provides advocacy services and flexible financial assistance to domestic violence victims (Mbilinyi, 2015). Survivors have the self-determination and flexibility to make choices about what they need to establish independence and stability, such as permanent housing, transportation, child care, and other costs. Ninety-six percent of participants remained stably housed at 18 months, and 84%

reported that the program helped increase their safety. Participants in the program also reported increased child school stability, healing, health and well-being, confidence, and self-worth.

### **Lethality assessments reduce the risk of future domestic violence fatalities**

Lethality assessments are screening tools used by law enforcement responding to reports of IPV to assess survivors' future risk of homicide (Niolon et al., 2017). Law enforcement officers ask victims about their abusive partner's past acts and threats of violence, access to firearms, history of break ups or separations, employment status, and other research-based risk factors for IPV lethality (Maryland Network Against Domestic Violence, 2016; Niolon et al., 2017). If a victim meets a threshold of risk, law enforcement officers implement a protocol to connect them with a domestic violence advocate to provide safety planning and connect them to supports and resources (Maryland Network Against Domestic Violence, 2016; Niolon et al., 2017). An evaluation of lethality assessments found that survivors whose responding officer implemented a lethality assessment experienced a significant reduction in violence severity and frequency in the seven months that followed (Messing et al., 2014).

### **Domestic Violence Fatality Review Boards help learn from past cases and identify system gaps**

In 2001, the Oklahoma legislature established a multidisciplinary Domestic Violence Fatality Review Board (Oklahoma Office of the Attorney General, 2022; Satter et al., 2021). The purpose of the board is to conduct an annual review of domestic violence fatalities from the previous year, in order to identify systems gaps and recommendations for preventing future domestic violence related deaths in the state. The board includes representatives from state agencies (including victim services, health, human services, and the Bureau of Investigation), law enforcement and prosecutors, health care providers, the chief medical examiner, and domestic violence representatives and survivors. In 2022, the board included two Tribal domestic violence representatives, including one survivor of domestic violence. These types of review boards may help identify learnings from previous cases of MMIR to improve multidisciplinary, coordinated responses to domestic violence and prevent future MMIR cases.

### **Culturally responsive trafficking victim identification**

The Stop, Observe, Ask, and Respond (SOAR) to Health and Wellness Program is a trauma-informed training program that helps health and social service providers identify and intervene with suspected cases of human trafficking (Gordon & Roberts, 2021). The SOAR Program offers a one-hour module specific to Indigenous communities (Office on Trafficking in Persons, 2020). The module educates providers on historic factors that contribute to human trafficking in Indigenous communities, indicators of trafficking,

resources available, how to honor cultural practices in service delivery, and strategies for cross-jurisdictional collaboration. This program is available online at no cost.

### **Safe Harbor programs provide comprehensive services to meet the needs of trafficked and exploited youth**

In 2011, Minnesota passed a Safe Harbor Law, which provided legislatively mandated legal protections and social services for sexually exploited youth (Minnesota Department of Health, 2022a). Because of the Safe Harbor Law, sexually exploited youth are included under Minnesota's child protection codes and are excluded from the state's definition of a delinquent child. These changes recognize sexually exploited youth as victims, not criminals, by establishing that youth under age 18 cannot be criminally charged for prostitution. Safe Harbor also increased criminal penalties against commercial sex abusers and purchasers. In 2014, Minnesota adopted a service model called No Wrong Door, which established regional navigators, housing and shelter, and comprehensive services for sexually exploited youth under age 18. In 2016, Safe Harbor services' eligibility expanded to include individuals age 24 and younger.

An evaluation of Safe Harbor services found that the program successfully provided flexible services to youth, including case management, transportation, education, and job assistance (Atella & Turner, 2019). Youth experienced positive outcomes, including increased connections to safe adults, stability, understanding of healthy relationships, and how to support themselves financially using safe means.

