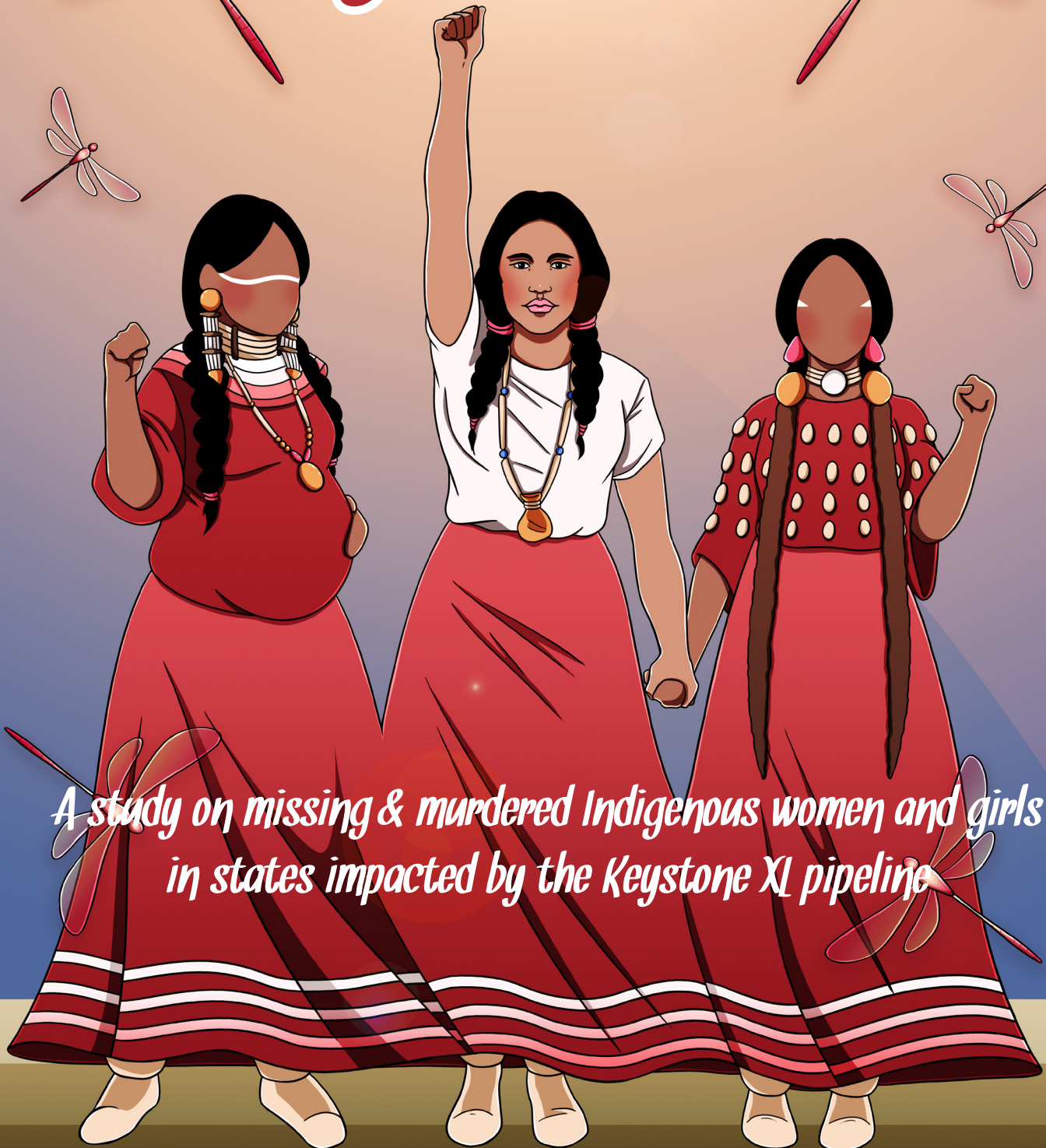
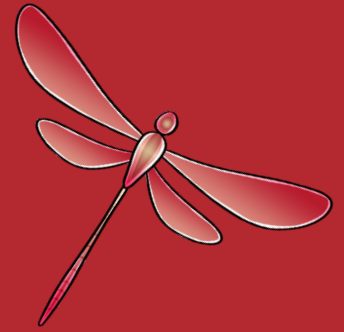


Zuya Wicayuonihan *Honoring Warrior Women*



*A study on missing & murdered Indigenous women and girls
in states impacted by the Keystone XL pipeline*

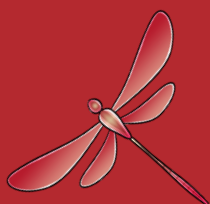
About the Cover



Federal agencies report that 1 in 3 Native women will be raped in their lifetime. Statistics like these are used to terrorize Indigenous women and girls, do not reflect the realities of our communities, and do not enhance the sovereignty and self-determination of Indigenous women and girls and their nations.

The cover art for this report challenges this statistic to instead say that 1 in 3 Native women survive to become warriors, alongside the spirits of the missing and murdered. By reclaiming data about who we are as Indigenous women, we reclaim our bodies and our strength.

These women warriors are surrounded by dragonflies, reminding us of the life sustaining power of women, and of the inherent connection between our fight for water and our fight for women. Our women warriors guide us to safety just as dragonflies guide us to water.



ZUYA WINYAN WICAYUONIHAN

HONORING WARRIOR WOMEN

*A study on missing & murdered Indigenous women and
girls in states impacted by the Keystone XL pipeline*

*Sovereign Bodies Institute &
Brave Heart Society*

About Zuya Winyan Wicayuonihan

Zuya Winyan Wicayu'onihan is a collaboration between Brave Heart Society (BHS) and Sovereign Bodies Institute (SBI), to assess scope and severity of the crisis of sex trafficking and missing and murdered Indigenous women and girls (MMIWG) in South Dakota and neighboring areas potentially impacted by the Keystone XL pipeline. Additionally, this project aims to identify gaps in healthcare, victims services, law enforcement capacity, and community resources that prevent violence or provide critical support to victims, and empower tribal nations and communities to meaningfully address them. This is an ongoing project that includes quantitative data collection and mapping, as well as fieldwork to gather stories and input on the current state of response capacity to and experiences of sex trafficking and MMIWG from community members, service providers, law enforcement, and tribal and community leadership.

WHAT IS SBI?

SOVEREIGN BODIES INSTITUTE, AN AFFILIATE OF SEVENTH GENERATION FUND FOR INDIGENOUS PEOPLES, IS A NON-PROFIT RESEARCH INSTITUTE DEDICATED TO CAPACITY-BUILDING RESEARCH TO ADDRESS, HEAL FROM, AND PREVENT GENDER AND SEXUAL VIOLENCE AGAINST INDIGENOUS PEOPLES. SBI IS HOME TO THE MMIW DATABASE, ONE OF THE LARGEST DATA SOURCES ON MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS. SBI'S STAFF, BOARD, & PARTNERS INCLUDE INDIGENOUS SURVIVORS OF VIOLENCE AND MMIW FAMILIES FROM TRIBAL COMMUNITIES IN THE US, CANADA, AND LATIN AMERICA.

WHAT IS BHS?

THE BRAVE HEART SOCIETY IS THE REVIVAL OF A TRADITIONAL CULTURAL SOCIETY FOR WOMEN AND WORKS TIRELESSLY AT "CALLING HOME THE SPIRIT OF THE CULTURE." THE BRAVE HEART SOCIETY, SUPERVISED BY A GROUP OF COMMUNITY GRANDMOTHERS CALLED THE KUNSI CIRCLE, IS DEDICATED TO RESTORING ENDANGERED AND LOST CULTURAL PRACTICES TO HEAL THE WOUNDS ENDURED BY THE LAKOTA, NAKOTA AND DAKOTA PEOPLES. THIS PROCESS OF RESTORATION IS DECIDEDLY COMMUNITY-DRIVEN, AND REFLECTS 25 YEARS OF COLLABORATION WITH TRIBES, SPIRITUAL LEADERS, AND GRASSROOTS AND ENVIRONMENTAL JUSTICE ORGANIZATIONS.

