



# USET

SOVEREIGNTY PROTECTION FUND

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**Testimony of the United South and Eastern Tribes Sovereignty Protection Fund  
For the Record of the September 15, 2026 Hearing Held by the Subcommittee on Crime and  
Federal Government Surveillance of the House Committee on the Judiciary on “Missing and  
Murdered Indigenous People: Strengthening Public Safety in Tribal Communities”**

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to provide the Subcommittee on Crime and Federal Government Surveillance of the House Committee on the Judiciary with the following testimony for the record of the September 15, 2026 hearing on “Missing and Murdered Indigenous People: Strengthening Public Safety in Tribal Communities.” We appreciate the Subcommittee’s attention to this issue, but we urge you to work with your colleagues to move beyond unending loops of information-gathering around heartbreaking stories and statistics, and push for the concrete action that we know is necessary to make a true difference: **increasing funding and resources for Indian Country** and **removing barriers to the exercise of Tribal jurisdiction**.

USET SPF is a non-profit, inter-Tribal organization advocating on behalf of 33 federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Turtle Island.<sup>1</sup> USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and to assisting its membership in dealing effectively with public policy issues.

## **I. Background**

For far too long, the United States has neglected its public safety obligations to Tribal Nations, Tribal communities, and Native people—both by failing to recognize and promote our inherent sovereign authorities, as well as by failing to devote adequate resources to law enforcement and judicial infrastructure in fulfillment of trust and treaty obligations. This failure has created a crisis in Indian Country, as our people go missing and are murdered and we are denied the opportunity for safe and healthy communities enjoyed by other Americans. However, while the reasons underlying the Missing and Murdered Indigenous People (MMIP) crisis are complex, including centuries of failure and hostile action on the part of the United States, ways to achieve meaningful progress are within reach: (1) increase funding and (2) remove barriers to Tribal jurisdiction.

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<sup>1</sup> USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi’kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA), and Wampanoag Tribe of Gay Head (Aquinnah) (MA).

## **The United States Has Created Many Barriers to Tribal Nations' Exercise of Criminal Jurisdiction.**

Tribal Nations are and always have been inherently sovereign governments, a status that predates the arrival of colonizing forces. This inherent sovereignty, while existing independently from the United States' affirmation, is recognized in the U.S. Constitution, by the U.S. Supreme Court, in treaties and statutes, and in other legal proclamations.

A critical aspect of our inherent sovereignty is jurisdiction over our lands and people, including inherent jurisdiction over crimes. Early U.S. Supreme Court decisions recognized that Tribal Nations exercised this jurisdiction in parity with other units of government. See, e.g., *Ex parte Crow Dog*, 109 U.S. 556 (1883). But, over time, the United States has placed barriers on Tribal Nations' exercise of our jurisdiction, including through legislation such as the Indian Civil Rights Act of 1968, which limits Tribal Nations' sentencing authority (even over our own people), and through later U.S. Supreme Court decisions, such as *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978), which limits Tribal Nations' exercise of criminal jurisdiction over non-Native people on our own lands.

Under the Indian Civil Rights Act, Congress prohibited Tribal Nations from imposing more than one year of incarceration and a \$5,000 fine for an offense. 25 U.S.C. § 1302(a)(7)(B). After this statute was enacted, Tribal Nations were not able to exercise criminal jurisdiction even over our own people in excess of the law's relatively low penalty amounts. Some have even argued that the Major Crimes Act, 18 U.S.C. § 1153, bars Tribal Nations' jurisdiction over serious crimes committed by our own people.

In *Oliphant*, the U.S. Supreme Court held that Tribal Nations lacked criminal jurisdiction over non-Native people, even for crimes committed within Indian Country. It based this harmful decision on the faulty reasoning that—while the Court's own precedent recognizes that all aspects of inherent Tribal sovereignty persist unless *expressly* divested by Congress—Tribal Nations' exercise of our inherent sovereignty was, in the case of criminal jurisdiction over non-Native people, simply impractical for the United States. Not only is this decision immoral and prejudicial, but it is also illogical, as states and other units of government routinely exercise criminal jurisdiction over individuals present within their geographical boundaries regardless of state citizenship or resident status. It is this very exercise of jurisdiction that keeps everyone safe—something that is clearly in the United States' best interests—but that Tribal Nations are prevented from doing.

