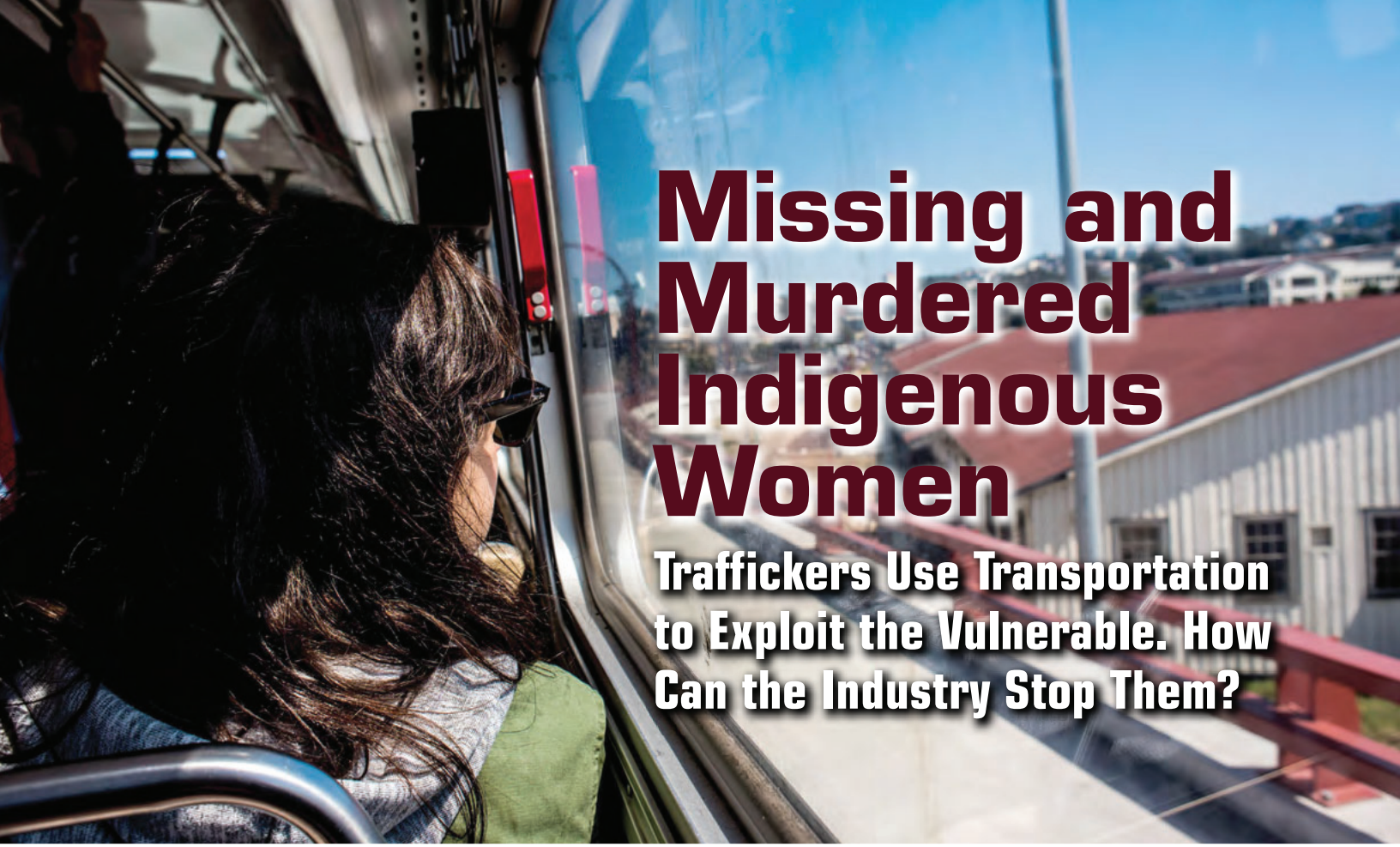

Missing and Murdered Indigenous Women

Traffickers Use Transportation to Exploit the Vulnerable. How Can the Industry Stop Them?