## Current issues in Utah

### *The importance of cultural and community connectedness*

Key informants and listening session participants spoke about the protective and healing effects of cultural identity and community connection. They described the trauma of loss of culture, identity, and community connection when Indigenous relatives are split from their families and communities—through adoption, foster care placement, moves to urban areas in search of economic opportunity, and historical forced removal and placement in boarding schools. Listening session participants noted that this is exacerbated by the lack of availability of Native foster homes. This loss of connection creates vulnerability to victimization and exploitation.

*Not that the reservation is the best place possible, but, when you get removed, there's loss of identity and you don't have a network or community. It's hard to find a well-paying job, so there are a lot of factors that factor into the choices and lifestyle, and [help to explain] why a certain population is vulnerable to be trafficked.*

*– Tribal leadership*



*She was adopted before ICWA. ... Due to that she has felt a loss of identity and she's had to deal with that loss of culture her entire life. Not just in the adoptive household; she also had experiences with boarding school. The trauma trickles down. As strong as she is, it's hard for her to escape that loss she has with her culture and identity.*

– Service provider

*[My relative] was sent to a foster home, and [her mother] didn't know where she was. Now [my relative] feels so disconnected that she can't find herself.*

– Listening session participant

Listening session participants spoke to the importance of traditional medicine and cultural practices as a source of healing. One listening session participant, whose loved one was missing, reported that traditional dances and beadwork have been a helpful support to her in her grieving. Another listening session participant noted that the state of Utah will pay for the services of traditional medicine people for survivors but that information needs to be more widely shared.

### ***Economic and social vulnerabilities increase risk of victimization***

Key informants and listening session participants spoke about how economic and social vulnerabilities (including poverty, unemployment, homelessness, substance use, mental health concerns, and generational trauma) increase community members' risk of being victimized by violent crime, manipulation, or exploitation. In particular, key informants shared concerns about community members experiencing homelessness becoming the target of violence. One key informant observed that there has been a movement of Indigenous community members from Tribal lands to urban areas like Salt Lake City in search of economic opportunity—but that these community members lack a social safety net in Salt Lake City and, if they are unable to find a job, may be at risk of becoming homeless.

*The more we can do to bring people up to a comfortable standard of living, the less we're going to see people exploited and abused.*

– Prosecutor

*Most people who come to the city from the reservation are coming for undetermined economic opportunity. There is no job on the reservation, but at least there is an oil refinery in the city so maybe they want to get a job there. They show up in Salt Lake and they don't have a social safety net. We do have the [Urban Indian Center] that provides some assistance, but it might take a few weeks before most people have spent all their money so if they haven't gotten a job by then they might need to join the unsheltered people. Then they're more likely to be a target in one of our shelters or in the camps that our officers are in constantly. No one knows who you are, so it's easier to slip into homelessness and victimization.*

– Law enforcement

Listening session participants reported that there are some “hot spots” in Utah where there is a higher risk for community members to be trafficked (e.g., some interstate highways). They called for improved identification, prevention, and response in these areas.

### ***Data indicate Native American youth may run away from out-of-home placement at a disproportionate rate compared with non-Native youth, putting them at greater risk for trafficking and sexual exploitation***

NCMEC's analysis of missing Native American children from 2012-2021 provides a compelling snapshot of data. The picture is incomplete, however, as Tribal nations in non-PL 280 states are not mandated to report missing children to NCMEC due to Tribal sovereignty. Among Tribal police departments, established procedures for reporting to NCMEC vary. From January 2012 to December 2021, NCMEC reported nearly 3,000 cases involving Native American children, which comprised 1% of all cases reported to NCMEC during that time period. Almost all cases (99%) were resolved. Native American children were reported as missing from out-of-home placement at a higher rate than non-Native children (80% of Native American children in out-of-home placement before missing versus 73% of non-Native children, respectively).