Mission Statement

As survivors, MMIWG family members, women leaders, grandmothers, and matriarchs of our peoples, we have written the following mission statement on the Zuya Winyan Wicayu'onihan project--

The mission of this assessment is to provide protection and safety of Indigenous Women in the Oceti Sakowin, who provide the first medicine of water in the womb, are keepers of the water on our lands for future generations, are the life givers of our nations, and are now being threatened by large man camps settling on the Keystone XL Pipeline Route (KXL), and in other fracking areas and fossil fuel development projects, without regard to our sacred Indigenous Lifeways as recognized in nation-to-nation treaties with the US Government and its peoples.

These affected lands are a sanctuary of all living things, including the animal and plant world, as well as our ancestral sites, ceremonial and burial areas, and rivers and streams, which each have a spirit. Our cultures have a special relationship with all living things, and these destructive fossil fuel intrusions are a proven threat to the lives of our women and children.

These threats target our communities and sacred places, which have been recognized as holding unique rights under the UN Declaration of the Rights of Indigenous Peoples and Presidential Executive Orders 12898 and 13007, which protect disenfranchised people as a matter of environmental justice, and uphold the right to access sacred sites.

We do not give our consent to the destructive construction of this pipeline, or to large groups of transient men invading our territories, therefore:

As Kunsil/Unci Guardians of these areas, we are conducting a Cultural Risk Socio-economic Impact Survey called Zuya Winyan Wicayu'onihan (Honoring Warrior Women) on the lands adjacent to the KXL corridor, to measure and map the vulnerable communities, lands, waters, populations, and reservations adjacent to the pipeline and to strengthen our communities in their ability to prevent and respond to this violence.

We honor the women who have lost their lives due to direct colonial occupation risks, trauma, and violation of Indigenous Lands and Lifeways, and uphold Murdered and Missing Indigenous Women Warriors as guiding our efforts to protect Native women and children.

Current Data

MMIWG in the Dakotas, Montana, & Nebraska

Sovereign Bodies Institute is the home of the MMIW Database, one of the largest data sources on MMIWG in North America. In this data, SBI has documented a disturbingly high number of MMIWG cases in the Northern Plains region of the United States, including the Dakotas, Montana, and Nebraska, where the KXL pipeline could potentially be built. These cases total to 411 MMIWG who went missing or were killed in these four states, or who come from tribal nations in these four states.

Though these cases range from 1900 to present, 69% occurred since 2000. From 2017 through 2019, approximately 30-40 cases occurred annually (excluding cases in which the missing person was safely located). We do not believe that this is due to increases in violence--the crisis of missing and murdered

Indigenous women and girls has continuously occurred since first contact with colonial forces. Instead, this is due to better availability of data in recent years, stemming from increased media coverage, social media dialogue, and community tracking, as well as changes to police records (it is very difficult to access police data prior to digitization and prior to documentation of victim race). If the number of cases remained relatively constant, we estimate the true number of cases in the region would be closer to 3,500 to 4,700 since 1900, however this number would not account for spikes due to boarding schools. For example, 26

HOW DOES SBI COLLECT ITS MMIW DATA?

SBI USES A MULTI-PLATFORM APPROACH BASED ON OUR EXPERTISE AS INDIGENOUS SURVIVORS, MMIW FAMILY MEMBERS, AND COMMUNITY EXPERTS. WE SOURCE OUR DATA FROM LAW ENFORCEMENT RECORDS, MISSING PERSONS DATABASES, HISTORICAL & TRIBAL ARCHIVES, NEWS ARTICLES, SOCIAL MEDIA, AND DIRECT OUTREACH WITH FAMILIES AND COMMUNITIES IMPACTED BY THIS VIOLENCE. FOR MORE INFORMATION ON SBI'S MMIW DATABASE, INCLUDING ON HOW TO REQUEST ACCESS, PLEASE SEE SBI'S WEBSITE AT [SOVEREIGN-BODIES.ORG](https://sovereign-bodies.org).



OF THESE CASES, 29% ARE ACTIVE MISSING PERSONS CASES, 62% ARE MURDERS, AND 9% HAVE UNKNOWN STATUS (REPORTED MISSING AND UNABLE TO CONFIRM IF FOUND SAFE OR DECEASED). THERE ARE LIKELY MANY MORE CASES THAT WE HAVE NOT YET DOCUMENTED.

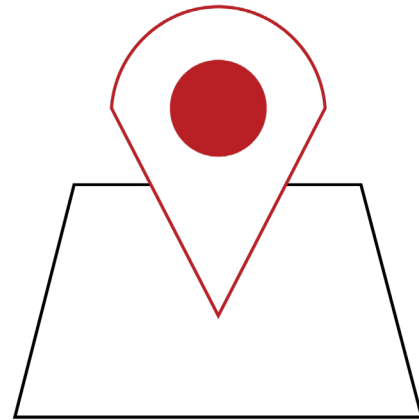
Indigenous girls have been identified as dying as a result of their matriculation at Rapid City Indian Boarding School, but there are at least 11 other Indian boarding schools in the region of study that have not published data on deaths of students.

The 411 cases documented in this report represent women and girls from 41 tribal nations, who went missing from 142 locations, 59% of which are on reservations or rural areas.

10% of these cases occurred in counties where the KXL pipeline is proposed to be built. 4 in 5 cases in these counties remain unsolved with no charges laid. An additional 10% of cases occurred in counties directly adjacent to the proposed KXL route, totaling to 31 areas in which

MMIWG cases and the proposed KXL route intersect. Altogether, over two thirds of these cases have no publicly available information on alleged perpetrator or

leads in investigation. This is concerning, as it indicates that these areas already have high rates of violence against Indigenous women and girls, and a lack of law enforcement capacity or will to respond. That said, there is no community in this region that is not impacted by the cumulative effects of this violence on public safety, and community health and wellness.



AN ADDITIONAL 10% OF CASES OCCURRED IN COUNTIES DIRECTLY ADJACENT TO THE PROPOSED KXL ROUTE, TOTALING TO 31 AREAS IN WHICH MMIWG CASES AND THE PROPOSED KXL ROUTE INTERSECT.



4 IN 5 CASES IN THESE COUNTIES REMAIN UNSOLVED WITH NO CHARGES LAID

MMIW & TransCanada Pipelines

STATS

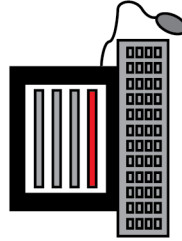
4 in 5 MMIW cases in counties near or intersecting with KXL are unsolved



90% of unsolved cases are in non tribal jurisdiction



over one third of murder cases were misclassified without an adequate and thorough investigation



over three quarters of missing Native women & girls in the region aren't in the federal database



