

Commissioner Dissent to Chapter 2, Recommendation A13

I, Commissioner Annita Lucchesi, object to Recommendation A13, Chapter 2, and advocate for the original language adopted by Subcommittee 2, below:

The government Accountability Office (GAO) must conduct a study of AI/AN deaths in custody (federal, state, tribal, and local) and officer-involved AI/AN deaths that includes reporting mechanisms that are in place or needed to inform the public of the number of circumstances, and outcomes of these types of cases including tribal citizenship and affiliation. Specifically, this GAO study must include information on the frequency, dynamics, and factors contributing towards LE violence against AI/AN people. LE-involved AI/AN deaths, and AI/AN deaths in custody, as well as how these forms of violence intersect with MMIP and HT (including how law enforcement violence may become a barrier to reporting and investigation MMIP and HT cases, how AI/AN trafficking victims may experience victimization by LE and how experiencing LE violence or wrongful criminalization may increase likelihood of further victimization of AI/AN people). The study must include formerly incarcerated AI/AN people, AI/AN victims of police violence, families of AI/AN victims of officer-involved deaths, and AI/AN victims of trafficking who have been involved in the criminal justice system.

This language was drafted collaboratively by members of Subcommittee 2. A commissioner objected to this language in the final full commission meeting and offered an alternative adopted only by the commissioners present at that meeting.

There is an abundance of information available supporting the original recommendation (above). (See citations in Recommendation P, Chapter 2). Furthermore, the commission received frequent testimony in multiple field hearings from both families and survivors and subject matter experts on the issue, and there were clear intersections between this issue and MMIP and HT of AI/AN people.

It is my belief as a Commissioner, a scholar with a doctorate specializing in legal geographies and violence in Indian Country, as an advocate for MMIP families and Indigenous trafficking survivors, and a trafficking survivor who has experienced police violence herself, that the original language of A13 is stronger, and that Congress must ask the GAO to complete the described study within it. The original language is more detailed and with a more clear path to substantive action and additional information on the issues described. It is my feeling that the language that replaced it (which I could not weigh in on due to unavoidable travel that I noted to facilitators in advance) does not honor the spirit of the initial recommendation, does not require any meaningful action moving forward, and does not honor the families and survivors that begged us as a Commission to hold law enforcement accountable for the deaths and assaults that occur at their hands. I never felt safe reporting to law enforcement when I was being trafficked, because I was terrified of them due to the rampant police violence and neglect I and my peers were experiencing – the original language of A13 could have provided a path to addressing that so that other survivors are potentially able to seek life-saving help from LE in the future safely.