The largest share of missing cases (89%) were considered endangered runaways (defined as a child under age 18 who is "missing on their own accord and whose whereabouts are unknown to their parent or legal guardian" (p. 34)) and 8% were family abductions (NCMEC, 2022). Consistent with a high rate of repeat missing incidents among non-Native children, 65% of Native American children had two or more missing incidents, and children with more than one missing incident had an average of four missing incidents. One child had a total of 68 missing incidents. Despite the incompleteness of the data, what is available reveals that Native American children who are endangered runaways are experiencing drug and alcohol use, diagnosed mental illness, and suicidal behaviors at a higher rate compared with non-Native children who are endangered runaways. For example, 46% of Native children compared to 39% of non-Native children who are endangered runaways and missing from care had a diagnosed mental illness and 66% of Native children compared to 49% of non-Native children who are endangered runaways and missing from care used drugs and alcohol.

### ***Challenges related to protective orders and offender risk assessments***

Key informants and listening session participants reported gaps in the enforcement of protective orders. One listening session participant spoke to the challenges they encountered in obtaining protective orders against their abuser because their initial reports of domestic violence were not taken seriously or ever officially filed by responding law enforcement. Another listening session participant spoke to challenges they have encountered in protective orders transferring between Tribal and non-Tribal law enforcement jurisdictions.

Additionally, one key informant spoke to lapses in protection for victims created by the gap between the expiration of jail release agreement no-contact orders and the first court

date. Jail release agreements order that the accused perpetrator have no contact with the victim for 30 days from the date of the incident. However, the key informant reported that domestic violence cases take, on average, 45 days before the first court date. That creates a two-week gap between the expiration of the no-contact order and when the judge can issue a pre-trial protective order. While there are alternative avenues for obtaining a protective order, such as a civil route, victims must be tech-savvy or have access to an attorney, which is prohibitive for many.

One key informant noted the need to develop a validated domestic violence risk assessment protocol for determining things like whether an offender should be held pretrial and prior to sentencing decisions. On a general risk assessment, offenders may not show up as high risk (e.g., because they are in a stable situation with a house and job), but they might be at high risk of committing domestic violence in their interpersonal relationships. There is only a specific risk assessment protocol used for sex crimes. The key informant reported that several stakeholder groups in Utah are working to identify which risk assessment to use to address this concern.

### ***There is a need for further community education and awareness-building***

Key informants and listening session participants spoke to the need for further education on personal safety, grooming, trafficking, and the broader MMIR issue. In particular, they identified the need for age-appropriate education for youth and training for more professionals who work in child protection and juvenile justice. One key informant also noted the need for further education of the broader, non-Native community about the MMIR injustice.

*Native women know all about these tips for how to protect themselves. Non-Native people may not have to think about this as much. Most Native people know the MMIR issue could impact them. So we can talk about how we make sure our bodies are safe, but how can we educate the wider community? There are not great prevention strategies to keep women safe in general.* — Service provider

## Recommendations

- **Provide financial support to Tribes and urban American Indian communities**
  - Provide financial support to Tribes and urban American Indian communities for cultural revitalization community programming
  - Increase allocation of federal and state funding for violence prevention, emergency support, and victim services that are non-competitive and earmarked for Tribes and urban American Indian communities
- **Support the expansion of community education and public awareness efforts**
  - Mandate the inclusion of evidence-based, comprehensive social-emotional, healthy relationships, and dating violence content and skills-building in public schools' sexual health education curricula
  - Support the certification of Indigenous and non-Indigenous agencies in the *Not a Number* child trafficking and exploitation prevention curriculum
  - Support and implement trafficking public awareness campaigns and programming, particularly among travel and lodging professionals
  - Offer programming for American Indian youth in foster care to increase knowledge and skills to recognize signs of grooming and sexual exploitation
- **Create and provide comprehensive supports for victims of trafficking**
  - Create a comprehensive, wraparound service model (such as Minnesota's No Wrong Door) to provide services to all victims and survivors of sexual exploitation regardless of age
  - Create emergency housing and shelters with supports tailored to the needs of trafficking victims
  - Consider revising existing Utah state legislation to strengthen and expand legal protections for victims of trafficking
- **Continue and increase collaboration to address the intersection of child protection, human trafficking, and the MMIR injustice.** Increase understanding of why American Indian youth are running away from out-of-home placements and address issues upstream, including why so many Native American children end up in out-of-home placements and why so many of these children run away from their placements
  - Consider strategies to increase the availability of culturally appropriate, safe out-of-home placement options for Native American youth, especially those who have run away from care in the past
  - Support Tribal sovereignty to determine appropriate child welfare services