1 in 2 white male killers are never charged or convicted

reservations

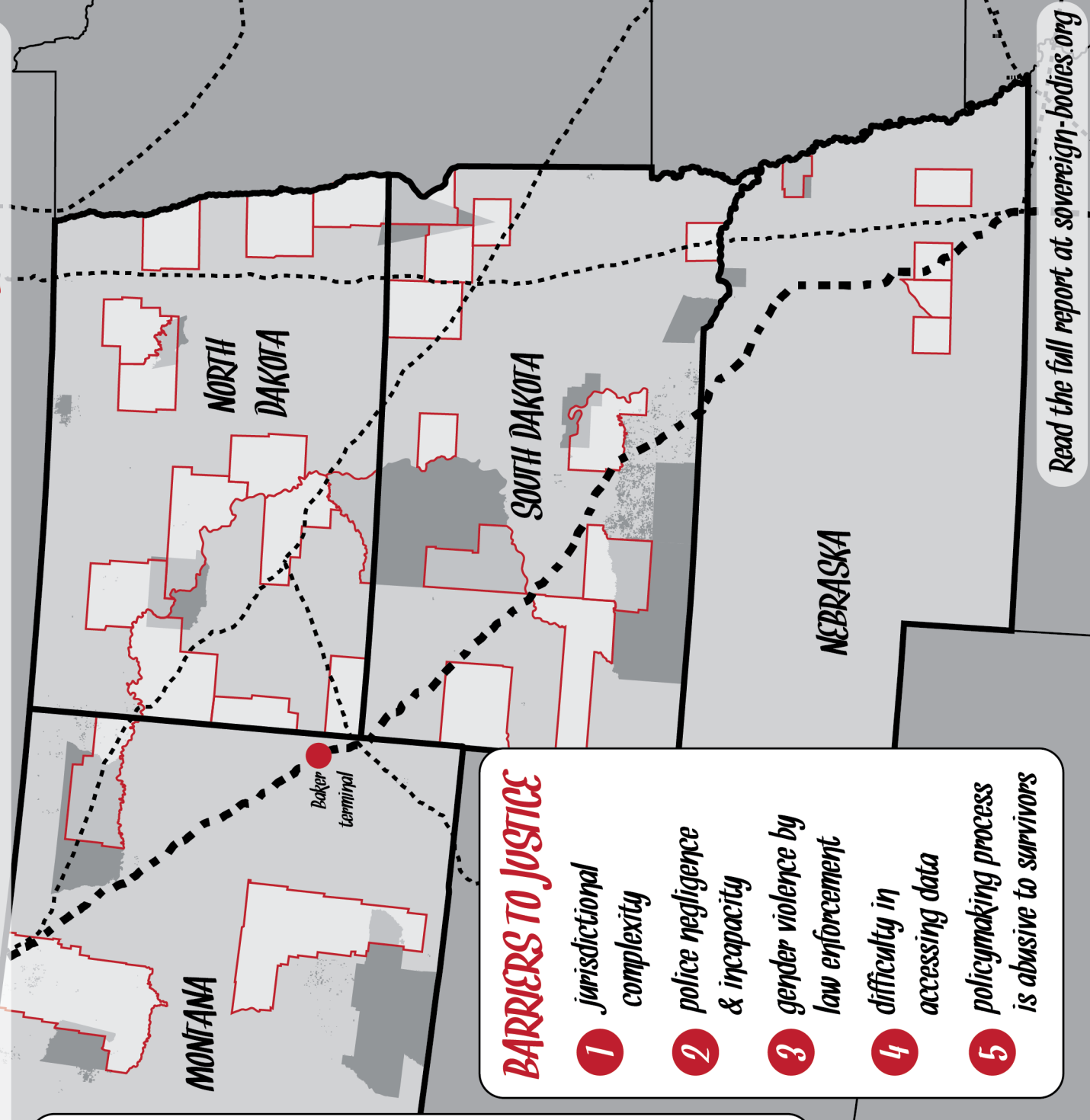
proposed KXL route

existing TransCanada pipelines

counties with MMIW cases

intersecting or adjacent to TC pipeline

0 100mi



BARRIERS TO JUSTICE

- 1 jurisdictional complexity
- 2 police negligence & incapacity
- 3 gender violence by law enforcement
- 4 difficulty in accessing data
- 5 policymaking process is abusive to survivors

Read the full report at sovereign-bodies.org

Murders on the Northern Plains

NORTH DAKOTA

- 2 in 5 victims did not have a relationship with their killer
- 1 in 2 alleged perpetrators are non Native
- Nearly half of all cases are misclassified or unsolved

SOUTH DAKOTA

- 158 cases total, and 9 in 10 cases are murders
- Over one third of victims did not have a relationship with their killer
- Nearly half of alleged perpetrators are non Native

NEBRASKA

- Over half of all cases are girls 18 and under
- Two thirds of cases are unsolved
- Nearly half of alleged perpetrators were not charged or convicted
- Two thirds of alleged perpetrators are non Native

MONTANA

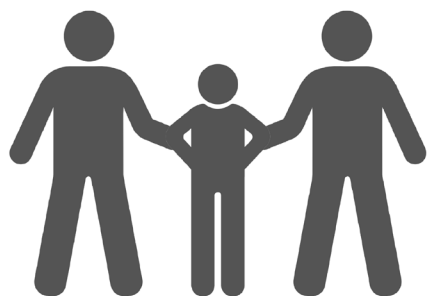
- 174 cases total, nearly three quarters of which happened after 2000
- 4 in 5 cases are murders
- Nearly half of all cases were misclassified by police
- Approximately 1 in 4 alleged perpetrators were never charged or convicted

- 1 to 3 cases
- 4 to 6 cases
- 7 to 9 cases
- 10 to 12 cases
- over 12 cases

0 100mi

Dangers to Children

This violence has a profound impact on Indigenous children--Indigenous girls are over-represented in missing and runaway child reports, as well as in cases of homicide of girls, and Indigenous children also disproportionately experience the trauma and cumulative impacts of losing their mothers, grandmothers, sisters, cousins, and aunts to trafficking, death, and disappearance. This trauma can lead to chronic and acute physical and mental health issues, and create a pipeline to poverty, incarceration, additional experiences of violence, and death and disappearance, creating an intergenerational ripple effect; SBI has documented over 50 cases in which a MMIWG also has another MMIWG case in their immediate family, many of which include daughters and granddaughters of a MMIWG. For example, Crow tribal member Harriet Wilson was murdered in Billings, Montana in 2013, Harriet's great-grandmother Rose Old Bear was murdered in Hardin in the 1950s, and her great-aunt (also named Harriet Wilson) was murdered outside Hardin in the 1970s--all remain unsolved. Despite this intergenerational cycle of violence, at this time, no program specifically designed to support and care for Indigenous children who have lost a relative to MMIWG-related violence exists in the United States.



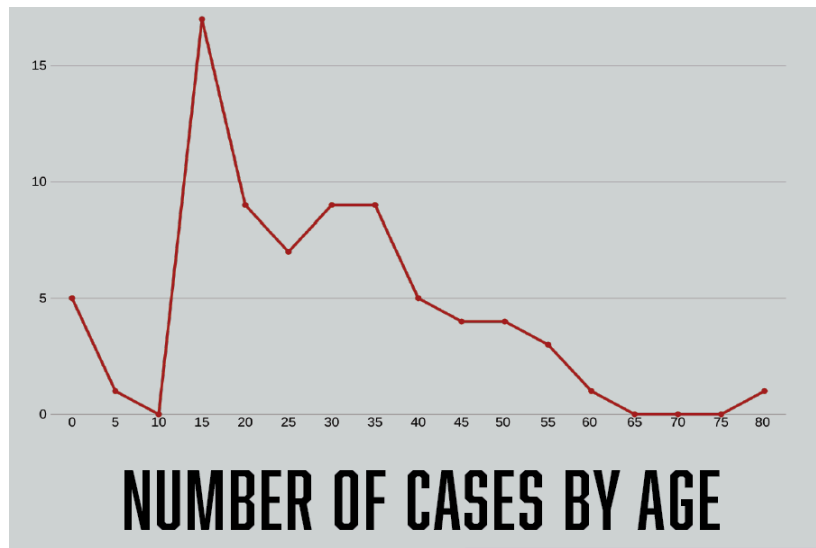
OVERALL, 27% OF THE MMIWG CASES SBI HAS DOCUMENTED IN THE US AND CANADA ARE AGES 18 AND UNDER, AND 35% ARE 21 AND UNDER.

Overall, 27% of the MMIWG cases SBI has documented in the US and Canada are ages 18 and under, and 35% are 21 and under. Within the Dakotas, Montana, and Nebraska, 31% of MMIWG cases are girls 18 and under, and 40% are 21 and under. Because North Dakota and South Dakota do not have comprehensive missing persons databases publicly available, a comparative analysis of rate of missing Indigenous girls compared to other races is not possible; however, in

November 2019, in Montana and Nebraska Indigenous girls represented 37% and 13% of all missing girls, respectively, even though Indigenous people as a whole represent 6% and 1% of statewide populations. Law enforcement complacency in responding to cases of missing Indigenous girls in a timely manner may be a contributing factor to such high numbers--many Indigenous youth go missing more than once and do not receive any system intervention or assistance in determining a safer residence, and there are several recent high-profile cases of missing Indigenous girls that were later found deceased by community members

after inadequate law enforcement response. In Montana, these cases include Kaysera Stops Pretty Places, a Crow and Northern Cheyenne teenage girl found dead in Hardin after having gone missing nine times, and Henny Scott, a Northern Cheyenne teenage girl who was repeatedly reported missing by her

family and yet did not receive a public bulletin about her case until weeks after she was reported missing.