More recently, the U.S. Supreme Court has used the jurisdictional gaps and confusion it created with *Oliphant* and other decisions to justify *further* limitations on Tribal sovereignty by allowing the expansion of states' encroachment on Tribal jurisdiction, including criminal jurisdiction, in *Oklahoma v. Castro-Huerta*, 597 U.S. 629 (2022). Rather than restore the recognition of Tribal criminal jurisdiction or call on the federal government to fulfill its obligations, the Court said that states could exercise "concurrent" jurisdiction over crimes committed by non-Indians against Indians in Indian Country. This has only added further jurisdictional complexity to the picture and has emboldened states—most notably Oklahoma—to deepen their encroachment efforts, disrupting Tribal jurisdiction and public safety efforts and priorities in the process and leading to repeated, costly litigation.

## **The United States Has Failed to Meet Its Trust and Treaty Obligations Regarding Public Safety.**

While the United States stifles Tribal Nations' exercise of our own criminal jurisdiction on our lands, it further undermines public safety with its chronic underpayment on its debt to Indian Country. Prior to the

arrival of colonizing forces to our shores, Tribal Nations fully exercised our sovereign jurisdiction over all two billion acres of what is now called the United States. In taking for itself nearly all Tribal Nations' original territory through war, treaty-making, and other coercive means, the United States incurred a debt to Tribal Nations that manifests in trust and treaty obligations to provide services and funding to Tribal Nations and Tribal communities, including for public safety purposes. This debt persists in perpetuity as long as the United States continues to hold and enjoy the benefits of our lands and resources.

Despite numerous reports over the last several decades quantifying widespread underinvestment, Congress and the Executive have failed to develop any proposals to address this problem. Indeed, the Not Invisible Act Commission concluded in its 2023 report on the MMIP crisis, *Not One More*, that:

One of the Commission's most important overarching recommendations is for the federal government to honor its trust obligations and provide sufficient funding to fully address unmet needs in Tribal communities, targeting the most critical public safety, criminal justice, health care, and victim services needs for immediate investment. The [Bureau of Indian Affairs] acknowledges that Tribal police, courts, and detention facilities are currently funded at a fraction of estimated need. The President's budget, however, has never requested funding sufficient to meet the need in Tribal communities and **Congress continues to appropriate funding at levels that virtually guarantee these issues will persist.**

Underfunding manifests in less safe Tribal communities and is exacerbated by jurisdictional complexity. Indian Country faces some of the highest rates of crime, with Native people 2.5 times more likely to become victims of violent crime, and with Native women, in particular, subject to higher rates of domestic violence and abuse. Many of the perpetrators of these crimes are non-Native people. Importantly, federal prosecutors' offices, which often are the only entities possessing jurisdiction over a particular crime in Indian Country, do not prosecute cases unless very stringent criteria are met—usually prioritizing only major crimes that have clear evidentiary support. Additionally, inadequate resources at the federal level have led to an enormous backlog in MMIP cases that quickly run cold, leaving loved ones with no answers and little recourse.

Chronic underfunding also leaves Tribal Nations without adequate federal law enforcement and detention infrastructure, and, just as critically, without the resources needed to contract or compact for these essential services through the Indian Self-Determination and Education Assistance Act. Without sufficient infrastructure, such as detention facilities to hold criminals prosecuted in Tribal court, a robust exercise of Tribal criminal jurisdiction remains out of reach for many Tribal Nations.

### **Tribal Nations Subject to Restrictive Settlement Acts Experience Additional Inequities.**

As we work to address critical public safety issues in Indian Country, we again remind this body that some Tribal Nations, including some USET SPF member Tribal Nations, are living under Restrictive Settlement Acts (RSA) that further limit their ability to exercise criminal and civil jurisdiction over their lands. These RSAs flow from difficult, coercive circumstances in which states demanded unjust restrictions on Tribal Nations' preexisting sovereign rights before they would respect Tribal land claims or drop challenges to federal recognition. When Congress enacted the states' demands into law via RSAs, it unjustly condoned these additional state-driven restrictions on certain sovereign authorities for RSA Tribal Nations that do not exist for other Tribal Nations across the United States.

Some RSAs, for example, purport to limit Tribal Nations' exercise of their own jurisdiction or to grant states jurisdiction over Tribal lands. Further, some states have wrongly argued that the existence of an RSA prohibits later-enacted beneficial federal statutes from applying to an RSA Tribal Nation—especially those that are predicated on Tribal jurisdiction or that may affect state jurisdiction. For this reason, some USET SPF member Tribal Nations report being threatened with lawsuits should they attempt to implement enhanced jurisdiction under these later-enacted laws, such as the Tribal Law and Order Act's sentencing provisions. Congress is often unaware of these barriers when enacting new legislation. USET SPF firmly believes that Congress did not intend these RSAs—these land claim or recognition settlements—to forever prevent a handful of Tribal Nations from taking advantage of future beneficial laws meant to improve the health, general welfare, and safety of Tribal citizens and communities.