- Provide human trafficking training for fire, EMS, and other first responders so they are able to recognize signs and ask screener questions to identify survivors
- **Improve identification and intervention** among those at high risk of continued violence and victimization
  - Identify opportunities to intervene with Indigenous relatives and others at extreme risk of experiencing violence before they go missing or get murdered, including individuals identified as survivors of domestic violence, sexual assault, or trafficking
  - Collaborate with other states to develop lethality assessments (similar to the domestic violence lethality assessments) for youth who “run away” repeatedly, and people who are experiencing sexual exploitation or trafficking
  - Work to identify regions and/or social contexts within Utah where there are “hot spots” or high incidence of human trafficking, to increase identification, intervention, and prosecution
- **Identify and address gaps in data-sharing regarding protective orders** issued across jurisdictions in Utah, including those issued by Tribal courts
- Examine and adjust **duration of protection orders set in jail release agreements** to address gaps in protection, and develop a **domestic violence-specific risk assessment protocol**

# Media reporting

## Best and emerging practices

### *Ensure coverage by mainstream media*

Mainstream media decides which stories are newsworthy (Hawes et al., 2022; Jeanis et al., 2021; Stewart, 2022). However, decisions about which cases to cover may be informed by journalists' and editors' personal biases and prejudices (Connell & MartinRogers, 2021; Hawes et al., 2022; Jeanis et al., 2021; Stewart, 2022). Missing White women and girls are disproportionately likely to receive media attention and coverage than missing Indigenous and other non-White individuals (Hawes et al., 2022). Stories that get a lot of media coverage put pressure on police, which can increase resources allocated to the case, and may impact the success of the investigation (Hawes et al., 2022; Stewart, 2022).

Media journalists and editors should reflect on their personal biases when deciding whether to cover a missing person case (Connell & MartinRogers, 2021). Additionally, mainstream media should recruit and hire Indigenous staff throughout the industry to help ensure that Indigenous communities' stories are shared and given the attention they deserve (National Indigenous Women's Resource Center, 2022b; Stewart, 2022).

### *Utilize a survivor-centered approach*

*It is so important that our women and girls are humanized in the media because traditionally our women and girls have been portrayed as prostitutes as drunks and runaways and trash and not valuable, and that perpetuates the violence towards our women because the media plays such a huge role in societal perceptions. – Brandi Morin (French/Cree/Iroquois), National Indigenous Women's Resource Center, 2022b, p. 2*

Past media coverage of missing and murdered Indigenous relatives has been problematic, victim-blaming, and grounded in racist and discriminatory stereotypes (Connell & MartinRogers, 2021; Hawes et al., 2022; National Indigenous Women's Resource Center, 2022b). The National Indigenous Women's Resource Center (2022b) encourages journalists to instead adopt a survivor-centered approach that: centers survivors' needs and interests; respects survivors' privacy and dignity; focuses on survivors' empowerment and "quest for justice"; prevents re-traumatization; and focuses on addressing larger patterns of gender-based violence.

## **Create a positive character profile of the victim**

Whether intentionally or not, journalists tend to frame victims in either a positive or negative light (also known as a “sympathy” or “scrutiny” frame, respectively; Connell & MartinRogers, 2021; Grant et al., 2021). When stories are told using a scrutiny frame, the public are more likely to blame the victim for their circumstances; in contrast, sympathy frames encourage readers to empathize with the victim (Foreman et al., 2016; Jeanis et al., 2021).