There is also a disturbing link between child welfare systems and death and disappearance of Indigenous youth. Among the cases across the US and Canada, 69% of victims who were in foster care were also found to be victims of sexual or domestic violence, and 41% of those victims experienced sex trafficking. Considering all four states in this report have a disproportionately high representation of Indigenous youth in their child welfare systems, this linkage between foster care and MMIWG is of particular concern in these states. The National Indian Child Welfare Association reported that in 2014, all four states were in the top 10 states for disproportionality, with Nebraska having the second-worst rate nationally.¹ Moreover, according to the anti-trafficking organization Shared Hope International, South Dakota has been given one of the nation's lowest scores in rankings on state level policies on human trafficking, due to its lack of mandated services for child victims of sex trafficking and its policy of determining such victims as a "child in need of supervision" by the juvenile justice system. North Dakota received a slightly higher score, yet also lacks mandated services for child victims.² Among the four states in this report, SBI has documented five MMIWG cases in which the victim was in foster care.

¹ National Indian Child Welfare Association. "What is Disproportionality in Child Welfare?" (2017). Retrieved from <https://www.nicwa.org/wp-content/uploads/2017/09/Disproportionality-Table.pdf>

² Shared Hope International, "Protected Innocence Challenge" (2019). Retrieved from <https://sharedhope.org/what-we-do/bring-justice/reportcards/>

Sex Trafficking & MMIWG

Of the approximately 4,000 cases SBI has documented in the US and Canada, at least 10% of MMIWG experienced sexual violence, and over half of those cases involved sex trafficking or survival sex work. We estimate this number is significantly higher, however under-reporting of sexual violence and overall lack of accurate data on MMIWG make it challenging to assess the full scope of this violence.

It is additionally challenging to gather accurate data on sex trafficking due to common misconceptions on what constitutes sex trafficking; misleading billboards and social media posts fail



OF THE APPROXIMATELY 4,000 CASES SBI HAS DOCUMENTED IN THE US AND CANADA, AT LEAST 10% OF MMIWG EXPERIENCED SEXUAL VIOLENCE, AND OVER HALF OF THOSE CASES INVOLVED SEX TRAFFICKING OR SURVIVAL SEX WORK.



NEARLY ALL MMIWG VICTIMS OF SEX TRAFFICKING ALSO EXPERIENCED ANOTHER FORM OF VIOLENCE; NEARLY HALF REPORTED EXPERIENCING DOMESTIC VIOLENCE OR SEXUAL ASSAULT, 14% WERE UNSHELTERED, AND 14% DIED IN CUSTODY.

to effectively educate the public or create an environment in which survivors are able to come forward. Contrary to these public campaigns that largely center random acts of violence, sex trafficking often occurs as part of a broader nexus of abuse and exploitation, at times intersecting with the child welfare system, domestic and intimate partner violence, housing precarity, and poverty. It is thus important to understand that sex trafficking encompasses any exchange of sex for goods or services in which the person providing sex is a minor and/or providing sex under force, fraud, or coercion. Using this definition, survival sex work may be understood as a form of sexual exploitation, as poverty, lack of adequate social services, and

housing precarity can be understood as forms of force and coercion.

Of the MMIWG cases in the four states studied here, 86% of cases in which the victim was a victim of sex trafficking or engaged in sex work are unsolved. Nearly all of these victims also experienced another form of violence; nearly half reported experiencing domestic violence or sexual assault, 14% were unsheltered, and 14% died in custody. This points to a serious gap in regional law enforcement response and the justice system--the safety nets set in place to support and protect victims of such violence not only are not working to serve Indigenous women and girls, the systems we trust to solve crimes and hold perpetrators accountable are routinely failing to do so when victims are Indigenous women and girls experiencing sexual exploitation.

Extractive Industries & MMIWG

The relationship between extractive industries and violence against women and girls, particularly Indigenous women and girls, has been well documented. For example, a report to the United Nations Human Rights Council cites “militarization and the activities of multi-national corporations and extractive industries that operate with impunity on indigenous peoples’ territories” as having “a detrimental impact on indigenous women and girls, which manifests itself in sexual assault, sex trafficking, prostitution, bonded labour, the exploitation of overseas contract workers, the internal displacement of women and environmental violence...[and] unique ecological, economic and spiritual impacts on indigenous women in their role as traditional caretakers of the environment.”¹

In 2015, a report from the US Department of State similarly wrote, “Any discovery of raw materials will necessarily lead to a large influx of workers and other individuals, some of whom will create a demand for the commercial sex industry...Service providers in areas near camps surrounding large-scale oil extraction facilities, such as the Bakken oil fields in North Dakota, report that sex traffickers are exploiting women in the area, including Native American women.”² A 2017 article published in the Harvard Journal of Law and Gender cites that report alongside a study on law enforcement incapacity to respond to spikes in

¹ United Nations Human Rights Council, Expert Mechanism on the Rights of Indigenous People. “Follow-up report on indigenous peoples and the right to participate in decision-making, with a focus on extractive industries” (2012). Retrieved from: https://www.ohchr.org/Documents/Issues/IPeoples/EMRIP/Session5/A-HRC-EMRIP-2012-2_en.pdf?fbclid=IwAR13I7W6e_xrtj-Dz2gzHcJgYMEzu4jxo-qQmfABEdUWU-6ONiK65myTt8

² United States Department of State, Office to Monitor and Combat Trafficking in Persons. “The Link Between Extractive Industries and Sex Trafficking” (2016). Retrieved from: <https://perma.cc/FL5Q-CHR6>

crime in counties impacted by resource extraction booms in Montana and North Dakota, stating that “rural communities do not have the infrastructure, leadership capacity, or expertise to respond to the rapid social changes and population growth,”³ creating the conditions for violent crime to flourish. A subsequent companion article affirmed this: “While economic development has brought incredible economic opportunity for many, it has also meant an increase in violent crime, drug abuse, and sex trafficking of Native women and children. Unfortunately, the rapid pace of oil and gas development taxes and ultimately overwhelms the existing law enforcement and social services infrastructure on many reservations.”⁴

In recognition of the increased sexual violence against Indigenous women and girls due to extractive industries, the Canadian National Inquiry on Missing and Murdered Indigenous Women and Girls called on governments to be accountable for prevention of future instances of this violence, writing, “We call on all governments and bodies mandated to evaluate, approve, and/or monitor development projects to complete gender-based socio-economic impact assessments on all proposed projects as part of their decision making and ongoing monitoring of projects. Project proposals must include provisions and plans to mitigate risks and impacts identified in the impact assessments prior to being approved.”⁵ It is notable that no federal, state, or corporate entity has conducted such an assessment in preparation for discussions of public benefit from the KXL pipeline, and the Zuya Winyan Wicayu’oniha study is the only assessment of this nature being done.

3 Kathleen Finn, Erica Gadjia, Thomas Perin, and Carla Fredericks. “Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation.” *Harvard Journal of Law & Gender* (2017). Retrieved from: <https://scholar.law.colorado.edu/articles/629>

4 Carla Fredericks, Kathleen Finn, Erica Gadjia, & Jesse Heibel. “Responsible Resource Development: A Strategic Plan to Consider Social and Cultural Impacts of Tribal Extractive Industry Development.” *Harvard Journal of Law & Gender* (2019). Retrieved from: <https://harvardjlg.com/2018/10/responsible-resource-development-a-strategic-plan-to-consider-social-and-cultural-impacts-of-tribal-extractive-industry-development/>.