Photo: Panos Lambrakis, Alamy Stock Photo

MARGO HILL

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Above: What should be a casual bus ride too often ends in tragedy for Native American women and girls, who go missing or are murdered in numbers that are significantly inconsistent among reporting agencies. What role does transportation play in the trafficking that leads to this national crisis? And how can the transportation industry incorporate measures that help combat it?

ta nexʷ qs kʷettm tuʔ qe smʔemʔém

No longer will our women be taken, and they are not forgotten!

Patsy Whitefoot, a Yakama tribal elder whose sister is missing, made a simple and heartfelt request during the Oregon State Legislative 2020 session: Rather than quote statistics, begin discussions about missing and murdered Indigenous people with a statement that honors and respects their lives. That is what the Spokane Salish statement that leads this article aspires to do in honor of these missing or murdered Indigenous women and girls, who are real people—someone's daughters, sisters, mothers, and wives. And it is what Whitefoot achieved in her efforts to pass legislation, where she paraphrased the 2007 *United Nations Declaration on the Rights of Indigenous Peoples*:

> "Indigenous peoples have suffered from historic injustices as a result of colonization and dispossession of their lands, territories, and resources. We must recognize and reaffirm that Indigenous individuals are entitled—without discrimination—to all human rights and possess collective rights, which are indispensable for their existence, well being, and integral development as peoples. Indigenous individuals have the right to life, physical and mental integrity, liberty, and security of person."

Deep-Seated Vulnerabilities

Why are Indigenous and Native women and girls so vulnerable? Generational trauma from colonization—or the soul wound—is at the core of most of the significant ailments affecting Native Americans,

Photo courtesy of the National Museum of the American Indian

Outfitted in western finery, the Thomas Indian School Class of 1912 sits for a portrait. Originally an Iroquois, New York, asylum for orphaned and disadvantaged Native American children, the school was eventually taken over by a New York State charity charged with educating and providing vocational training. Those efforts translated into acculturation and assimilation of Native children, which denied them of their traditional culture and prohibited them from speaking their native language. The result is a "soul wound" that many Indigenous people still struggle to heal.

including substance abuse, broken homes, high levels of domestic and sexual abuse, juvenile delinquency, and deep internalized pain. This history of trauma for Native women and girls makes them susceptible to human trafficking and other violence. With the loss of land, culture, language, and identity, tribal communities face limited opportunities for education, jobs, and housing. Native women and girls are more likely to struggle with poverty, violence, and addiction than non-Native women (*1*). Discrimination is enabled through legal processes, institutional policies, cultural misrepresentations, and limited resources. With restricted funds, tribal law enforcement is stretched thin, and tribal communities lose many officers to better-paying jobs with county law enforcement.

Studies show that American Indians and Alaska Natives experience much higher victimization rates than the rest of the U.S. population. In 2016, *United States v. Lamott* noted that American Indian women are 2.5 times more likely than the national average to experience certain violent crimes, such as nonfatal strangulation. Thus, it is important for the criminal justice system and social service personnel who respond to crime in tribal communities—as well as transportation professionals—to know the types and frequency of abuse perpetrated on Indigenous women. Such violence includes physical assault, rape, and being threatened with a gun, knife, or other weapon, which results in broken jaws, fractured cheekbones, missing teeth, punched lips, black eyes, hearing loss, memory loss, and neck problems (*2*). The National Intimate Partner and Sexual Violence Survey found that four in five American Indian and Alaska Native women (84.3 percent) have experienced violence at some point in their lives (*3*). This includes 56.1 percent who have been sexually assaulted, 55.5 percent who have suffered physical violence by an intimate partner, 48.8 percent who have been stalked, and 66.4 percent who have been exposed to psychological aggression by an intimate partner (*4*). The survey also found that one-third of all American Indian women will be raped in their lifetimes (*3*).

> Indigenous women disappear three times: first, when they go missing; second, when the media does not report it; and third, when the data are not reported.