Often when victims are reported in a scrutiny frame, their past histories like drug or alcohol use, criminal history, child protection cases, gambling, sex work, mental illness, domestic violence, or other negative character descriptions are mentioned (Connell & MartinRogers, 2021). These pieces of information are often not relevant to the case, and not necessary for the journalist to include in reporting on the story (Connell & MartinRogers, 2021; Grant et al., 2021; Stewart, 2022). Media coverage on Indigenous victims is more likely to contain negative character framing, and less likely to contain positive character framing, than reporting on victims of other racial groups (Connell & MartinRogers, 2021; Grant et al., 2021). For example, in a content analysis of media coverage of missing and murdered women, Connell & MartinRogers (2021) found that drug and alcohol use was more frequently mentioned in articles about Indigenous victims (1 out of 3) compared to articles about non-Indigenous victims (1 out of 5).

The Wyoming MMIP Statewide Report notes that media coverage of Indigenous homicide victims’ stories frequently contains more violent language and graphic details (77%), compared to media coverage of White homicide victims (27%; Grant et al., 2021). Some articles about Indigenous victims described the victim as “a body,” rather than a person (e.g., “They left the body in a ditch”; 14%); no articles about White victims used this language.

## **Report victims’ race and Tribal affiliation**

Most commonly, media coverage of Indigenous victims does not mention their race or Tribal affiliation (Connell & MartinRogers, 2021). Including Indigenous victims’ Tribal affiliation is a sign of respect, and may help support Tribal nations and communities’ efforts to understand the scope and nature of the MMIR injustice.

## **Provide contextual information**

*Journalists choose whether or not to place individual crimes within larger context ... issues are presented as individual, disconnected incidents ... [or] as part of larger trends.*  
(Connell & MartinRogers, 2021, p. 14)



In their reporting, journalists should place individual cases within the context of the larger MMIR injustice (Connell & MartinRogers, 2021). Journalists can achieve this by including information about disproportionate rates of violence faced by Indigenous women and relatives and the root causes of that violence; systemic challenges and barriers to justice for MMIR cases (e.g., jurisdictional issues, lack of resources, biased state systems); and policies, state and federal efforts, and community responses intended to address the MMIR injustice (Connell & MartinRogers, 2021; National Indigenous Women’s Resource Center, 2022b). By placing each case within this larger context, journalists contribute to public awareness about the MMIR issue, and readers are less likely to place blame on the victim (Connell & MartinRogers, 2021).

### **Utilize social media**

Social media can quickly, efficiently, and cost-effectively disseminate information, reaching a larger number of people than other forms of media. Social media platforms have changed the landscape of searching for missing persons and the significant reach of tools like Facebook, Twitter, and Instagram make them “the ideal place to generate leads for law enforcement” (Lauth, 2020, p. 3). Some note that social media is becoming the “milk carton campaign” of the time (Jeanis et al., 2021; Jeanis et al., 2022; Solymosi et al., 2021).

It is important to note that no published, peer-reviewed studies have “examined the relationship between social media exposure and recovery status of the missing victim” (Jeanis et al., 2022, p. 4). In addition, Jeanis et al. notes that “previous research suggests that racial/class and gender biases shape police investigations, judicial processes, and awareness/exposure of cases. ... Thus, these biases not only affect how traditional media covers cases, in this case missing persons, but also how social media coverage of these cases is affected even after being financially backed” (2022, p. 4).

This leaves many gaps in confidently identifying best practices for using social media when it comes to reporting on missing/murdered individuals, especially missing and murdered people of color. Therefore, the following suggestions come from the limited research that has looked at social media in the general realm of missing person cases.