5 National Inquiry Into Missing and Murdered Indigenous Women and Girls. “Reclaiming Power and Place: Executive Summary of the Final Report” (2019). Retrieved from: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf?fbclid=IwAR3SpBfFCCoB4Cc2beLafCDvCyLg0lICUqh4lyLqDulj_GJQtaVTmN_69s

Known Barriers to Justice

Jurisdictional Complexity

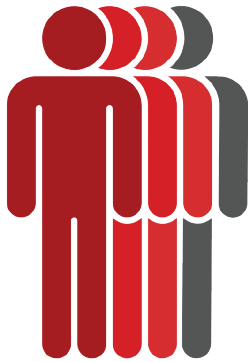
As many have acknowledged, due to federal and state policies, criminal jurisdiction in Indian Country can be complex, and coordination across agencies can be limited. This creates conditions that are detrimental to investigations, and extremely challenging to victims and their families in pursuit of justice. Within the area of study, the Major Crimes Act, *Oliphant v. Suquamish*, and Public Law 280 create a complicated legal geography that make it difficult for victims and their families to access timely, effective, and culturally sensitive assistance from law enforcement. Of the 411 cases studied in this report, 40% occurred in federal jurisdiction, 46% occurred in county or city jurisdiction, 6% occurred in tribal jurisdiction, and 8% occurred in unknown areas.

The likelihood of a case being solved varies based upon jurisdiction; regionally, 43% of cases in which the alleged perpetrator was identified but never charged or was acquitted happened in federal jurisdiction, and 49% were in county or city jurisdictions (92% of the total number of such cases). Moreover, 35% of unsolved cases occurred in federal jurisdiction, 55% in county or city jurisdictions, and 10% in tribal jurisdictions. Thus while there is no law enforcement agency that has been successful in closing investigations, it is clear that it is primarily non-tribal agencies that are failing Indigenous women and girls.

Law Enforcement Negligence & Incapacity

Law enforcement and the justice system routinely fail to uphold public safety or communicate to the public that there are consequences for harming Indigenous women and girls. For example, the Crow Tribe declared a state of emergency in November 2019, stating that the BIA has “routinely demonstrated a lack of interest in fulfilling a trust responsibility to provide proper public safety services.” This letter is cited in an article with an account from a woman who recalled calling the police to check on a woman who she believed to be in danger--the caller did not receive a proper response and the woman at risk was never checked on.¹

¹ Monte, Briana. “Lack of law enforcement enrages community members on Crow Reservation” (November 21, 2019). KULR-8 News. Retrieved from https://www.kulr8.com/news/local/lack-of-law-enforcement-enrages-community-members-on-crow-reservation/article_256d158e-0cea-11ea-ad66-538ed3d8a313.html



1 IN 4

IDENTIFIED ALLEGED
PERPETRATORS
WERE ACQUITTED OR
NEVER CHARGED.

Across the four states studied in this report, 1 in 4 alleged murderers of an Indigenous woman or girl were never held accountable, and over one third of murder cases were wrongfully classified as accidental, exposure, natural causes, overdose, or suicide without an adequate and thorough investigation. Moreover, 157 cases (38%) have no information publicly available regarding alleged perpetrator, and 36% of cases have no information publicly available on alleged perpetrator conviction status, suggesting a large portion of these cases remain unsolved.

In these four states, these miscarriages of justice are racialized and gendered--nearly two thirds of alleged murderers who were not held accountable are non-

Native, and 94% of them are male. Two thirds of Black and Latinx alleged perpetrators were convicted or have pending charges, while 79% of Indigenous alleged perpetrators were convicted or have pending charges. This is a rate approximately 150% higher than that of alleged white perpetrators, of which only half are charged or convicted. White women alleged murderers are twice as likely to be charged or convicted as white male alleged murderers.

This lack of accountability helps to maintain a culture of violence, where Indigenous women and girls are made to be easy targets, predominately by men, and especially by white men. Perhaps even more disturbingly, in this region, approximately one third of murder victims did not have any significant relationship to their killer. This is indicative of a broader landscape of violence against Indigenous women and girls, that facilitates ongoing death and disappearance through de-humanization of Indigenous women and girls, implicit racial and gender bias of law enforcement, and public apathy.



TWO THIRDS OF BLACK AND LATINX ALLEGED PERPETRATORS WERE CONVICTED OR HAVE PENDING CHARGES, WHILE 79% OF INDIGENOUS ALLEGED PERPETRATORS WERE CONVICTED OR HAVE PENDING CHARGES. THIS IS A RATE APPROXIMATELY 150% HIGHER THAN THAT OF ALLEGED WHITE PERPETRATORS, OF WHICH ONLY HALF ARE CHARGED OR CONVICTED.

Gender Violence by Law Enforcement

This institutionalized culture of violence is compounded by pervasive instances of law enforcement violence against Indigenous women and girls. It is widely understood in communities across the four states of study that police may not only be negligent, but may be perpetrators of violence themselves.

Most commonly, this takes the form of decades of publicly known and rarely formally reported sexual harassment and assault. This sexual violence is commonly known to have been perpetrated by multiple officers that function as 'repeat offenders' who exploit the difficulty a victim has in reporting the violence to the same agency their rapist works for, and manipulate their institutional power as law enforcement to harm those with minimal access to and trust in systems of justice (Indigenous women and girls). In some cases, other officers in their agency are well aware of the violence and choose to look the other way--the most common example of this is women who are arrested, repeatedly raped or assaulted by an officer, and then booked into jail without any regard to visible trauma and injuries.

One example of this sexual violence is Fort Peck tribal police officer Mychal Damon, who was charged in 2019 with abusive sexual contact without permission, having allegedly knowingly engaged in sexual contact with a girl under the age of 12. Former Bureau of Indian Affairs police officer Dana Bullcoming is another example of this kind of sexual violence, having been found guilty of raping a woman in her home on the Northern Cheyenne reservation in Montana. In 2015, Bullcoming was on duty at the time of the assault, and used his authority as a law enforcement officer to coerce his victim into sex by threatening to arrest her if she did not comply. The federal government dismissed two counts of lying to federal officers and chose not to prosecute him for sexual abuse, instead offering him a plea for a charge of deprivation of rights under color of law. Additionally, when the victim sued the federal government as Bullcoming's employer, courts determined she had no right to do so because though Bullcoming was on duty and admitted to using his position to sexually assault her, he was acting outside his scope of duty. This sends a dangerous message to law enforcement working in Indian Country, and to victims of sexual assault perpetrated by law enforcement.

Aside from this sexual violence, police brutality against Indigenous women and girls is common throughout the region. One instance of this is the recent violence

perpetrated by a Rapid City police officer in breaking up a fight between two Indigenous girls while at school; the force was so excessive, the community has rallied to call attention to police brutality against Indigenous youth, and a US Department of Justice Community Relations Service meeting to address the issue has been scheduled in Rapid City in December. This is particularly disturbing because girlhood experiences of police brutality have led to other experiences of violence. For example, a young woman was killed in a high speed car chase on a reservation in South Dakota in 2014, fleeing from a police officer--she had experienced violence by a police officer as an adolescent, and it is suspected that she fled because she was triggered from the trauma of that earlier experience of violence.

Within the 411 MMIWG cases documented in the data here, 12 of them are victims of police brutality, preventable death in custody, or other police negligence that could have prevented their death or disappearance. None of these 12 cases led to any charges against any officers or agencies.

Difficulty in Accessing Data

Difficulty in accessing accurate data on MMIWG and sex trafficking of Indigenous women and girls has been widely discussed in political forums, news media, and in grassroots community efforts. As data gatherers, we can attest to this difficulty. We filed Freedom of Information Act requests in all four states, and in total, 22% of requests were actually filled. 47% of our requests were not responded to within state statutes regarding mandated time limits. Notably, the Bureau of Indian Affairs and the FBI declined all FOIA requests we submitted. Additionally, though they are posted within state missing persons databases, 78% of the missing persons cases documented in this report are not in NamUs, the federal missing persons database--this indicates law enforcement agencies across the region are not taking critical steps to share information and work together across jurisdictions. This is not a burden that should be placed on families who have already reported their missing loved one to local law enforcement; once reported, the burden to alert other relevant agencies rests on the agency that took the report.

