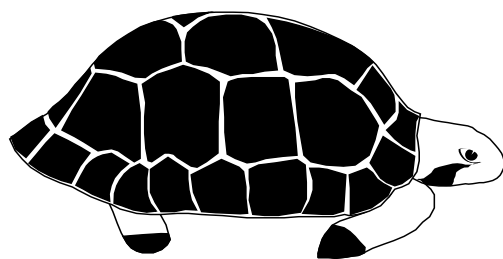


Upon the Back of a Turtle...

*A Cross Cultural Training Curriculum
for
Federal Criminal Justice Personnel*

Justice in Indian Country



Background Information

(Trainer's Information)

for

Justice in Indian Country

Lecture Presentation:

This presentation will provide information on jurisdictional issues in Indian Country. Many times it is difficult and time consuming in determining jurisdiction when working in Indian Country. Because there are many reservations, checkerboard areas and trust land that are adjacent to state jurisdiction it must first be determined who has jurisdiction before it is decided who responds, investigates and prosecutes.

Trainer is to address each of the topics and elaborate each point for participants to better understand the impact of the issues. The activities and discussion questions can be used with the large group or smaller groups can review the questions and report back to the large group. Worksheets to be used for large and small group activities can be found in the back of this section.

Materials in this section:

The following section provides material for trainers to use in presenting the training, including trainers information, overheads, handouts, resources and other information.

Trainer information (background information) is provided for use with this section. This information corresponds with the overheads and handouts.

The overheads are indicated with a divider page and can be reproduced on transparencies.

Handouts are indicated with a divider page and can be reproduced and distributed to participants. Handouts are duplicates of the overheads with three overheads on each page of the handouts.

In addition, other related resources and information is provided that can supplement the presentation.



Justice in Indian Country

Objectives:

1. To provide participants with an overview of the policies that affected law enforcement in Indian Country since the development and implementation of the U.S. Constitution.
2. To provide an overview of the development of CFR, Court of Indian Offenses and Tribal Court systems in Indian Country.
3. To provide participants with specific information on state, federal and tribal jurisdiction in Indian Country, whether dealing with Indian or non-Indian victims and suspects.

Activities:

Lead participants in large or small group discussion of:

- 1) What is the jurisdiction of the federal government with Indian tribes as you see it today? What treaty or policy governs this jurisdiction? Is Indian Country jurisdiction the same throughout the U.S.? Why or why not?
- 2) What are the issues of jurisdiction in your area and how does it affect the work you do? How does it affect the people you serve? How does it affect the working relationships you have developed with other agencies in your area?
- 3) What different criminal jurisdictions are applicable to American Indians, Indian land, trust land, and reservation land?

Master Overheads: N = 15

Master Handouts: N = 6

Discussion Questions:

1. What is the difference between tribal jurisdiction and federal jurisdiction in Indian Country?
2. What is the difference between sovereignty and jurisdiction? How does this affect state and federal jurisdiction?
3. How does one group assume the authority to pass and enforce laws affecting the property and conduct of another group?
4. How can the federal government impose laws in Indian Country when it is a sovereign land?

The terms Native American and American Indian are used interchangeably. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.



Justice in Indian Country

contributed by Ron Hall, Esq.

Introduction

The maintenance of tribal jurisdiction and the effective administration of justice in Indian Country are the heart and soul of tribal sovereignty and the survival tools for the various cultures and traditions of Native Americans. There are many facets to the concept of "Justice in Indian Country." Many on the "law enforcement" side see the justice issue in terms of cause and effect. The diverse nature of criminal activity and the societal forces that produce contributing factors occupy the law enforcement analysis. A related side of the issue is the victim assistance realm that has emerged as a significant area of activity, supporting victim recovery and participation in the prosecution of alleged offenders. A bit further removed is the civil rights component of justice issues, reflecting the need for fair enforcement and application of criminal statutes against Indian citizens and the equal protection and enforcement of such laws for Indian individuals and communities.

The face of crime has shown itself to be illusive. Common economic crimes such as theft, burglary, and larceny are accepted as events that will be committed by a given portion of the population. However, the recognition of more difficult covert activities such as child sexual abuse, elder abuse, gangs and an epidemic of highly addictive substances have challenged the traditional mode of law enforcement to develop special techniques, training, and multi-disciplinary teams.