- Use a variety of platforms like Facebook, Twitter, Instagram, TikTok, and YouTube (Jeanis et. al., 2022)
- Use high quality photos (Connell & MartinRogers, 2021; Jeanis et. al., 2022; Lauth, 2020; Solymosi et al., 2021). Avoid using mug shots, something prevalent when reporting on MMIR cases (MartinRogers & Pendleton, 2020).
- Apply hashtags (Lauth, 2020; Solymosi et al., 2021)

- Utilize the boost/advertise feature. Jeanis et al. found that a 2021 study conducted by Ferguson and Soave that “boosted posts received significantly more engagement at all levels (clicks, likes/reactions, shares, and unique users reached)” (2022, p. 10).
- Work with the police department to disseminate information on their social media platforms (Lauth, 2020; Solymosi et al., 2021)

Please refer to the Guidelines for Journalists Reporting on Missing Indigenous People’s report created by the New Brunswick Aboriginal Peoples Council (2021) to guide reporters and editors' questions.

## Current issues in Utah

### *The importance of relationships in communication and media inquiries about MMIR cases*

Key informants spoke to the importance of relationships amongst law enforcement agencies and between law enforcement agencies and the media when communicating with the public about MMIR cases. One key informant spoke to the importance of having established MOUs outlining procedures in place when one law enforcement agency (e.g., Utah Department of Public Safety) gets a media inquiry about a case that occurred on Tribal lands, under Tribal law enforcement jurisdiction.

One key informant also spoke to the value of law enforcement agencies having positive working relationships with their media partners. Media are a crucial tool for law enforcement to get information about missing person cases out to the public. If the public is aware of a missing person, there are more people who are keeping an eye out and can report relevant information to law enforcement to support the investigation.

### *Media responsiveness for missing Indigenous relatives*

One key informant observed disparities in media responsiveness when a Native community member goes missing compared to their non-Native counterparts. They recalled the overwhelming media response to the case of Gabby Petito, a young White woman who encountered police in Moab, Utah, during a domestic dispute with her boyfriend, Brian Laundrie, before she disappeared and was later found murdered in Wyoming (Hauser, 2023). The key informant commented that when Native American girls go missing, there is a much slower response time in the media compared to when wealthy, White girls go missing.

*When a non-Native person goes missing, the media responds really quickly, but there seems to be a delay in making announcements about Native American girls, so the media needs to be quicker to respond. The media could be speedier when publishing those stories so the information will get out to the communities.*

*– Service provider*

## Recommendations

- **Provide training or education** to help facilitate self-examination of personal biases, which may impact which communities' cases receive more media coverage and attention than others
- **Adopt a survivor-centered approach** when communicating with the media about missing persons or victims:
  - Use positive descriptors for victims (e.g., “hard worker,” “compassionate,” and “community member”)
  - Humanize victims through relationship references (e.g., referring to them as a mother or daughter), or using family and friends' narratives
  - Avoid the use of violence and graphic language about the crime, the victim's injuries, or the crime scene
  - Avoid the use of language that describes homicide victims as “bodies,” rather than people
- **Consistently and accurately report victims' race and Tribal affiliation**, and other information about their Tribal identity (e.g., clans and lineage)
- **Provide contextual information about the MMIR injustice**, its root causes, and government or community initiatives working to address it
- When reporting on the MMIR injustice, include **references to culturally specific supports and resources**, such as the Restoring Ancestral Winds' StrongHearts Native Helpline

## Resources for further reference

### *Missing person investigation*

National Center for Missing & Exploited Children. (2020). *Investigative checklist for first responders*.

<https://www.missingkids.org/content/dam/missingkids/pdfs/publications/nc88.pdf>

National Center for Missing & Exploited Children. (2021). *Law enforcement policy and procedures for reports of missing and abducted children*.

<https://www.missingkids.org/content/dam/missingkids/pdfs/NCMEC-LE-Model-Policy.pdf>

National Indigenous Women's Resource Center. (2020). *When a loved one goes missing – understanding and responding to the crisis of missing and murdered Indigenous women*.