Policymaking Process is Abusive to Survivors

It can be difficult for survivors and MMIW families to engage in policy advocacy and in public forums regarding state decision-making on issues pertaining to sexual violence and MMIWG, because these spaces can be retraumatizing, insensitive, and unsafe. We have observed repeated instances of this throughout the four states of study.

For example, all four states have had proposed legislation addressing MMIWG and/or sex trafficking in their last sessions, and it was challenging and at times emotionally painful and traumatic for community members to be put in a position to defend this legislation to committees and policymakers who were ignorant and insensitive to the severity of this violence in their states. In one instance in South Dakota, a young Indigenous girl testified in support of a proposed bill regarding tracking of data on MMIWG, and broke down in tears begging the entirely white committee to promise to make sure she would be counted if she went missing, describing the fear she lived with as so strong, she chose to homeschool so that she no longer had to walk to school afraid of being stolen. This was moments after this same committee voted to not allow this child to wear beadwork on her future graduation cap.

In another instance, a survivor of sex trafficking experienced significant re-traumatization and safety concerns in attempting to testify as a witness in water board hearings on the KXL pipeline in South Dakota. Testifying as a survivor of trafficking, the survivor and attorneys requested that her testimony be sealed from the public record, due to immediate safety concerns in sharing such sensitive testimony. The State of South Dakota declined the request, stating that there are no protocols for protection of victims in water board hearings. There was also no victim advocate available at the hearings, or any support for victims whatsoever. This demonstrates a complete disregard for the health and welfare of victims of violence by government agencies involved in decision-making processes on projects like the KXL pipeline, and conditions such as these effectively make it impossible for any survivor of violence stemming from extractive industries to share their experiences in public discussions of the merits of new projects.

Additionally, in Montana, tribal leaders' repeated questions and concerns regarding dynamics of the crisis of missing and murdered Indigenous people have not received adequate response. For example, Fort Belknap tribal council member

Brandi King and Fort Peck tribal council member Jestin Dupree ceased participation in the state's Missing Indigenous Persons Taskforce, after the governor refused to take seriously their concerns on the KXL pipeline and its potential impacts on MMIWG. King's questions on intersections of the child welfare system and the high number of missing Native youth at a training on the federal government's missing persons database (NamUs) held on the Fort Belknap reservation also went unanswered.

Together, these examples show lack of state respect for the needs of Indigenous survivors of violence and for the expertise of tribal leaders.

Recommendations & Next Steps

We are continuing our study of sex trafficking and MMIWG as outlined in the Zuya Winyan Wicayu'onihan mission statement, and are seeking community engagement in the project. This includes co-hosting and attending community forums, reaching out to us to share your stories and experiences, and working with us to ask tribal nations to adopt the Zuya Winyan Wicayu'onihan uniform resolution. This resolution commits tribes to a multi-step plan to exercise their sovereignty in protecting women and children from trafficking and MMIWG violence. The resolution has been adopted by the Yankton Sioux Tribe and Rosebud Sioux Tribe, and we hope will be adopted by many others in a commitment to stand unified against KXL and other extractive industries that threaten Native women and children. We have included a blank version of this uniform resolution, as well as a fact sheet with data on the region, with the hope that they will be useful in community organizing efforts against KXL.

In the meantime, we recommend an immediate denial of permits for any construction of the KXL pipeline in Nebraska, the Dakotas, and Montana. TransCanada and these four states have each failed to conduct any socio-economic study that takes into account the potential violence against women and children that is likely to occur due to their man camps, and failed to conduct any assessments or honor the assessments done by tribes and Indigenous community members that recognize tribal sovereignty and treaty rights. Moreover, the federal government and the States of Montana, Nebraska, South Dakota, and North Dakota have failed to maintain law enforcement and justice systems that adequately protect Indigenous women and girls and address violent crime, raising

serious concerns about their ability to effectively respond to gender violence that is likely to occur due to construction of the KXL pipeline. For these reasons, the KXL pipeline is not a benefit to Indigenous communities, most especially Indigenous women and children. State approval of the Keystone XL pipeline would be inconsistent with international best practices, and a violation of international, federal, state, tribal, and natural law.

In the spirit of all our missing and murdered zuya winyan (warrior women), we stand with all nations and communities who are fighting to protect the sacred--women, children, homelands, and lifeways.

Appendix

Current Data: Nebraska, Montana, and the Dakotas



REGION	CASES
NEBRASKA	44
MONTANA	174
SOUTH DAKOTA	158
NORTH DAKOTA	35



THERE ARE 411 CASES IN THESE REGIONS ALONE. SIXTY-ONE PERCENT OF THESE CASES HAVE OCCURED SINCE THE YEAR 2000.

*EACH CASE CONTAINS A DIFFERENT STORY. THIS MAP CONTAINS JUST A SMALL PORTION OF THOSE STORIES WHICH CONTRIBUTE TO THE LARGER NARRATIVE OF MMIWG.

KNOWN BARRIERS TO JUSTICE

1. JURISDICTIONAL COMPLEXITY

AS MANY HAVE ACKNOWLEDGED, DUE TO FEDERAL AND STATE POLICIES, CRIMINAL JURISDICTION IN INDIAN COUNTRY CAN BE COMPLEX, AND COORDINATION ACROSS AGENCIES CAN BE LIMITED. THE LIKELIHOOD OF A CASE BEING SOLVED VARIES BASED UPON JURISDICTION; REGIONALLY, 43% OF CASES IN WHICH THE ALLEGED PERPETRATOR WAS IDENTIFIED BUT NEVER CHARGED OR WAS ACQUITTED HAPPENED IN FEDERAL JURISDICTION, AND 49% WERE IN COUNTY OR CITY JURISDICTIONS (92% OF THE TOTAL NUMBER OF SUCH CASES).



2. LAW ENFORCEMENT NEGLIGENCE & INCAPACITY

LAW ENFORCEMENT AND THE JUSTICE SYSTEM ROUTINELY FAIL TO HOLD PERPETRATORS ACCOUNTABLE OR EFFECTIVELY COMMUNICATE TO THE GENERAL PUBLIC THAT THERE ARE CONSEQUENCES FOR HARMING INDIGENOUS WOMEN AND GIRLS. ACROSS THE FOUR STATES STUDIED IN THIS REPORT, 1 IN 4 ALLEGED MURDERERS OF AN INDIGENOUS WOMAN OR GIRL WERE NEVER HELD ACCOUNTABLE, AND OVER ONE THIRD OF MURDER CASES WERE WRONGFULLY CLASSIFIED AS ACCIDENTAL, EXPOSURE, NATURAL CAUSES, OVERDOSE, OR SUICIDE WITHOUT AN ADEQUATE AND THOROUGH INVESTIGATION.

3. GENDER VIOLENCE BY LAW ENFORCEMENT

THIS INSTITUTIONALIZED CULTURE OF VIOLENCE IS COMPOUNDED BY PERVERSIVE INSTANCES OF LAW ENFORCEMENT VIOLENCE AGAINST INDIGENOUS WOMEN AND GIRLS. IT IS WIDELY UNDERSTOOD IN COMMUNITIES ACROSS THE FOUR STATES OF STUDY THAT POLICE MAY NOT ONLY BE NEGLIGENT, BUT MAY BE PERPETRATORS OF VIOLENCE THEMSELVES.



4. DIFFICULTY IN ACCESSING DATA

DIFFICULTY IN ACCESSING ACCURATE DATA ON MMIWG AND SEX TRAFFICKING OF INDIGENOUS WOMEN AND GIRLS HAS BEEN WIDELY DISCUSSED IN POLITICAL FORUMS, NEWS MEDIA, AND IN GRASSROOTS COMMUNITY EFFORTS. AS DATA GATHERERS, WE CAN ATTEST TO THIS DIFFICULTY. WE FILED FREEDOM OF INFORMATION ACT REQUESTS IN ALL FOUR STATES, AND IN TOTAL, 22% OF REQUESTS WERE ACTUALLY FILLED. 47% OF OUR REQUESTS WERE NOT RESPONDED TO WITHIN STATE STATUTES REGARDING MANDATED TIME LIMITS.

