Just Investigative Support for Indigenous Communities

Voiceover [00:00:01] RTI International's Justice Practice area presents Justice Science.

Introduction [00:00:09] Welcome to Just Science, a podcast for justice professionals and anyone interested in learning more about forensic science, innovative technology, current research and actionable strategies to improve the criminal justice system. In episode three of our Unidentified Human Remains mini season, Just Science sat down with Mark Pooley, founder of Native Search Solutions, and Dustin Driscoll, Research Public Health Analyst at RTI International, to discuss the many barriers faced by indigenous communities when it comes to identifying missing and murdered persons. In order to properly investigate cases of missing and murdered individuals, it is crucial that law enforcement agencies have access to necessary resources and technologies, including DNA analysis capabilities, national databases, and sufficient manpower. Unfortunately, many tribal law enforcement agencies currently work with limited access to these basic investigative tools, making it much more difficult to find and identify missing members of native and tribal groups. Listen along as Dustin and Mark discuss how common causes of missing indigenous persons, specific gaps in investigative resources, and the growing community working to support indigenous groups. This episode is funded by the National Institute of Justice's Forensic Technology Center of Excellence. Some content in this podcast may be considered sensitive and may evoke emotional responses or may not be appropriate for younger audiences. Here's your host, Jaclynn McKay.

Jaclynn McKay [00:01:31] Hello and welcome to Just Science. I'm your host, Jaclynn McKay with the Forensic Technology Center of Excellence, a program of the National Institute of Justice. Today we will be discussing human identification efforts related to missing and murdered indigenous persons. Here to guide us in our discussion is Mark Pooley and Dustin Driscoll. Welcome, MarK and Dustin, thank you so much for speaking with us today.

Mark Pooley [00:01:54] Thank you, excited to be here.

Dustin Driscoll [00:01:56] Thank you very much.

Jaclynn McKay [00:01:57] Mark, could you provide our listeners with a little bit about your background and all the work that you've done in regards to missing and murdered indigenous persons?

Mark Pooley [00:02:05] Absolutely. My name is Mark Pooley. I'm actually located here in Arizona. I'm retired law enforcement with the city of Tempe, and I was also a tribal prosecutor for the Salt River Pima Maricopa Indian community prior to becoming a police officer. How I got involved with this was after retirement, I started to go around different tribal communities, primarily in Nebraska and North Dakota, and as we were talking to different families, knowing that I was a detective, they would ask me if I would help look for their missing auntie or brother or sister or child. At the time I was actually fighting cancer, so I couldn't. But it really got me really looking at trying to find a way to help my native people. My tribal affiliations are Navajo and Hopi in northern Arizona. So as I started to learn more about the missing and murdered indigenous people movement, I really looked and saw that there was a huge gap of investigative tools to find missing people. And so that was my mission, is trying to find out what can I do to bring some of these resources. And so I started my own organization called Native Search Solution. It's a nonprofit where we have the families give us written consent and some photographs and with those

photographs, we put them into a database that gets compared to over 90 million images of booking photos throughout the United States. And so that's what we do as a resource. You know, you'll hear me throughout this podcast say this, there's two things that you need to look for missing people: number one is you need technology and number two is you need resources. If you don't have those two, you're going to be behind the game in locating or missing. But that's how I got in the movement, the MMIP movement, and I recently was the tribal fellow for the National Center for Missing and Exploited Children, people know as NCMEC.

Jaclynn McKay [00:03:57] Thank you, Mark. We really appreciate all of the work that you're doing in that space. Dustin, can you discuss your professional background and speak a little bit about your involvement with missing and murdered indigenous persons cases?