A 2018 report by the Urban Indian Health Institute stated that more than 95 percent of cases involving missing and murdered Indigenous women were never covered by the media (*5*). Unfortunately, Indigenous women disappear three times: first, when they go missing; second, when the media does not report it; and third, when the data are not reported. The 2021 media outcry over the disappearance of Gabrielle Petito brought such uneven coverage to the forefront (*6*). When the media *does* report on such cases involving Indigenous victims, many Native Americans view it as depicting them in a negative light, spotlighting their personal and criminal history. These portrayals create vulnerability by perpetuating stereotypes and making excuses for the perpetrator. These images feed into the historical cowboys and Indians mischaracterizations that portray an Indian woman as a sexy Pocahontas in a one-strap dress, promiscuous and unrestrained. That is in stark contrast to actual traditional tribal regalia, in which the majority of women in most tribes are covered from neck to ankles.

Vulnerability also comes from relying on cash systems because, generally, banks are not available on the reservations, and tribal people seldom have credit cards. This makes it difficult to buy bus or rail tickets or to pay for hotel rooms. Running out of cash can leave women stranded. Moreover, tribal people do not always carry the state identification that many transportation services require; instead, they carry tribal identification, which may not be widely recognized or accepted and becomes a further hindrance to purchasing travel fare and paying for lodging.

Photo: Pxhere

Possibly a member of the Wasco people along the Columbia River, a woman wears the modest traditional tribal attire of many Indigenous American women and girls.

Tribal culture requires that Native Americans travel from rural tribal territories to the reservation and longhouse to participate in social activities and ceremonies. With limited access to cars—and few, if any, auto mechanics in rural reservation communities—Native women and girls resort to hitchhiking, which places them at risk. The forms of travel for tribal people are sometimes affected by a lack of access to reliable mode choices provided by the tribal transportation agencies, such as public buses and other ride-sharing and transit for rural communities.

Where Transportation and Trafficking Collide

Mobility investments help people travel freely, and transportation planners focus their efforts on the efficient movement of people and goods. Although women tend to use public transit more than men, the transportation industry has largely failed to institute safety improvements that address threats against women.

"I DON'T FEEL SAFE"

Traffickers use public transit systems every day, taking advantage of safety inefficiencies to seek victims and transport them for prostitution work.

A recent study on adult female transit riders in Los Angeles, California, found that—among LA Metro customers—more women live in poverty than adult male riders. And women are more likely to live in households with one car or none at all, which increases their need for public transit (*7*). The largest barrier to women riding transit in the LA metropolitan area is that they "don't feel safe." Women who participated in the study suggested stationing transit police nearby and improving lighting to make them feel more secure.

TRAFFICKING HOTSPOTS

Human trafficking of American Indians and Alaska Natives are serious and significant problems. Trafficking in Indian Country includes many elements of transportation that move people and cargo: truck stops, airports, bus terminals, seaports, and borders. For example, the *United States Attorneys' Bulletin*, a former publication of the U.S. Department of Justice, published articles about Indigenous women being taken, held, and sexually abused in the cargo storage compartments of international ships anchored at the Port of Duluth in Minnesota (*8*). However, since September 11, 2001—when terrorists targeted the United States—the port has increased security because of its designation as an international point of entry. Credentials and identification are now required to get onto the docks and boats; civilians are not permitted access. These security measures have significantly reduced the amount of trafficking. Still, transportation professionals must consider how physical and policy structures empower traffickers to peddle Native women and girls as victims.

Despite increased security at the Port of Duluth and other entry and exit points, human trafficking continues. Tribal communities near the borders with Mexico and Canada are especially vulnerable to international trafficking. A 2016 article in the *Canadian Journal of Sociology* characterizes the most dangerous highways as remote, underdeveloped wilderness or sparsely populated communities (*9*). Traffickers need transportation to cross borders through points of entry and exit without being detected.

A report on human trafficking of Native Americans in Oregon described commercial sex establishments that line

Photo: Shane Lynes, Unsplash

Empty and dark, this train platform is a study in changes needed to provide a safe environment in which women and girls travel—especially if they must be out to work late at night or early in the morning when transit is not well protected by the watchful eyes of other passengers.