5. POLICYMAKING PROCESS IS ABUSIVE TO SURVIVORS

IT CAN BE DIFFICULT FOR SURVIVORS AND MMIW FAMILIES TO ENGAGE IN POLICY ADVOCACY AND IN PUBLIC FORUMS REGARDING STATE DECISION-MAKING ON ISSUES PERTAINING TO SEXUAL VIOLENCE AND MMIWG, BECAUSE THESE SPACES CAN BE RETRAUMATIZING, INSENSITIVE, AND UNSAFE. WE HAVE OBSERVED REPEATED INSTANCES OF THIS THROUGHOUT THE FOUR STATES OF STUDY.

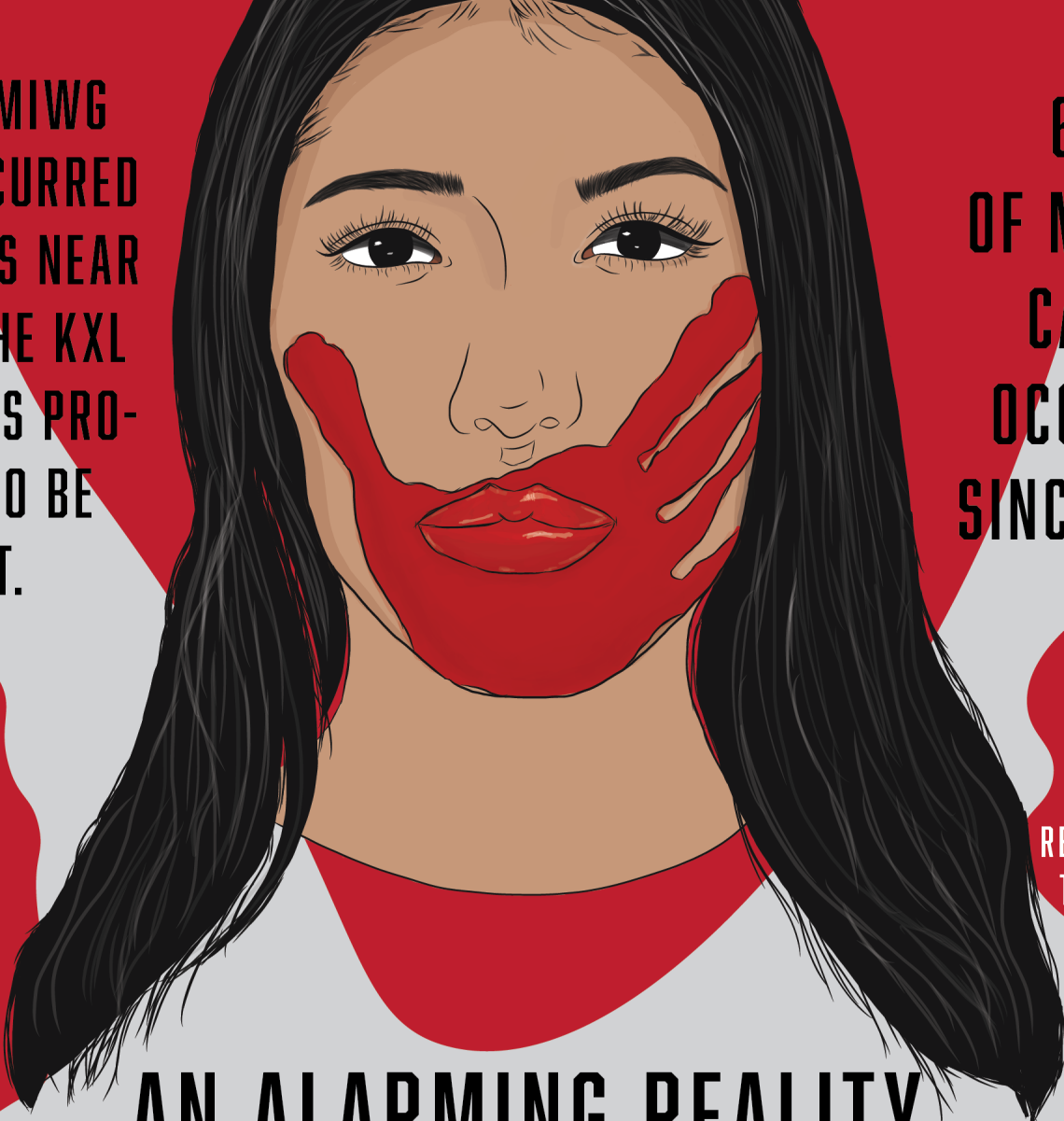


**1 IN 5 MMIWG
CASES OCCURRED
IN REGIONS NEAR
WHERE THE KXL
PIPELINE IS PRO-
POSED TO BE
BUILT.**

**69%
OF MMIWG
CASES
OCCURRED
SINCE 2000**

**WOMEN AND
GIRLS IN THESE
CASES WENT
MISSING FROM
142 LOCATIONS,
59% OF WHICH
ARE ON
RESERVATIONS OR
RURAL AREAS.**

**WOMEN AND
GIRLS FROM
41 TRIBAL
NATIONS ARE
REPRESENTED IN
THESE CASES.**

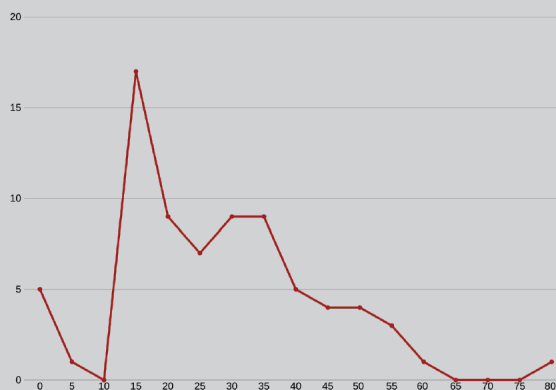


AN ALARMING REALITY

LAW ENFORCEMENT AND THE JUSTICE SYSTEM ROUTINELY FAIL TO HOLD PERPETRATORS ACCOUNTABLE OR EFFECTIVELY COMMUNICATE TO THE GENERAL PUBLIC THAT THERE ARE CONSEQUENCES FOR HARMING INDIGENOUS WOMEN AND GIRLS. ACROSS THE FOUR STATES STUDIED IN THIS REPORT, 1 IN 4 ALLEGED MURDERERS OF AN INDIGENOUS WOMAN OR GIRL WERE NEVER HELD ACCOUNTABLE, AND OVER ONE THIRD OF MURDER CASES WERE WRONGFULLY CLASSIFIED AS ACCIDENTAL, EXPOSURE, NATURAL CAUSES, OVERDOSE, OR SUICIDE WITHOUT AN ADEQUATE AND THOROUGH INVESTIGATION.



1 IN 4
IDENTIFIED ALLEGED
PERPETRATORS
WERE ACQUITTED OR
NEVER CHARGED.



NUMBER OF CASES BY AGE

100

THERE ARE
NEARLY 100
VICTIMS AGE
18 AND
UNDER.



AN ADDITIONAL 10% OF CASES OCCURRED IN COUNTIES DIRECTLY ADJACENT TO THE PROPOSED KXL ROUTE, TOTALING TO 31 AREAS IN WHICH MMIWG CASES AND THE PROPOSED KXL ROUTE INTERSECT.



IN 2015, A REPORT FROM THE US DEPARTMENT OF STATE SAID, "...SERVICE PROVIDERS IN AREAS NEAR CAMPS SURROUNDING LARGE-SCALE OIL EXTRACTION FACILITIES, SUCH AS THE BAKKEN OIL FIELDS IN NORTH DAKOTA, REPORT THAT SEX TRAFFICKERS ARE EXPLOITING WOMEN IN THE AREA, INCLUDING NATIVE AMERICAN WOMEN."



































































OF THESE CASES, 29% ARE ACTIVE MISSING PERSONS CASES, 62% ARE MURDERS, AND 9% HAVE UNKNOWN STATUS (REPORTED MISSING AND UNABLE TO CONFIRM IF FOUND SAFE OR DECEASED). THERE ARE LIKELY MANY MORE CASES THAT WE HAVE NOT YET DOCUMENTED.