Dustin Driscoll [00:04:10] Sure. So my name is Dustin Driscoll, right now I'm a Regional Program Specialist for RTI International. I went to college for criminal justice and psychology. After college, I moved to Washington, D.C., and I started working at the National Center for Missing and Exploited Children. I was there as a analyst working on missing and unidentified child cases, kind of with a primary scope on the cold cases. And then from there, I kind of got introduced to NamUS, which is the National Missing and Unidentified Persons System. This is a program under the National Institute of Justice. Ended up moving to Arizona in 2016, but I've been with NamUs is since 2011, and it wasn't until I moved out to Arizona where I was really kind of involved in the tribal community and listening to them and kind of watching this movement around me. As I've been working in this role, I've definitely seen a lot of positive actions coming through the communities, and like Mark mentioned, there's a lot of technology and resources that are needed in the tribal communities. So NamUs has been a really good platform to present to the communities and the families to kind of be involved in the missing and unidentified persons investigations when it comes to tribal communities.

Jaclynn McKay [00:05:28] Thank you, Dustin. We appreciate all the work that you've been doing as well. Mark, you said that you previously served as a tribal liaison for the National Center for Missing and Exploited Children. What are some of the challenges that missing children cases pose compared to missing adults?

Mark Pooley [00:05:45] Yeah, that's a very good question. You know, in the MMIP movement, a lot of our people are adults and a lot of our people, when they go missing, they go missing from tribal communities. Our children are a little bit different. A lot of them go missing off the reservation. This is just my opinion, but I believe a big reason our children go missing is a lot of our children are put in foster care or group homes off the reservations. And again, no fault to them, they're just put in an area or in a home that they just want to go back home. And so when they're off the reservation, they are, in my opinion, they're bigger targets because they don't have their families to protect them. And so there is a big difference between when children go missing and when adults go missing. Again, this is just my experience. What I've learned for adults when they go missing, a lot of it has to do with addiction, either drugs and alcohol or domestic violence or trafficking. Those are the main reasons or even with mental health. Someone may have dementia or Alzheimer's or they have a mental episode, but they go missing. But those are the main reasons that adults go missing. For children, it's because they become endangered runaways. And what I mean by that is they're either running away from something or running to something. And that's why, you know, I was a tribal fellow with NCMEC, when I work with families and they reach out to me, if it's a child, I said, your best

resource is not only make a police report, make sure that they're in the National Criminal Information Center, NCIC, but you need to call NCMEC.

Jaclynn McKay [00:07:30] Dustin, I'm going to pass the right to you since you also previously worked for NCMEC. Is there anything else you'd like to add to that?

Dustin Driscoll [00:07:37] Yeah, I think, you know, when it comes to the gravity of the issue, too, when it comes to missing and murdered indigenous persons is, you know, not all tribal law enforcement have access to some of these government databases, NCIC being one of them, which has been primarily the database that most law enforcement has used across the country for so many years. So tribal law enforcement doesn't have access to some of these databases, which is challenging to kind of represent the actual sheer number of missing or murdered indigenous persons. So data has always been kind of messy when it comes to coming up with certain stats or numbers of these cases. So it honestly varied from state to state and agency to agency. And also you're dealing with extreme rural areas. I had the privilege of visiting a lot of the reservations here in Arizona, and it's just so vast and it's much bigger than I ever expected. Just to give you a sense of one of the bigger reservations here is Navajo Nation. It is about 25,000 square miles, so it's roughly the size of West Virginia, just this one reservation land. So it's a massive, massive amount of land with very small communities. So if people go missing on this land, you know, it's just so desolate that it's really challenging to find some of these individuals on the land.

Jaclynn McKay [00:08:59] So speaking of native lands, are there ways in which tribal police departments operate differently than police departments on non-tribal lands?

Dustin Driscoll [00:09:09] You know, there's actually a lot of similarities, in fact. I mean, a lot of them are doing calls for service, enforcing traffic stops and investigating crimes. But, you know, many of the tribal law enforcement agencies that I work with, they don't have a lot of manpower. Some of these agencies only have one sworn officer, so you're already dealing with a lot of casework that one or just a small amount of officers have to investigate or follow up on. So that's been really challenging for some of my tribal agencies that I work with. And typically, jurisdiction issues become really severe. They impact a lot of these cases as well. I know that a lot of tribal law enforcement are using the assistance of the Federal Bureau of Investigation and also the Bureau of Indian Affairs, the BIA. They're actually able to tap into some of those resources, depending on the circumstances of some of these cases, you know, which is really helpful when the technology and the resources are lacking for some of the tribal law enforcement agencies. So that's been really helpful to just be able to call or pick up the phone and talk to somebody about additional resources that they can tap into.