Photo: Scott Horn, Unsplash

Moving missing people is not unlike moving goods—it takes transportation. Truck stops, bus stations, train platforms, and other places where people and goods are transported can serve as conduits for moving missing women and girls. When these locations are near—but not on—Indian land, they can be vectors for prostitution and trafficking.

the Interstate-5 corridor, including truck stops that facilitate transfers of sex trafficking victims between Mexican and Canadian borders (*10*). Federal prosecutors who were interviewed reported a surge in sex trafficking in areas such as southern Oregon, where adults travel to have sex with children they meet online. The same report confirms that rural children are those most often lured into prostitution through sex trafficking.

Interviewees working on or in close proximity to reservations reported instances of prostitution and human trafficking occurring most often at locations near—but not on—the reservation, such as highway truck stops. For example, some interviewees in the Oregon study mentioned prostitution and potential trafficking occurring in a tent erected near a highway truck stop just north of Klamath Falls—before the stop burned down. A significant amount of trafficking and prostitution of Native, Hispanic, and white women also reportedly occurs just outside of Warm Springs Indian Reservation, where pimps pick up young women that they take back to Portland. One interviewee also reported knowledge of a young woman who had been recruited into trafficking through her attendance at an area community college. The report found that state officials are not meeting their legal obligations to the Native community with regard to the prevention of trafficking, prosecution of offenders, and protection of victims.

Now, to the Statistics

Each year in the United States, thousands of Native women and girls disappear or die. They vanish from tribal lands, rural communities, and cities—with no official accounting. According to an April 2021 U.S. Department of the Interior news release, approximately 1,500 American Indian and Alaska Native missing persons throughout the United States have been entered into the FBI National Crime Information Center (NCIC). And approximately 2,700 cases of murder and nonnegligent homicide of American Indians and Alaska Natives have been reported to the bureau's Uniform Crime Reporting Program (*11*). However, deep disparities exist between reporting databases that reflect inconsistencies in data collection for missing and murdered Indigenous women. Challenges in accessing reliable data continue today, impeding policy makers' ability to make informed decisions to address the violence against these victims.

The Urban Indian Health Institute sheds light on the lack of accurate data, citing difficulty in obtaining data on violence committed against Indigenous women, difficulty in law enforcement's ability to track data, and challenges in identifying Native women (*5*). Tribal people can seem almost invisible to the rest of society and are often thought of in an idealized historical context, such as living in teepees. Until recently, many mainstream Americans have paid little attention to the issues Native Americans encounter as citizens of the United States. The Centers for Disease Control and Prevention cites murder as the sixth-leading cause of death among American Indian and Alaska Native women and girls up to age 44, many of whom are victims of human trafficking (*12*). With that in mind, transportation agencies and professionals can take multiple actions to reduce occurrences of human trafficking. But the first step is to better understand how social structures and policies have worked to devalue the lives of Indigenous women and girls and how perceptions influence travel behaviors.

Photo: Jeff Ferguson

Crying out for social justice, activist Shelly Boyd—a member of Washington State's Sinixt–Arrow Lake Band of the Confederated Tribes of the Colville Reservation—leads an awareness rally at a traditional intertribal Salmon Ceremony. The red handprint over her mouth symbolizes the silenced voices of missing and murdered Indigenous women and girls.

Complex Relationship with the Federal Government

Federal Indian law is complex. A unique legal and political relationship between American Indians and the U.S. government has reinforced social injustices and inequities. There are 574 federally recognized tribes in the United States (*13*). According to the U.S. Bureau of Indian Affairs (BIA), approximately 56.2 million acres are held in trust by the United States for various Indian tribes and individuals. Approximately 326 Indian land areas in the United States are administered as federal Indian reservations and also include pueblos, rancherías, missions, villages, and communities. About 55 percent of tribal people live in small rural towns, with the remainder residing in urban areas. For federal criminal jurisdiction purposes, Title 18 U.S. Code Section 1151 defines Indian Country as all land within the limits of any Indian reservation (including fee and trust land within reservation boundaries) and trust lands outside the reservation boundaries, including rights-of-way. BIA maintains the official title record for Indian Country lands. Based on BIA information, state departments of transportation (DOTs) typically maintain and update a map of Indian Country within their databases (*14*). These boundaries shape legal relationships.

