

Executive Order on Improving Public Safety and Criminal Justice for Native Americans and Addressing the Crisis of Missing or Murdered Indigenous People

NOVEMBER 15, 2021 • PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy. The safety and well-being of all Native Americans is a top priority for my Administration. My Administration will work hand in hand with Tribal Nations and Tribal partners to build safe and healthy Tribal communities and to support comprehensive law enforcement, prevention, intervention, and support services.

Generations of Native Americans have experienced violence or mourned a missing or murdered family member or loved one, and the lasting impacts of such tragedies are felt throughout the country. Native Americans face unacceptably high levels of violence, and are victims of violent crime at a rate much higher than the national average. Native American women, in particular, are disproportionately the victims of sexual and gender-based violence, including intimate partner homicide. Research shows that approximately half of Native American women have experienced sexual violence and that approximately half have experienced physical violence by an intimate partner. LGBTQ+ Native Americans and people who identify as “Two-Spirit” people within Tribal communities are also often the targets of violence. And the vast majority of Native American survivors report being victimized by a non-Native American individual.

For far too long, justice has been elusive for many Native American victims, survivors, and families. Criminal jurisdiction complexities and resource constraints have left many injustices unaddressed. Some progress has been made, particularly on Tribal lands. Given that approximately 70 percent of American Indian and Alaska Natives live in urban areas and part of this epidemic of violence is against Native American people in urban areas, we must continue that work on Tribal lands but also build on existing strategies to identify solutions directed toward the particular needs of urban Native Americans.

In 2020, bipartisan members of the 116th Congress took an important step forward through the passage of two pieces of legislation — Savanna’s Act and the Not Invisible Act of 2019 -- that include important provisions for improving law enforcement and justice protocols as well as improving access to data to address missing or murdered indigenous people. My Administration is committed to fully implementing these laws and working with the Congress to fund these programs for Native Americans. Earlier this year, the Secretary of the Interior and the Attorney General announced a Joint Commission, established pursuant to the Not Invisible Act, that includes: representatives of Tribal, State, and local law enforcement; Tribal judges; Native American survivors of human trafficking; health care and mental health practitioners who have experience working with Native American survivors of human trafficking and sexual assault; Urban Indian Organizations focused on violence against women and children; and family members of missing or murdered indigenous people. The Commission will work to address the persistent violence endured by Native American families and communities across the country. In addition, the Department of the Interior has established a special unit to focus resources on active and unsolved missing persons cases.

But more work is needed to address the crisis of ongoing violence against Native Americans — and of missing or murdered indigenous people. Previous executive action has not achieved changes sufficient to reverse the epidemic of missing or murdered indigenous people and violence against Native Americans. The Federal Government must prioritize addressing this issue and its underlying causes, commit the resources needed to tackle the high rates of violent crime that Native Americans experience over the long term, coordinate and provide resources to collect and analyze data, and work closely with Tribal leaders and community members, Urban Indian Organizations, and other interested parties to support prevention and intervention efforts that will make a meaningful and lasting difference on the ground.

It is the policy of my Administration to work directly with Tribal Nations to strengthen public safety and criminal justice in Indian Country and beyond, to reduce violence against Native American people, and to ensure swift and effective Federal action that responds to the problem of missing or murdered indigenous people. My Administration understands that Native American people, particularly the survivors of violence, know best what their communities need to make them safer. Consistent engagement, commitment, and collaboration will drive long-term improvement to public safety for all Native Americans.

Sec. 2. Coordination of a Federal Law Enforcement Strategy to Prevent and Respond to Violence Against Native Americans. The Attorney General, working with the Secretary of the Interior and the heads of other executive departments and agencies (agencies) as appropriate, shall assess and build on existing efforts 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. The strategy shall set out a plan to address unsolved cases involving Native Americans; provide for coordination among the Department of Justice, the Department of the Interior, and the Department of Homeland Security in their efforts to end human trafficking; seek to strengthen and expand Native American participation in the Amber Alert in Indian Country initiative; and build on and enhance national training programs for Federal agents and prosecutors, including those related to trauma-informed and victim-centered interview and investigation techniques. The strategy shall also include protocols for effective, consistent, and culturally and linguistically appropriate communication with families of victims and their advocates, including through the creation of a designated position within the Department of Justice assigned the function of serving as the outreach services liaison for criminal cases where the Federal Government has jurisdiction. The Attorney General and the Secretary of the Interior shall report to the President within 240 days of the date of this order describing the strategy developed and identifying additional resources or other support necessary to implement that strategy.

Sec. 3. Supporting Tribal and Other Non-Federal Law Enforcement Efforts to Prevent and Respond to Violence Against Native Americans.

(a) The Attorney General and the Secretary of the Interior, working with the heads of other agencies as appropriate, shall develop guidance, identify leading practices, and provide training and technical assistance, consistent with applicable law and available appropriations, to:

(i) assist Tribal governments in implementing special domestic violence criminal jurisdiction pursuant to the Violence Against Women Reauthorization Act of 2013, enabling them to prosecute certain non-Indian defendants for domestic violence and dating violence offenses in Indian Country, and also assist Tribes in implementing any relevant Tribal provisions in subsequent Violence Against Women Act reauthorization legislation;

(ii) assist Tribal governments within Oklahoma, consistent with the United States Supreme Court's decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), to build capacity to handle cases within their criminal jurisdiction, including the capacity to provide victim services;

(iii) promote coordination of Federal, State, local, and Tribal law enforcement, including, as appropriate, through the development and support of Tribal Community Response Plans;

(iv) continue to assist Tribal law enforcement and judicial personnel with training, as described in 25 U.S.C. 2451, on the investigation and prosecution of offenses related to illegal narcotics and on alcohol and substance abuse prevention and treatment; and

(v) assist Tribal, State, and local law enforcement entities' ability to apply linguistically

appropriate, trauma-informed, and victim-centered practices when working with victims of crime, and to develop prevention strategies and recognize the indicators of human trafficking affecting Native Americans.