Jaclynn McKay [00:10:18] Mark, as someone who's worked in entities affiliated with tribal lands and not tribal lands, do you have anything to add about how tribal police departments operate differently than police departments on non-tribal lands?

Mark Pooley [00:10:32] Yeah, I'd just like to add a little bit of what Dustin said. Everything said is absolutely correct, and I'll give this example. Maybe a tribal agency compared to a municipal or a city agency, just talking about technology, something simple as when someone goes missing, the family will call law enforcement and the law enforcement officer, one of the very first things they should do in an investigation is enter that person into the National Criminal Information Center. People refer to it as NCIC. It's run by the FBI, is a great tool, and it's been used for decades. And so if I go missing in Arizona and

my wife calls, I'm entered into NCIC and I get contacted by a New York City officer and he runs my name and date of birth, it will come back very quickly with I'm a missing person. That officer would say, Mr. Pooley, are you okay? Yeah, I'm fine. Well do you know you're entered as a missing person? So that simple database, which works, a lot of our tribes don't have access to it. Now, the federal government, they have the Tribal Access Program, the TAP program, and they're trying to get NCIC to these tribal law enforcement communities. And so I think that's a great tool, a great thing that that that program is doing. But that's just one example of the lack of resources on our tribal communities.

Jaclynn McKay [00:11:54] So you both have spoke about how tribal communities have limited access to federal databases and low manpower. Are there any other challenges that they face in regards to investigations of murdered and missing indigenous persons?

Mark Pooley [00:12:13] A lot of times we always talk about jurisdiction. And again, I'm not a lawyer, so I don't know all the intricacies of this, but there are some states that are called public law 280 states. Some that I know for sure are like California, Alaska. Those are ones that the state has the obligation of doing investigations on tribal lands. They're mandated to do these investigations. And so because of that, if the particular county that a tribe falls in, if that county, that sheriff's department does not put in the resources of looking for a missing person, they won't be looked for. Now, you have other states like Arizona, this is not a PL 280 state, and so, for example, the Salt River Pima Maricopa Indian community they're, an awesome tribal law enforcement agency. They have all the rights as a state officer, and even more they have the federal, tribal, and state - they're certified all across the board. So they're able to do a proper investigation for missing people when they go missing on their reservation. So that's just an example. Again, each state is different and each jurisdiction and there are 574 tribes. If you try to say, well, this works for this tribe, it should work for the other 500 plusm and it doesn't because they all have different state laws, tribal codes, and each tribe is different than the other.

Jaclynn McKay [00:13:37] For indigenous persons, are there cultural sensitivities surrounding the use of forensic methods of identification, such as the collection and analysis of DNA from unidentified human remains or families of the missing, or even using services offered by the FBI's CJIS division?

Dustin Driscoll [00:13:58] I can only speak to what my experience has shown, and to be honest, I see both yes and no. I see that, you know, a lot of families can be hesitant to provide DNA, which is extremely helpful in identification, especially if this is involving a long term missing case or just an unidentified human remains case that we believe to be somebody's family member. You know, DNA is very sacred, you know, in the native community. So by asking them to donate that, the questions are, you know, where does it go? Who has access to it? Things like that. So that can be kind of challenging, but I'll be honest, in my experience working with this community in the last six years, especially family members, they're definitely willing to listen. And as long as you give an explanation, they're happy to do it because they really do want to find their loved one and providing DNA really kind of gets them to that next step. So as much as we can find some hesitance, most families are willing to participate and volunteer to submit DNA in the event that we do locate their loved one.