Photo: Sailik Sengupta, Pixabay

There's a vast beauty to the desolate land in some parts of Indian Country, but the solitude shrouds a different type of silence. Every year, a large number of Indigenous women and girls are murdered or simply vanish to join the missing. Perhaps more alarming is that this is nothing new.

The boundaries of Indian Country lands have many of the same law enforcement and jurisdictional limitations as the borders between the states. Unlike states, each tribe has its own unique history and relationship with the federal government.

Over generations, court decisions have changed the legal relationships between tribes and the federal government. In 1974, the U.S. Supreme Court decided in *Morton v. Mancari* that America Indians were not recognized as a racial group; instead, as a people, they should be identified as a quasi-sovereign entity that is governed by the BIA in a unique fashion. The legal relationship between tribes and the federal government also is a political relationship that is augmented by treaties, executive orders, federal statutes, and further U.S. Supreme Court case law. These policies and laws define this relationship and the status of land tenure. This relationship is further complicated by the political nature of the government-to-government relationship, transportation services, and criminal jurisdiction by different authorities.

This relationship leaves tribes without legal provisions to protect their women and girls. The prosecution of crimes in Indian Country is constrained due to the complex nature of federal Indian law. In Indian Country, there are layers of federal laws, tribal laws, and even state laws. Prosecution of sexual assaults and rape depends on the type of crime, the location of the act, and the race of the perpetrator. The race issue resulted from a 1978 U.S. Supreme Court decision in *Oliphant v. Suquamish* that ruled that the tribe lacked criminal jurisdiction over non-Indians when the tribal nation became a domestic dependent nation within the United States. These federal laws create a jurisdictional void and lead criminals to believe they can commit crimes in Indian Country and get away with them.

However, in the 2021 case of the *United States v. Cooley*, the U.S. Supreme Court ruled unanimously that a tribal police officer may detain a non-Indian on

Three Types of Land

The three types of land on Indian reservations have different rules and jurisdictional challenges.

Tribal Trust: Land that is held in trust by the U.S. government for the use of the tribe as a whole or by allotments to individuals.

Tribal Fee: Fee Simple Absolute lands owned by the tribe from acquisition or gifting are the typical land tenure with which all Americans are familiar. Most of these will be converted to trusts but may not yet be because of mortgages or other debts associated with the properties.

Non-Indian Fee: Land owned by non-Indians within the reservation boundary. There are jurisdictional challenges on these lands because of *Brendale v. Confederated Tribes of Yakama*, which ruled that non-Indian owners within reservation boundaries are not necessarily under the jurisdiction of the tribe but rather the county or state.

a public highway crossing a reservation for suspected violation of federal or state law and may perform a search related to that detention while the suspect is held for transport to state or federal authorities for prosecution.

In arriving at this decision, the U.S. Supreme Court also was concerned that failure to recognize authority to detain suspected non-Indian offenders could pose serious threats to public safety in Indian Country. The Court noted that several state and lower federal courts had recognized this authority, but several Supreme Court opinions assumed that such authority already existed. By extension, such rulings are a move toward improving the safety of Indigenous women.

Legal Solutions

Despite the 2021 *United States v. Cooley* decision previously mentioned, tribes continue to need enhanced jurisdiction over non-Indian perpetrators living in Indian Country, the ability to protect women from violent crimes, and the capability to promote a coherent framework of laws to maximize enforcement effectiveness.

The Major Crimes Act, which federal prosecutors use to prosecute Indians for major crimes committed against Indian and non-Indian victims, could be simplified to cover all felony assaults under Section 113 of the federal Criminal Code.

The Violence Against Women Act expired in December 2018, and a temporary reauthorization expired on February 15, 2019. Signed into law on March 16, 2022, the act includes jurisdictional enhancement for tribal courts dealing with non-Native men.

During the August 12, 2020, webinar, Walking Toward Justice in Indian Country, moderated by the author and including a national panel, New Mexico's then-U.S. Representative Deb Haaland noted that, "among the most crucial pieces of legislation is the Not Invisible Act of 2019." Passed into law in 2020, the act established an advisory committee comprised of law enforcement, tribal leaders, survivors of trafficking, and family members to address the epidemic of missing and murdered Indigenous people and to find jurisdictional solutions to the complex criminal law framework on tribal lands.