<https://www.niwrc.org/resources/pocket-guide/when-loved-one-goes-missing-understanding-and-responding-crisis-missing-and>

Weyand, E. H., & McPherson, L. (2021). Enhancing law enforcement response to missing person cases in Tribal communities. *Department of Justice Journal of Federal Law and Practice*, 69(1), 137-148.

<https://www.justice.gov/media/1120261/dl?inline>

### *Tribal Community Response Plans and guidance*

Bay Mills Indian Community [Gnoozhekaaning]. (2022). *Tribal community response plan missing or murdered individuals*.

[https://www.baymills.org/files/ugd/869f65\\_5240245e70114abcb19705d889977a3b.pdf](https://www.baymills.org/files/ugd/869f65_5240245e70114abcb19705d889977a3b.pdf)

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[https://www.yuroktribe.org/files/ugd/23c897\\_f7c9d40dadf74f2b976954111d751e7a.pdf](https://www.yuroktribe.org/files/ugd/23c897_f7c9d40dadf74f2b976954111d751e7a.pdf)

U.S. Department of Justice. (2022). *Guide to developing a Tribal community response plan for missing person cases*.

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## Communication and alert systems

Harp, C. (2019). *AMBER Alert best practices*. U.S. Department of Justice.  
<https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/252759.pdf>

## Cold case investigation

Adcock, J. (2021). Addressing the crisis of missing or murdered Indigenous persons: A path forward utilizing a structured cold case investigation protocol. *Department of Justice Journal of Federal Law and Practice*, 69(1), 103-128.  
<https://www.justice.gov/media/1120261/dl?inline>

Barcus, H., Heurich, C., Ritter, N., Schwarting, D. E., & Walton, R. (2019). *National best practices for implementing and sustaining a cold case investigation unit*. U.S. Department of Justice. <https://www.ojp.gov/pdffiles1/nij/252016.pdf>

Budowle, B., Lindsey, J., & Spamer, B. J. (2022). Unresolved cases: A review of protocols and resources for supporting investigations involving American Indians and Alaska Natives. U.S. Department of Justice, Office of Community Oriented Policing Services. <https://cops.usdoj.gov/ric/Publications/cops-p456-pub.pdf>

Moran, J. P. (2021). Living in a cruel limbo: A guide to investigating cold missing person cases. *Department of Justice Journal of Federal Law and Practice*, 69(2), 131-148. <https://www.justice.gov/media/1134026/dl?inline>

## Homicide investigation

Carter, D. L. (2013). *Homicide process mapping: Best practices for increasing homicide clearances*. U.S. Department of Justice.  
<https://vrnclearinghousefiles.blob.core.windows.net/documents/Homicide%20Process%20Mapping%20-%20Best%20Practices%20for%20Increasing%20Homicide%20Clearances.pdf>

Holder, E. H., Robinson, L. O., & Lauc, J. H. (2011). *Death investigation: A guide for the scene investigator*. U.S. Department of Justice.  
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International Association of Chiefs of Police. (2013). *10 things law enforcement executives can do to positively impact homicide investigation outcomes*. U.S. Department of Justice.  
<https://vrnclearinghousefiles.blob.core.windows.net/documents/10%20Things%20Law%20Enforcement%20Executives%20Can%20Do%20to%20Positively%20Impact%20Homicide%20Investigation%20Outcomes.pdf>

## **Victim and family services**

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Minnesota Department of Human Services. (2022). Best practice response to human trafficking and sexual exploitation of children and youth: A guide for county and Tribal child welfare agencies. <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-8015-ENG>

## **Prevention**

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[https://www.azcjc.gov/Portals/0/Documents/pubs/Cold\\_Case\\_Solvability\\_Matrix\\_Anytown\\_PD\\_ANNEX\\_A.pdf](https://www.azcjc.gov/Portals/0/Documents/pubs/Cold_Case_Solvability_Matrix_Anytown_PD_ANNEX_A.pdf)
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