Mark Pooley [00:15:01] Yeah, you know, I agree with Dustin 100%. At the end of the day, our native families that have missing people, they will do what they need to get done to help further their investigation. You know, I've talked to a couple of tribal law enforcement officers throughout the United States, and they're all native. And I've asked them that

question. They said, you know what? They understand the necessity of a proper investigation. Like if we do find evidence, if we do find them and if they are deceased, they want to make sure that justice is is done. And so, yes, there are some cultural things, but again, it's a case by case and there are some families that may give some push back, but I believe that that's rare. At the end of the day, our native people, we understand science. We understand the importance of how the judicial system works and how investigations work. And in fact, I've had families come to me say, hey, can I give my DNA? But again, those resources are not available to them. And so I think that's where NamUs comes in. They have a great platform that is able to help a lot of these native families get those resources as part of the investigation.

Jaclynn McKay [00:16:14] Dustin, have you seen any shifts in the field associated with some of the recent legislation, such as Operation Lady Justice?

Dustin Driscoll [00:16:22] Yeah, we've seen a huge shift, especially over the last few years as a lot of advocacy groups now, volunteer groups, there's a whole community behind missing and murdered indigenous persons right now, which is incredible to see because now we're seeing states pass laws and people going to pass bills and things like that in their communities to try to help with this problem. So Operation Lady Justice actually set aside some money for NamUs. It's about $800,000. And this is helpful when we deal with anything related to tribal cases. So this is education and training for law enforcement. This is doing DNA analysis. Is this fingerprint services, odontology services, investigative genealogy, things like that we are able to tap into some of that funding for our tribal communities. So there's definitely been a major shift as well as just on the federal level. New Mexico FBI at the Albuquerque field office, they have come up with some releasing lists of names of missing individuals who belong to native communities in New Mexico, as well as the Navajo Nation Reservation. And that expands not only through New Mexico, but into Arizona and a small part of Utah. So they started to actually release names and posters and information for the public to access to be able to see, you know, just what the numbers look like in a specific area. So we're seeing a lot of this movement behind legislation and communities that are required to report. Navajo Nation actually just came up with a task force. President Jonathan Nez of the Navajo Nation, him and his wife have really begun spearheading the challenges behind missing and murdered indigenous persons in their community. So they've been having a ton of meetings just to kind of figure out what is the action plan that we need for our criminal investigators and our patrol officers who do respond to these service calls of a missing person. So right now, they came up with a action task force where, you know, they require certain things to be checked off, and one of those being entering cases into NamUs after a certain amount of time. That's kind of what we're seeing in some of the tribal communities, is using more of these databases, making sure cases are not just sitting in desk drawers and they're being in the forefront of the public's eyes because obviously some of these people could be just hiding in plain sight, too. So we do rely on tips and leads. So having a platform that's national and accessible to everyone really can help resolve a lot of these cases.

Jaclynn McKay [00:18:59] Dustin, a lot of your work has occurred along the United States southern border. Has there been any challenges associated with unidentified remains of possible undocumented border crossers found on tribal land?

Dustin Driscoll [00:19:13] Yes, absolutely. I've definitely been working a lot with the U.S. Border Patrol and some of the agencies down in southern Arizona. We're seeing a large amount of unidentified deceased individuals being found along the US-Mexico border. We just so happen to have one of the reservations down that backs up right in from Arizona

into Mexico, and that's the Tohono O'odham reservation. It's a pretty big reservation land and a lot of the tribal law enforcement officers there do stumble across people who are trying to come into the United States from some of our southern countries, such as Mexico, Guatemala, Honduras, I mean, really anywhere. So sometimes it's troubling because the anthropology world, you really need to kind of figure out is this person, what's their race? Is this person going to be more of a Hispanic or is this somebody that actually is part of American Indian, Alaskan native? So that gets challenging because sometimes they use their best educated guesses when it comes to anthropology. So we're definitely seeing that it gets challenging when it becomes, is this a member of my tribal community on my reservation land or is this somebody that has been trying to come through to, you know, come into Arizona or other states? So that is definitely challenging for some of the tribal communities that, especially down on the southern border, because there are just a lot of people who are trying to move through Mexico into the United States.

Jaclynn McKay [00:20:37] Mark, can you explain the importance of repatriation of remains outside of tribal lands?