Photo: U.S. Department of the Interior

The red shawl that U.S. Secretary of the Interior Deb Haaland drapes over a chair in her office is a vivid—and poignant—symbol of the alarming number of Indigenous women and girls who have gone missing or been slain, a "crisis that Native communities have faced since the dawn of colonization," she laments.

Now U.S. Secretary of the Interior, Haaland—a member of the Pueblo of Laguna tribe and the first Native American to serve as a Cabinet secretary—has worked to develop protocols for new and unsolved cases of missing and murdered Native women and girls. These efforts include increasing coordination and communication between state, federal, tribal, and local law enforcement to improve collection of data and statistics related to tracking missing Indigenous people.

Tribal governments, such as the Navajo and Choctaw nations, also have passed legislation to protect women and children from trafficking. The Choctaw Nation provides guidelines for treatment of human trafficking victims, which state that they shall be housed in a shelter; not be detained in jail; not be fined or penalized; receive prompt medical care, food, and other assistance, as needed; be offered legal assistance; and be provided protection if safety is at risk (Choctaw Nation Criminal Code).

Transportation Agencies Can Help

Transportation agencies can improve travel and transportation safety for Native women and girls by continuing to share information with community members, as well as criminal justice, social service, and medical personnel, all of whom can help save victims and get pimps and traffickers off the street.

The U.S. Department of Transportation (U.S. DOT) initiative, Transportation Leaders Against Human Trafficking, was formed in 2012 for transportation and travel industry stakeholders to maximize the transportation industry's collective impact in combating human trafficking.[1] The initiative provides transportation agencies with resources for training, public awareness, and agency coordination.

State DOTs also can harness their employees and technology to fight trafficking, aid victims, and support critical decision making. The Transportation Research Board's (TRB's) National Cooperative Highway Research Program Project 20-121, "State DOT Contributions to the Study, Investigation, and Interdiction of Human Trafficking" is developing a guide accompanied by tools to support effective training, policy, and collaborations for mitigating human trafficking.[2] The project addresses leadership, field staff, contractors, industry stakeholders, and collaborative partners.

By improving awareness of human trafficking, transit agencies are working to make their systems and passengers safer. As detailed in TRB's *Transit Cooperative Research Program Synthesis 146: Transit Security Preparedness*, 15 percent of the respondents surveyed by transit agencies said that they have experienced at least one human trafficking incident (*15*). Agencies are collaborating with law enforcement, special task forces, or both to counter the problem and offer training specifically focused on combating human trafficking, as

[1] See Transportation Leaders Against Human Trafficking at https://www.transportation.gov/TLAHT.

[2] See project details at https://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=4378.

well as taking action to better inform their transit customers. An upcoming primer, guide, and toolkit from TRB's Airport Cooperative Research Program will help airport operators create and implement a comprehensive anti–human trafficking action plan.[3] These resources will address all forms of human trafficking and allow airport operators to tailor approaches to their unique situations.

In December 2021, U.S. Secretary of Transportation Pete Buttigieg called upon transportation stakeholders to join U.S. DOT to fight the trafficking problem. "Human trafficking takes place on every mode of transportation in America, and we must change that," he stated. "I ask all transportation professionals to join this effort. And it's equally important for commuters and travelers to be empowered to recognize and report signs of human trafficking anywhere it happens in our transportation systems" (*16*).

About the Author

Margo Hill is a Spokane tribal member who grew up on the Spokane Indian Reservation. She served as the Spokane tribal attorney for more than 10 years and as a Coeur d'Alene Tribal Court judge. As such, she received letters from the U.S. Attorney's Office in Washington State in which it declined to prosecute cases of major violent crimes as she worked to bring perpetrators to justice in the complex criminal law scheme of Indian Country. Her fight for justice continues.