Crime involves itself in Native American society on many levels. Native Americans are disproportionately over-represented in our nation's prison systems. We know from personal experience the roles of crime victim and criminal. Some issues are more prominent in a Native American context than in other communities. Examples include:

- the inflexibility of federal sentencing guidelines mean Native offenders often serve longer sentences than persons convicted under comparable state statutes;
- the fact that tribal communities have little or no role in passage of federal or state criminal statutes;
- the fact that tribal communities have little or no role in establishing federal or state priorities for allocation of law enforcement resources;
- federal and state juries are rarely composed of people from reservation communities; and,
- federal and state witness-victim coordinators are often located long distances from tribal communities.



Definition of Indian Tribe and Sovereignty

- There is no single federal statute defining an Indian tribe for all purposes, although the Constitution and many federal statutes and regulations make use of the term.
- The Supreme Court has repeatedly ruled that the determination of whether, to what extent, and for what time a group is recognized and dealt with as a dependent tribe requiring the guardianship and protection of the United States to be determined by Congress, and not by the courts. United States v. Sandoval, 231 US 28 (1913).
- Defining Indian tribes as sovereign entities has two significant implications for their relationship with the United States government. First, the tribes are said to be “dependent” upon the federal government for protection. This protection has taken the form of the trust relationship with the federal government having a trustee role in administering the trust property of the beneficiary Indian tribes. The second result of the tribe’s sovereign status is that tribes continue to be ruled by their own laws. Today it is clear that tribal governments exercise legislative, judicial, and regulatory powers and that authority is derived from aboriginal sovereignty, not delegated from the federal government. Indian governments are rapidly expanding their operations to implement their police power through tribal courts, zoning ordinances, taxation bureaus, environmental controls, business and health regulation, and fisheries and water management codes.
- Webster's Dictionary defines sovereignty as, a) supreme power especially over a body politic; b) freedom from external control, autonomy; c) controlling influence; d) one that is sovereign, *especially* an autonomous state.
- The concept of defining an Indian tribe as a sovereign entity with a defined structure and membership was largely for the convenience of invading European governments and the federal government. Originally, the definitional question arose in connection with treaty relations, as it was necessary to determine which groups were political entities for the purpose of negotiating treaties. Treaty making was part of the colonizing process and tribes were identified and treated as sovereigns to the extent necessary to procure their consent to cession of their right to occupy the land.
- More recently, it has been necessary to identify eligible tribal participants in federal programs including environmental protection, infrastructure development, public housing, and local government programs.
- Tribal sovereign rights to make and enforce laws without federal or state constraints, continue so long as those rights are not voluntarily ceded in



treaties or other negotiations approved by Congress, or not extinguished by Congress. When cessions are made or rights are extinguished by an Act of Congress, the cession or Congressional act is to be construed narrowly as affecting only matters specifically mentioned.

Definition of Indian Country

- While the public is probably most familiar with the term Indian reservation, for most jurisdictional purposes the governing legal term is “Indian Country.” Originally enacted in 1949, Indian Country is defined comprehensively at 18 U.S.C. §1151 as follows:

§ 1151. Indian Country defined

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian Country," as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

- In 1913 the Supreme Court held that an Indian reservation is Indian Country, and Congress relied on this decision in enacting §1151 in 1949. However, the wording of §1151(a) comes primarily from the Indian Major Crimes Act, whose jurisdiction was not tied to the term “Indian Country” until 1948. The Indian Major Crimes Act was first passed in 1885 to provide for federal punishment of seven felony offenses when committed by an Indian within a federal territory or “within the boundaries of any State of the United States, and within the limits of any Indian reservation.” The term “Indian reservation” originally meant any land reserved from an Indian cession to the federal government regardless of the form of tenure. During the 1850’s, the modern meaning of Indian reservation emerged, referring to land set aside under federal protection for the residence of tribal Indians, regardless of origin. This meaning of Indian reservation was intended in the 1885 Indian Major Crimes Act.
- The statutory words “all land” and “notwithstanding the issuance of any patent” were added in the 1948 codification of the definition of Indian Country. These terms include in the definition of Indian Country, Indian allotments within reservations; this continued prior case law both as to Indian Country and the Major Crimes Act. The quoted terms also include federal land located within Indian reservations but reserved for the Bureau of Indian Affairs



or other government purposes. The most important effect of these terms is to resolve several problems generated by the prior law regarding unrestricted fee simple lands within reservation boundaries, which had tied Indian Country status to Indian land title.

- Fee lands are fee in simple patents given to Indian allottees after the 1892 allotment, to be held in trust by the U.S. for 25 years. After 1917 if the individual allottee did not get fee in simple for the allotment, their land remained Indian land in trust by the U.S.
- While §1151 appears in the federal criminal code, the Supreme Court has stated that the statute's definition generally applies also to questions of federal civil jurisdiction and to tribal jurisdiction.