Mark Pooley [00:20:43] I don't know all the intricacies of how to get the remains back to the families. I do know that the Department of Justice, and I believe it's done through the victim services, they do have a program for the families to help get the remains back, but it's only contingent upon the victim being a victim of a crime. I don't know all the parts of it, but I have heard that there are some federal program that that helps with that.

Jaclynn McKay [00:21:10] Dustin, in your experience, do you know of any resources that are available to assist with this?

Dustin Driscoll [00:21:15] Yeah, and it's pretty - it can be challenging jurisdiction to jurisdiction. A lot of these fall on the medical examiners and coroners. Once they make an identification, a lot of their responsibility is to repatriate back to the family. However, it's costly to do so. So sometimes in certain jurisdictions it does fall on the county or the state even to provide the resources and the funding to be able to do that. However, I don't believe that it's like that in every jurisdiction. So sometimes families do have to contribute some monetary funds for this, but that's tough to do with any family, to be honest. It's costly. So it really depends on the jurisdiction. You know, it is important to be able to reunite the individual with their family, and I know there's been some instances where, you know, we have discovered an individual in a totally different jurisdiction where their tribal lands was in Idaho, but they were deceased in California. So we ended up bringing the remains back to the family for a proper burial with their community. It's really important to be able to do that and to be able to have that closure in the community.

Jaclynn McKay [00:22:24] With regards to unidentified remains of persons with tribal affiliations, are there any challenges in identifying them with regards to DNA databases or fingerprint databases? Are they underrepresented in some of those databases as far as trying to make connections and make identifications?

Dustin Driscoll [00:22:47] Yeah. You know, they can be underrepresented when it comes to certain technologies. So, DNA services could be one of them. But as Mark and I have mentioned, I mean, a lot of families do want to participate. It's whether or not they've been able to do so or not. But when it comes to fingerprints, I mean, that's - there's no way to voluntarily submit fingerprints unless you're applying for a job that requires it, getting a driver's license where they take a thumbprint in certain states that require that, or being arrested, something like that. So it depends on the person and what happens. But, you

know, when it comes to DNA, we're definitely getting a lot more families interested and just kind of talking about it and seeing where it goes, who has access and what happens after the fact. You know, if my loved one is identified, where does my DNA go? Does it stop there? Is it still searching? Is anyone able to access it? So there's a lot of questions that come with it. So it can be underrepresented in certain areas. But again, I think with the more education when it comes to these biometrics and scientific identifications, this is when people learn what we do and how we can utilize these services to hopefully provide an answer to a family member.

Jaclynn McKay [00:24:01] Thank you for that. What additional support is needed for identifying unknown remains and solving cases of missing and murdered indigenous persons?

Mark Pooley [00:24:11] I'm going to go back and refer to the National Center for Missing and Exploited Children. Again, this is for children. And so I know that the resources that NCMEC has are vast. Not only do they get in-kind donations to some of these forensic technology that help further investigation, but they also have a lot of embedded federal partners that they also have different databases where they have access to. But I realize that is that you have to have technology. You have to think outside the box. And our tribal communities, I know that that there are a lot of organizations that want to help, but trying to get into these jurisdictions or to tribal communities sometimes is challenging. You know, this is one of the things I talk about quite a bit is, is our native people, we have a real trust issue with the federal government, with law enforcement, with non-natives. And rightfully so. We have that as history where that trust has to be regained. And so that's why organizations like NamUs, like NCMEC, like the Tribal Access Program, even Amber Alert in Indian Country, they're all trying to help rebuild that trust to bring their technologies to help identify these missing remains. And so I think, just like Dustin said, I really believe that because we have a lot of these grassroots advocacy groups, native groups, they're really trying to say, we need your help. And now people are answering. And so I guess something I'll say to your listeners, if you have a technology, if you have resources, if you have new things that would help in this space, reach out so we can get those to tribal communities to help find these remains of these missing people.