REFERENCES

1. Abinanti, A., A. Cavaliere, A. Nulph, B. George, A. Lucchesi, et al. *To'Kee Skuy' Soo Ney-Wo-Chek' (I Will See You Again in a Good Way): A Year 1 Progress Report on Missing and Murdered Indigenous Women, Girls, and Two Spirit People of Northern California*. July 2020.
2. Farley, M., S. Deer, J. M. Golding, N. Matthews, G. Lopez, et al. *The Prostitution and Trafficking of American Indian/Alaska Native Women in Minnesota*. Centers for American Indian and Alaska Native Health, Colorado School of Public Health, University of Colorado Anschutz Medical Campus, Aurora, 2011.
3. National Intimate Partner and Sexual Violence Survey. Centers for Disease Control and Prevention. https://www.cdc.gov/violenceprevention/datasources/nisvs/index.html.
4. Rosay, A. B. Violence Against American Indian and Alaska Native Women and Men. *National Institute of Justice Journal*, June 1, 2016. https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men.
5. Lucchesi, A., and A. Echo-Hawk. *Missing and Murdered Indigenous Women and Girls: A Snapshot of Data from 71 Urban Cities in the United States*. Urban Indian Health Institute, Seattle, Washington, 2018.
6. Robertson, K. News Media Can't Shake "Missing White Woman Syndrome," Critics Say. *The New York Times*, September 22, 2021. https://www.nytimes.com/2021/09/22/business/media/gabby-petito-missing-white-woman-syndrome.html.
7. Understanding How Women Travel. LA Metro, Los Angeles, California, 2019. https://thesource.metro.net/2019/09/19/metro-releases-understanding-how-women-travel-report/.
8. Hagen, L. A., and B. L. Whittemore. Combatting Trafficking of Native Americans and Alaskan Natives. *United States Attorney's Bulletin*, November 2017, pp. 149–167.
9. Morton, K. Hitchhiking and Missing and Murdered Indigenous Women: A Critical Discourse Analysis of Billboards on the Highway of Tears. *Canadian Journal of Sociology*, Vol. 41, No. 3, 2016.
10. Weedn, H., J. Scovel, and J. Juran. *Human Trafficking and Native Peoples in Oregon: A Human Rights Report*. International Human Rights Clinic, College of Law, Willamette University, Salem, Oregon, 2014.
11. Secretary Haaland Creates New Missing & Murdered Unit to Pursue Justice for Missing or Murdered American Indian and Alaska Natives. *DOI News*, U.S. Department of the Interior, April 1, 2021. https://www.doi.gov/news/secretary-haaland-creates-new-missing-murdered-unit-pursue-justice-missing-or-murdered-american.
12. CDC Works to Address Violence Against American Indian and Alaska Native People. Centers for Disease Control and Prevention. 2020. https://www.cdc.gov/injury/pdfs/tribal/Violence-Against-Native-Peoples-Fact-Sheet.pdf.
13. USA.gov. Federally Recognized Indian Tribes and Resources for Native Americans. https://www.usa.gov/tribes#:~:text=for%20Native%20Americans-,Federally%20Recognized%20Indian%20Tribes,contracts%2C%20grants%2C%20or%20compacts.
14. Indian Affairs. Frequently Asked Questions. U.S. Department of the Interior, Washington, D.C. https://www.bia.gov/frequently-asked-questions#:~:text=Approximately%2056.2%20million%20acres%20are,various%20Indian%20tribes%20and%20individuals.
15. Bye, P. and E. R. Frazier, Sr. *TCRP Synthesis 146: Transit Security Preparedness: A Synthesis of Transit Practice*. Transportation Research Board, Washington, D.C., 2020. https://dx.doi.org/10.17226/25764.
16. U.S. Department of Transportation. U.S. Transportation Secretary Pete Buttigieg Highlights Department's Work to Combat Human Trafficking. December 22, 2021. https://www.transportation.gov/briefing-room/us-transportation-secretary-pete-buttigieg-highlights-departments-work-combat-human.

[3] See project details at https://apps.trb.org/cmsfeed/TRBNetProjectDisplay.asp?ProjectID=4378.

Further Reading

Transportation Research Board. *Women and Gender in Transportation. TR News*, No. 321, May–June 2019. http://www.trb.org/Publications/Blurbs/179900.aspx.

Transportation Research Board. *Transportation in Tribal Land: Challenges and Initiatives. TR News*, No. 294, September–October 2014. http://www.trb.org/Publications/Blurbs/171622.aspx.