Thus, we urge you to take steps to ensure that any beneficial public safety statute enacted applies equally to RSA Tribal Nations by including language such as: "All provisions of this Act apply to all federally recognized Tribes, no matter where located, notwithstanding any prior acts of Congress limiting Tribal jurisdiction or the application of federal law, and all provisions of this Act shall apply within the State of Maine."

## **II. Recommendations**

### **A. Fully Fund Bureau of Indian Affairs Public Safety and Justice Programs.**

As you are aware, the Tribal Law and Order Act (TLOA) requires the Bureau of Indian Affairs (BIA) to produce an annual report that includes: (1) the number of full-time employees of BIA and Tribal governments who serve in public safety and justice programs; (2) the amount of appropriations obligated for public safety and justice programs, including the methodology used to determine the allocation of funds; (3) estimates of unmet staffing obligations of law enforcement, corrections, and court personnel; and (4) a summary of BIA technical assistance, training, and other support provided to Tribal law enforcement and corrections agencies that operate relevant programs.

The most recent TLOA report, for FY 2021, revealed that fulfilling BIA's total obligation for public safety and justice funding in Indian Country would take \$3.5 billion—a number that is certainly significantly higher now due to inflation. That obligation is over \$1 billion more than the *entire* BIA budget for FY 2026, which dedicates only a small fraction to public safety and justice support. And yet, the President's budget request for FY 2027 proposes a 27% *decrease* to BIA's total budget, including a return to FY 2025 funding levels for public safety and justice funding. We reiterate, as the Not Invisible Act Commission concluded, that such funding levels ***virtually guarantee*** that the MMIP crisis and other public safety concerns in Indian Country will continue.

While USET SPF appreciates that congressional appropriators have so far rejected the FY 2027 proposal to dramatically reduce BIA funding, current efforts to seek modest increases in Tribal public safety and justice funding for FY 2027 still fall far short of the United States' obligations. We request *full* funding for public safety and justice in Indian Country, in addition to full funding for the services necessary to provide wraparound support to our communities.

### **B. Remove Barriers to the Exercise of Tribal Jurisdiction.**

USET SPF views any removal of barriers to Tribal Nations' exercise of jurisdiction as a positive step in the right direction, such as enhanced sentencing and expanded criminal jurisdiction under TLOA, 25 U.S.C.

§ 1302, and the Tribal provisions of the Violence Against Women Act (VAWA), 25 U.S.C. § 1304. We ask the Subcommittee to carefully consider and support the following legislative proposals, including by incorporating them into the next VAWA reauthorization bill.

### ***Oliphant and Castro-Huerta Fix***

USET SPF supports the removal of all barriers to Tribal Nations' full exercise of jurisdiction over everyone who sets foot on our lands, in parity with other units of government, including the passage of a full *Oliphant* fix so that we may exercise criminal jurisdiction over non-Native people on our lands, and a *Castro-Huerta* fix to affirm the general rule that states lack criminal jurisdiction in Indian Country. Jurisdiction over a land base is at the very heart of sovereignty, and Tribal Nations must have exclusive jurisdictional control throughout our lands, shared only with the federal government, when appropriate, and with states as partners upon Tribal Nations' invitation and (revokable) consent.

We emphasize that any legislative fix should take care to affirm inherent Tribal sovereignty. When Congress enacted legislation fixing a U.S. Supreme Court holding that Tribal Nations lacked criminal jurisdiction over non-citizen Native people, 25 U.S.C. § 1301(2) (addressing *Duro v. Reina*, 495 U.S. 676 (1990)), for example, the Court later affirmed the legislative fix clarified Tribal Nations' inherent jurisdiction, *United States v. Lara*, 541 U.S. 193 (2004). We ask that, rather than referring to unilateral "plenary power," any *Oliphant* or *Castro-Huerta* federal legislative fix make clear that it is being done *because* of Tribal Nations' existing inherent jurisdiction over our lands.

### **PROTECT Act**

The Protection for Reservation Occupants against Trafficking and Evasive Communications Today Act (PROTECT Act) would expand on TLOA and VAWA by removing barriers to Tribal Nations' exercise of criminal jurisdiction over non-Native offenders committing certain offenses on Tribal Nations' lands related to drug trafficking. The PROTECT Act would amend the Indian Civil Rights Act to cover certain drug-related offenses; amend the Stored Communications Act to recognize Tribal courts as courts of competent jurisdiction; and authorize the Bureau of Prisons to accept, at the federal government's expense, prisoners convicted in Tribal Nation courts for drug-related offenses. Such offenses often intersect with the MMIP crisis, as they often involve non-Native criminals exploiting jurisdictional gaps on our lands. USET SPF strongly supports the PROTECT Act, and we urge the Subcommittee to work toward its swift passage and implementation.