Dustin Driscoll [00:26:00] Absolutely. And I do believe, you know, just as Mark mentioned, you know, it's not only about the technology and the resources, but it's about information sharing and making sure that everybody can participate in these investigations, including family. I mean, nobody wants to find their loved one more than them. So having platforms where you're able to view case files and pictures and tattoos and just information, that's been proven to be hugely successful when it comes to missing and unidentified cases. So not only coming forward with programs and resources and technology and things like that, but making sure that everybody knows about these publicly accessible website. I mean, we have people from all over the world trying to resolve cases that have no affiliation to these families. They just want to help. So by having a community to be able to help other communities is really important and really interesting to see. And we're only seeing it grow and move in an a much better direction where people are starting to notice that these resources are available. The more that we talk about it and the more that bills are passed and people are talking and sharing, social media has been proven to be absolutely huge in finding families and just sharing posters and information. It's incredible to kind of be a part of this movement and watch it grow. And I can only imagine that we're only going to be more successful the more that we have platforms like this, podcasts and just databases and sharing and conversations.

Jaclynn McKay [00:27:34] Mark, as an indigenous person, how would you like to see this movement move forward in the future?

Mark Pooley [00:27:39] Yeah, it's a very good question, Jaclynn. You know, one of the things that as a Native American, I always heard about the MMIP movement, but I just heard about it. I didn't think much about it even as a native. But as I started to meet the families and them telling me about their stories, it really opened my eyes and I've really had to look and say, as an investigator, how can I help? How can I use my knowledge and experience in helping my people? And that's one reason I started my own organization. When I started my organization, Native Search Solutions, I had a vision of how to bring technology and resources to the tribal communities because that's where the gaps are. And I guess my vision even bringing NamUs in this because they have more resources than my organization. I would love to see other organizations or technology come to NamUs and say, hey, we have this technology and we want to help our indigenous people or your indigenous people. And that's my vision. And so for me, I want to find the best organization that will help our native people. And right now, for adults, it's NamUs. For children it's NCMEC. And those are the two organizations I believe in to help in this movement. And just like Dustin said, and he said it very eloquently, it's because of these grassroots advocacy groups that are getting this legislation, these bills passed, to get the funding to our people. And I tell people this Native Americans or indigenous people in the United States, we make up about 1.6% of the U.S. Population. We're very small, but we're a small minority. And I told my own native people this, I go, guys, I hate to say this, but we're not even an afterthought. And that's why we have advocacy group because we need to be heard. And so what I'm hoping is one day our native people, especially our tribal law enforcement and the federal partners, I'm hoping that we start finding our native people. I don't want this tragedy to go to waste. I want it to mean something. I talk to families all over the United States and they told me this in March. You know we don't - I just don't want my daughter or my son to be forgotten. And they said, whatever we can do, let us know. And our native people, that's how we are. We're kind, we're generous, we're helping, trying to help anyone we can. So at the end of the day when someone goes missing, I don't care if you're black, white, brown, yellow, whatever, when you go missing, you have an emptiness in the pit of your stomach. And until you have a resolution to that case, it's always there. And I talk to families that have been missing their loved ones for over 29 years. And it's very disheartening. So that's what I hope to see. As a native person, I'm really hoping that the stuff that we're given or the stuff that we're helping in these cases, we're hoping to build upon it to help the greater good, to help even our non-Native brothers and sisters.

Jaclynn McKay [00:30:47] That is such a great point to end on. Mark and Dustin, it has been a pleasure speaking with you both today. Thank you for your time and for sharing your insight on this movement with our listeners.

Mark Pooley [00:30:58] Thank you.

Dustin Driscoll [00:30:59] Thank you very much.

Jaclynn McKay [00:31:00] If you enjoyed today's episode, be sure to like and follow Just Science on your platform of choice. For more information on today's topic and resources in the forensics field, visit ForensicCOE.org. I'm Jaclynn McKay and this has been another episode of Just Science.

Introduction [00:31:19] Next week, Just Science sits down with Kathrine Pope and Elissia Conlon to discuss human identification efforts related to mass fatality and disasters. Opinions or points of views expressed in this podcast represent a consensus of the authors and do not necessarily represent the official position or policies of its funding.