

United States Senate

WASHINGTON, DC 20510

June 21, 2019

The Honorable William Barr, Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Barr:

As Members of the Senate Indian Affairs Committee, we have received a number of letters from Indian Tribes expressing concerns with the Department of Justice's administration of the Crime Victims Fund (CVF) Tribal Set-Aside. Accordingly, we write today to clarify Congressional intent regarding this set-aside and request more information on how the Department is administering the program.

The Department's data indicate that Native communities face some of the highest rates of crime in the country. More than four in five American Indians and Alaska Natives have experienced some form of violence in their lifetime.¹ And while American Indian and Alaska Native women are 1.8 times more likely than the general population to need victim resources (e.g., legal, medical, and advocacy services), they are 2.5 times less likely to have access to these critical resources.²

In recognition of these alarming disparities and to better fulfill its trust and treaty responsibilities to Indian Tribes, Congress enacted provisions in Fiscal Year (FY) 2018 and FY 2019 appropriations legislation to create a Tribal Set-Aside within the CVF.³ Congress intended the CVF Tribal Set-Aside to provide federally recognized Tribes with direct access to funding for victim services.

We understand that the Department held a listening session with Tribes regarding the administrative and application requirements for first round of grant solicitations for the FY 2018 CVF Tribal Set-Aside, which amounted to three percent, or approximately \$133 million. However, the Department reportedly denied or drastically reduced Tribes' awards for their FY 2018 requests without explanation. As a result, only 154 Tribes received partial funding for their grant applications, and the Department returned nearly \$25 million to the fund unexpended.

Seeing the continued need for victim resources in Indian Country, Congress increased the FY 2019 Tribal Set-Aside to five percent, or approximately \$167.5 million. But shortly before the FY 2019 application process began, the Department significantly altered the application process with little notice and over the objections of Tribes.⁴ We understand that many Tribes were unaware of these changes and

¹ NAT'L INSTITUTE OF JUSTICE, US DEP'T OF JUSTICE, FIVE THINGS ABOUT VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN AND MEN, <https://www.ncjrs.gov/pdffiles1/nij/249815.pdf>.

² André Rosay, NAT'L INSTITUTE OF JUSTICE, US DEP'T OF JUSTICE, VIOLENCE AGAINST AMERICAN INDIAN & ALASKA NATIVE WOMEN AND MEN (2016), <https://www.ncjrs.gov/pdffiles1/nij/249736.pdf>.

³ Consolidated Appropriations Act, 2018, Pub. L. 115-141.; Consolidated Appropriations Act, 2019, Pub. L. No. 116-6.

⁴ The Department moved the Tribal Set-Aside from a stand-alone solicitation to incorporating it into the Coordinated Tribal Assistance Solicitation (CTAS) application and lowering the funding cap.

were confused by conflicting information and overlapping deadlines issued by the Department regarding the FY 2018 and FY 2019 solicitations during this period. As a result, only 59 Tribes were able to apply for FY 2019 CVF grants.

At a Senate Committee on Indian Affairs oversight hearing in May, we expressed our concerns to Principal Deputy Assistant Attorney General Matt Dummermuth that the Department's administrative decisions would again result in a large portion of the FY 2019 Tribal CVF Set-Aside failing to reach Native communities.⁵ Mr. Dummermuth assured us the Department would issue a second solicitation for the FY 2019 funds and indicated that the Department understood Congressional intent that Native communities should receive all available resources in the FY 2019 Tribal CVF Set-Aside.

We were pleased to hear that the Department followed through and issued a second solicitation for FY 2019 to give Tribes another chance to apply for this critical funding. We were also pleased that the Department recently announced changes to the second solicitation and removed more onerous application requirements. These changes will help ensure that otherwise eligible applications are not rejected due to technical issues.

Additionally, we appreciate that you visited Tribes in rural Alaska earlier this month. During your visit, you recognized the urgency to address violence and crime affecting Native Communities and agreed to deliver solutions. As raised by Tribal leadership during your trip, successful solutions must include both resources and flexibility. Ensuring that Tribes have access to the CVF Tribal Set-Aside is vital to addressing the disproportionate impact of crime in Native communities and ensuring victims have the resources they need to recover.

However, we continue to be concerned about the Department's administration of the Tribal CVF Set-Aside and willingness to allocate this critical funding to Tribes. Therefore, we respectfully request answers to the following questions on or before July 9, 2019:

1. Multiple Tribes have expressed confusion about the FY 2018 and FY 2019 Tribal CVF Set-Aside grant application processes, timing, and eligibility requirements.
 - a. **How is the Department working with Tribes to clarify these areas of confusion for current and future solicitations?**
 - b. **Does the Department provide technical assistance and training to help Tribes be successful in their application?**
2. In FY 2018, the Department capped the maximum grant award at \$720,000 per Tribe. Additionally, the Department opted to provide only partial funding for some successful Tribal grant applications. For the first FY 2019 solicitation, the Department lowered the cap to \$500,000 per Tribe despite increased funding for the set-aside.
 - a. **What basis did the Department use to set these caps?**
 - b. **What factors does the Department use in its decision to partially fund successful applications for this program?**

⁵ *Oversight Hearing on the President's FY 2020 Budget Request for Indian Programs and Legislative Hearing on S. 1211, the AUTOS Act Before the S. Comm. on Indian Affairs*, 116th Cong. (2019).

3. The Department's consultation framing paper states that the need for a stand-alone solicitation was one of the three main themes at the December 4, 2018, listening session with Tribes.⁶ **Why did the Department ultimately decide to include the first FY 2019 Tribal CVF Set-Aside solicitation as part of CTAS instead of using a stand-alone solicitation?**
4. The President's FY 2020 Budget for the Department of Justice requests continuation of the five percent Tribal CVF Set-Aside for the next fiscal year.
 - a. **If the Tribal Set-Aside is continued, does the Department anticipate making any further changes to its solicitation for the program in FY 2020? Please provide an explanation of why the Department feels such changes may be necessary.**
 - b. **If the Department anticipates making further changes to the solicitation process in FY 2020, will the Department seek feedback from Tribes on these changes?**
 - c. **Will the Department conduct any outreach to Tribes that did not apply for the Tribal Set-Aside in FY 2018 or FY 2019 and take actions to increase the number of successful applicants in FY 2020?**

We look forward to your expeditious response and learning more about your efforts to address these issues. Please direct your response to Kim Moxley (kim_moxley@indian.senate.gov) on Senator Udall's Senate Committee on Indian Affairs staff.

Sincerely,



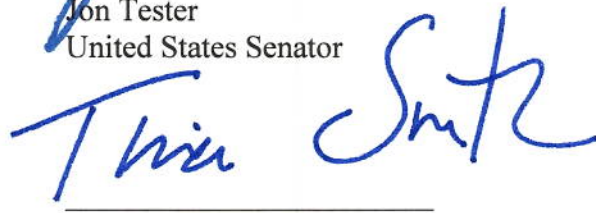
Tom Udall
United States Senator



Jon Tester
United States Senator



Lisa Murkowski
United States Senator



Tina Smith
United States Senator



Catherine Cortez Masto
United States Senator

⁶ OFFICE FOR VICTIMS OF CRIME, US DEP'T OF JUSTICE, CONSULTATION FRAMING PAPER FOR TRIBAL SET-ASIDE FROM THE CRIME VICTIMS FUND FOR FY 2019 AND FUTURE OVC FUNDING, <https://www.ncjrs.gov/pdffiles1/nij/249815.pdf>.
<https://www.justice.gov/tribal/page/file/1156016/download>