(b) The Attorney General and the Secretary of the Interior shall continue to assess their respective grantmaking operations to evaluate whether any changes, consistent with applicable law, are warranted to make that grantmaking more equitable for Tribal applicants seeking support for law enforcement purposes and for the provision of services to victims and survivors.

Sec. 4. Improving Data Collection, Analysis, and Information Sharing.

(a) The Attorney General, in coordination with the Secretary of the Interior and the Secretary of Health and Human Services (HHS), as appropriate, shall sustain efforts to improve data collection and information-sharing practices, conduct outreach and training, and promote accurate and timely access to information services regarding crimes or threats against Native Americans, including in urban areas, such as through the National Crime Information Center, the Next Generation Identification system, and the National Violent Death Reporting System, as appropriate and consistent with applicable law.

(b) The Attorney General shall take steps, consistent with applicable law, to expand the number of Tribes participating in the Tribal Access Program for National Crime Information, which provides Tribes access to national crime information systems for federally authorized purposes.

(c) The Attorney General, in coordination with the Secretary of the Interior and the Secretary of HHS, shall develop a strategy for ongoing analysis of data collected on violent crime and missing persons involving Native Americans, including in urban Indian communities, to better understand the extent and causes of this crisis. Within 240 days of the date of this order, the Attorney General, the Secretary of the Interior, and the Secretary of HHS shall report jointly to the President on the strategy they have developed to conduct and coordinate that analysis and shall identify additional resources or other support necessary to implement that strategy.

(d) The Attorney General shall assess the current use of DNA testing and DNA database services to identify missing or murdered indigenous people and any responsible parties, including the unidentified human remains, missing persons, and relatives of missing persons indices of the Combined DNA Index System and the National Missing and Unidentified Persons System. Within 240 days of the date of this order, the Attorney General shall report

the outcome of this assessment to the President, along with recommendations to improve the use and accessibility of DNA database services.

(e) The Secretary of HHS shall evaluate the adequacy of research and data collection efforts at the Centers for Disease Control and Prevention and the National Institutes of Health in accurately measuring the prevalence and effects of violence against Native Americans, especially those living in urban areas, and report to the President within 180 days of the date of this order on those findings and any planned changes to improve those research and data collection efforts.

Sec. 5. Strengthening Prevention, Early Intervention, and Victim and Survivor Services.

(a) The Secretary of HHS, in consultation with the Secretary of the Interior and Tribal Nations and after conferring with other agencies, researchers, and community-based organizations supporting indigenous wellbeing, including Urban Indian Organizations, as appropriate, shall develop a comprehensive plan to support prevention efforts that reduce risk factors for victimization of Native Americans and increase protective factors, including by enhancing the delivery of services for Native American victims and survivors, as well as their families and advocates. The comprehensive plan shall, to the extent possible, build on the existing evidence base. The plan shall include strategies for improving mental and behavioral health; providing substance abuse services; providing family support, including high-quality early childhood programs for victims and survivors with young children; and preventing elder abuse, gender-based violence, and human trafficking. In addition, the plan shall also include community-based strategies that improve community cohesion and cultural connectivity and preservation, educational programs to increase empowerment and self-advocacy, and strategies to encourage culturally and linguistically appropriate, trauma-informed, and victim-centered service delivery to Native Americans, including for survivors of gender-based violence. The Secretary of HHS shall report to the President within 240 days of the date of this order describing the plan and actions taken and identifying any additional resources or other support needed.

(b) The Secretary of HHS and the Secretary of the Interior shall review procedures within their respective departments for reporting child abuse and neglect, including barriers to reporting, and shall take appropriate action to make reporting of child abuse and neglect by the Indian Health Service easier and more streamlined. In addition, the Secretaries shall assess and identify ways to expand Native American access to child advocacy center services such as pediatric medical forensic examination services, mental health care providers with advanced training in child trauma, and culturally and linguistically appropriate activities and services geared toward pediatric patients. The Secretaries shall report to the President within

180 days of the date of this order describing actions taken, findings from the assessment, and planned actions to expand access, and identifying any additional resources or other support needed.

(c) The Secretary of the Interior, consulting with the Attorney General and the Secretary of HHS, as appropriate, shall evaluate the effectiveness of existing technical assistance and judicial support services for Tribes to provide community-based conflict resolution, as well as culturally and linguistically appropriate, trauma-informed, and victim-centered strategies, including traditional healing services and healing courts, and shall identify and make improvements as needed. The Secretary of the Interior shall report to the President within 180 days of the date of this order describing the evaluation findings and the improvements implemented.

Sec. 6. Consultation and Engagement. In accordance with the Presidential Memorandum of January 26, 2021 (Tribal Consultation and Strengthening Nation-to-Nation Relationships), the Departments of Justice, the Interior, HHS, Energy, and Homeland Security shall conduct timely consultations with Tribal Nations and shall engage Native American communities to obtain their comments and recommendations regarding implementing sections 2 through 5 of this order. Tribal consultation and engagement shall continue as the strategies required by this order are implemented.

Sec. 7. Definitions. For the purposes of this order

(a) “Tribal Nation” means an American Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges as a federally recognized tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5130, 5131.

(b) “Native American” and “Native” mean members of one or more Tribal Nations.

(c) “Urban Indian Organization” means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities, pursuant to 25 U.S.C. 1603(29).

Sec. 8. General Provisions.

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the

availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
November 15, 2021.