TWO THIRDS OF BLACK AND LATINX ALLEGED PERPETRATORS WERE CONVICTED OR HAVE PENDING CHARGES, WHILE 79% OF INDIGENOUS ALLEGED PERPETRATORS WERE CONVICTED OR HAVE PENDING CHARGES. THIS IS A RATE APPROXIMATELY 150% HIGHER THAN THAT OF ALLEGED WHITE PERPETRATORS, OF WHICH ONLY HALF ARE CHARGED OR CONVICTED.

NUMBER OF RECORDED MISSING PERSONS

TRIBE	MISSING PERSONS	TOTAL
OGLALA	      	70
BLACKFEET	     	58
CROW	  	27
NORTHERN CHEYENNE	  	27
SALISH & KOOTENAI	 	21
STANDING ROCK	 	17
FORT PECK	 	14
MHA		11
ROSEBUD		11
SISSETON-WAHPETON		9
TURTLE MOUNTAIN		8
CHEYENNE RIVER		7
WINNEBAGO		7
YANKTON		6
FORT BELKNAP	 	5
OMAHA		3
ROCKY BOY	 	3
SPIRIT LAKE	 	2
LOWER BRULE	 	2
SPIRIT LAKE	 	2
CROW CREEK	 	1
PONCA		1
LAKOTA (UNKNOWN BAND)		9
DAKOTA (UNKOWN BAND)		1
OUT OF AREA	  	18
UNKNOWN	            	95

Uniform Tribal Resolution Blank Template

WHEREAS, [insert tribally-specific clause here]

WHEREAS, TransCanada has planned to build a tar sands pipeline across our lands and water without adequate consultation or consent of tribal nations whose territories the pipeline is expected to cross. Pipelines violate the integrity of land and water, and construction without consent is a violation of the sovereignty of tribal nations; and

WHEREAS, by virtue of how pipelines are built – concentrating transient laborers, mostly men – they violate the safety of women and children who are trafficked and violated by such laborers and their surrounding community; and

WHEREAS, meaningful consultation between governments cannot happen without adequate information, data and proper assessment. Furthermore, without that information consent cannot be given to any project. This information is needed to empower tribal nations to take meaningful and effective action addressing violence against their lands, women, and children;

NOW THEREFORE BE IT RESOLVED, this tribe asserts the following understanding of consent:

- No pipeline construction may occur on aboriginal, treaty, or reservation territories belonging to the tribe without express consent of the tribe;
- The tribe pledges to not violate another tribal nation's right to give or withhold consent regarding pipeline construction on their aboriginal, treaty, or reservation territories;
- The tribe pledges to uphold each tribal nation's right to determine their own sovereign, culturally-grounded process of consultation and consent;
- The tribe asserts these rights to determine the consultation process and provide or withhold consent as guaranteed by the United Nations Declaration on the Rights of Indigenous People;
- The tribe affirms that it will not be able to provide consent to any pipeline construction without adequate and thorough environmental, cultural, historical, and socioeconomic assessments; and

THEREFORE BE IT FURTHER RESOLVED, this tribe pledges to support data collection regarding potential impacts of the TransCanada pipeline and man camps by:

- endorsing Zuya Winyan Wicayu'onihan, "Honoring Warrior Women," which is a MMIW Harm Reduction, Prevention and Protection plan to conduct a Socio-Economic Impact survey that would work to provide protection and safety to Indigenous Women and children across the aboriginal, treaty, and reservation territories impacted by TransCanada's pipeline and man camps;
- joining a collective working group facilitated by Zuya Winyan Wicayu'onihan to undertake this survey with the Tribal Historic Preservation Offices and related entities and work in coordination with tribal programs to collect data to assist in the protection and repatriation of MMIW and children, and to focus on preventing the harm that man camps along the KXL route will bring;
- considering incorporating the results of this survey be part of the Supplemental Environmental Impact Assessment process regarding TransCanada's projects utilizing the survey's data and findings to design and implement effective, data-driven tribal policies to address and prevent MMIW and trafficking cases; and

THEREFORE BE IT FURTHER RESOLVED, this tribe pledges to take the following steps to address violence against Indigenous women and children, including violence that is likely to increase should pipelines and man camps be constructed on or adjacent to its territories:

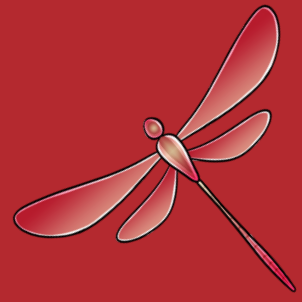
- acknowledge and defend all sites culturally relevant to women and children, including locations where women and children have been murdered or gone missing, as sacred sites;
- press civil charges in tribal court, against all non-Indian perpetrators of sexual violence against the tribe's women and children that take place in whole or in part on tribal land, and in cases where the perpetrator was on tribal land or nearby areas due to work-related activity, to also press civil charges against their employer—and to make the possibility of these charges known through public postings;
- develop comprehensive human trafficking laws within the tribal code;
- work to strengthen the tribal court to implement restored jurisdiction as provided by the Violence Against Women Act, if not already implementing;
- if not currently a TAP tribe, to apply for National Crime Information Center access via the TAP program, to enhance data access and sharing capacity for tribal law enforcement;
- require employers who will have employees working on or near tribal lands, or

expected to travel through tribal lands, to report any employees who are registered sex offenders to tribal law enforcement and other relevant tribal agencies;

- participate in development, and meaningfully consider use of, enhanced culturally-grounded outreach for tribal and local victim services available for Native victims of trafficking and related violence; and
- create a women's task force, responsible for providing quarterly reports to the tribal government on issues related to violence against women and children; and

THEREFORE BE IT FURTHER RESOLVED, as our first responsibility to the Water as Women, we give life and hold life for 9 months in water, and through water each of us entered this world. How we treat the water is how we treat women, therefore our responsibility to water is the same as it is to women, and for tribes to support and work together to reduce the harm done to our women and children.

About the Authors



This report is the result of collaborative work among an intergenerational team of powerful Indigenous women. Together, we represent the expertise, creativity, and drive and dedication that Indigenous women carry as caretakers of our peoples and homelands.

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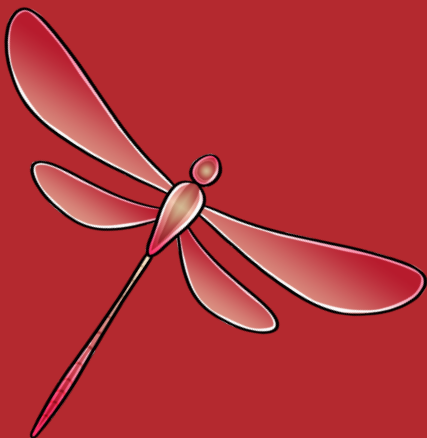
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Special thanks to: the Rosebud Sioux Tribe and Yankton Sioux Tribe for taking leadership in passing the Zuya Winyan Wicayu'onihan uniform resolution, as well as the tribes that are currently working to adopt the resolution in their nations; the men and women of the Ihanktonwan Treaty Council, Brave Heart Society, Wiconi Un Tipi, Native Organizers Alliance, and Mapping Back for their support of this work; and Marisa Miakonda Cummings, Kathleen Finn, and Chelsea Miraflor Trillo for their feedback and support in drafting this report.



Published by Sovereign Bodies Institute in partnership with Brave Heart Society. For more information about Zuya Winyan Wicayu'onihan, please contact Brave Heart Society on their Facebook page (@BraveHeartSociety), or contact Sovereign Bodies Institute on Facebook or via email at mmiwdatabase@sovereign-bodies.org. For more information about Brave Heart Society, visit their website at braveheartociety.org, and for more information on Sovereign Bodies Institute, visit their website at sovereign-bodies.org.



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