### **Tribal Warrant Fairness Act**

The Tribal Warrant Fairness Act (TWFA) would bring Tribal law enforcement agencies into parity with other law enforcement agencies throughout the country by authorizing the U.S. Marshals Service (USMS) to partner with Tribal law enforcement in locating missing children and arresting fugitives in Indian Country. Providing Tribal law enforcement with access to USMS resources would give Tribal Nations an important tool in addressing the MMIP crisis. Currently, the USMS may assist state, local, and other federal law enforcement agencies with missing children investigations, upon request from those agencies. The TWFA would extend this authorization to Tribal law enforcement agencies as well. Additional resources increase the likelihood that Native children may be found and safely returned in those critical first hours after they are reported missing.

Relatedly, access to USMS resources would help Tribal Nations address criminals' exploitation of Indian Country due to the complexity and uneven enforcement of criminal jurisdiction on Tribal lands. The TWFA would provide Tribal law enforcement agencies with access to USMS assistance in locating and

apprehending such fugitives, while also fully integrating Tribal law enforcement into the USMS' Fugitive Apprehension Task Force program along with other federal, state, and local partners. Critically, the TWFA would also require consultation with Tribal Nations, which will help ensure that task forces operate in a manner that respects Tribal sovereignty and meets Tribal Nations' goals.

### **BADGES for Native Communities Act**

Tribal Nations' lack of access to criminal and other public safety information hinders our ability to keep our communities safe. It is critical that we have parity in access to federal crime information. We support the Bridging Agency Data Gaps & Ensuring Safety (BADGES) for Native Communities Act, as it seeks to provide parity for Tribal Nations in access to federal crime information, collection, and tracking.

The BADGES for Native Communities Act would address inefficiencies in federal criminal databases, increase Tribal Nations' access to those databases, and improve public data on crimes and staffing. The legislation would also promote more efficient recruitment and retention of BIA law enforcement personnel, provide resources to Tribal Nations for improved coordination with other law enforcement agencies, and mitigate federal law enforcement mishandling of evidence.

### **Parity for Tribal Law Enforcement Act**

Attracting and retaining law enforcement personnel in Indian Country can be difficult. As former Penobscot Police Chief, Bob Bryant, stated during his 2015 testimony before the President's 21st Century Task Force on Policing Officer Safety and Wellness Session:

The men and women serving as police officers across Indian Country are often asked to perform duties and responsibilities outside the norms of the profession due to inadequate resources. These duties often include tasks such as civil dispute mediation, social work, family counseling, substance abuse counseling, and grief counseling, as well as many others. As police officers, we perform these additional duties with limited training, resources, or compensation due to our dedication to the communities we serve. However, these obligations often come at the expense of the overall wellness, safety, and family needs of the officer.

These issues are compounded by the chronic underfunding of law enforcement in Indian Country, with Tribal Nations often finding ourselves unable to compete with other units of government, including the federal government, in benefits such as injury, death, retirement, and pension benefits. Law enforcement officers in Indian Country experience low rates of morale and high rates of attrition. The Parity for Tribal Law Enforcement Act would ensure that Tribal law enforcement officers operating under Indian Self-Determination and Education Assistance Act contracts or compacts have access to trainings and certifications to ensure they are able to enforce federal law on Tribal lands. And it would further provide these officers access to federal injury, death, retirement, and pension benefits.

## **III. Conclusion**

The time for comprehensive reform is now. USET SPF strongly urges this Subcommittee to work to provide meaningful levels of public safety and justice resources to Tribal Nations, in accordance with the United States' trust and treaty obligations. We further urge you to consider how the Subcommittee might take action to fully recognize Tribal criminal jurisdiction over all persons and activities in our homelands—only then will we have the ability to truly protect our people. Congress already has all the information and tools it

needs to pursue these ends. We thank you for holding this hearing and we look forward to real legislative action to end the MMIP crisis and improve public safety in Indian Country.

Should you have any questions or require further information, please contact Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at [LMalerba@usetinc.org](mailto:LMalerba@usetinc.org), or Katie Klass, USET/USEP SPF General Counsel, at [KKlass@usetinc.org](mailto:KKlass@usetinc.org).

Sincerely,

A handwritten signature in black ink, appearing to read "K. Francis", with a long horizontal flourish extending to the right.

Chief Kirk Francis  
President

A handwritten signature in black ink, appearing to read "Kitcki A. Carroll", with a stylized, flowing script.

Kitcki A. Carroll  
Executive Director