Historical Context of Indian Country Justice (Who's In Charge Here Anyway?)

- Tribal culture has experienced over 200 years of change. With the arrival of Europeans, and their willingness to kill for the sake of property in the name of their religion and foreign government, came the demise of traditional communities and traditional law enforcement. Tribes have experienced reformist paternalism at the hands of federal and state governments. With a few exceptions, through the process of war, all Indian men, women, and children were forced to surrender and experienced prisoner of war conditions. United States military personnel replaced the authority of traditional law enforcement, and eventually tribal members were selected and hired by the military.
- Even though most of the federal laws governing Indian affairs were enacted by Congress after adoption of the Declaration of Independence, the treatment of Native Americans and notions of justice have important historic roots. How does one group assume the authority to pass and enforce laws affecting the property and conduct of another group?

Pre-Columbian

- Tribes established justice systems within the parameters of cultural needs and customs. Social norms for punishment, retribution, and responsibility were derived from a wide range of tribal groups, associations, and confederations. Intra and inter-tribal constructs for justice administration evolved through purely tribal means.
- Law enforcement has a traditional role in most, if not all, tribal cultures. In any given tribe one could expect to find a society, clan or organization that functions to identify and punish wrongdoers, and obtain some measure of retribution or compensation for victims. The authority of such law



enforcement groups was defined and communicated through oral traditions and storytelling. People learned from an early age who "law enforcement" was, what behavior they were authorized to correct, the punishments that were administered, the expected conduct of the law enforcers, and other attributes of that system through stories. In that traditional communal lifestyle, close living with others meant few secrets were kept, especially acts of violence or abuse. The pace of life was slower and many members easily observed much of the community activity. To a large extent, the welfare of individuals depended on the welfare of the group, so individuals took an interest in the security and safety of others.

Assertion of Foreign Sovereignty – the Catholic Church

- The Catholic Church, and in particular the Pope, constituted the dominant political and legal institution of Western Europe throughout the Middle Ages and early Renaissance. Through early Church doctrine, the Pope was divinely designated as shepherd of Christ's Universal Flock and claimed supreme spiritual jurisdiction over the souls of all humankind. The Crusades to the Holy Lands of the 11th through 13th Centuries represented the first large-scale effort by the Catholic Church and Christian European military leaders to implement the Papacy's theoretical universal authority over non-Christian peoples outside Europe. These Papally sanctioned and directed holy wars were fought under the legal justification that as "heathens and infidels," the non-Christian peoples who occupied and possessed Jerusalem and the eastern Mediterranean could be conquered and displaced by Christian European princes and their armies, acting on orders from the Pope in Rome.
- Though seemingly unrelated to the events following Christopher Columbus' emergence in the New World in 1472, the Crusades generated a large collection of legal opinions and theories on the rights and status of non-Christian peoples. It was the same Crusading-era ideas that were later applied to the "discovery" of new territories by Christian Europeans, first in Africa and then in the New World.
- Columbus apparently presumed that he could lawfully claim "discoveries" of already inhabited territories for the Spanish Crown wherever he encountered indigenous peoples who diverged from Christian European cultural norms of religious belief and civilization. Upon hearing word of Columbus' encounters, the Pope issued a series of pronouncements confirming Columbus' "discoveries" on behalf of Spain.

The U.S. Constitution

- The U.S. Supreme Court has alluded to several federal constitutional powers as supporting legislative and executive authority over Indian affairs. This includes the Treaty Clause, the War Power, and the Property Clause.



- Today federal power over Indian affairs is accepted as tracing primarily to the Indian Commerce Clause, Article I, Section 8, Clause 3. This is the only express grant of federal power over Indians; Congress is authorized "to regulate Commerce . . . with the Indian Tribes."

War Department

- Law enforcement became bureaucratic in the military structure of the War Department. During the first five weeks of the first Congress of the United States four statutes were enacted that established the basic outlines of early Indian legislation. The first of these statutes, the Act of August 7, 1789, established the Department of War. The Act provided that the Department had responsibility for, in addition to its primary military affairs, "such other matters . . . as the President of the United States shall assign to the said department . . . relative to Indian affairs."

Department of the Interior

- Eventually, administrative responsibility passed to the Department of the Interior and the Bureau of Indian Affairs. External forces (Congress) assumed authority to establish the framework of law enforcement, including the definition of criminal acts, punishment for violators, jurisdiction to enforce laws, and funding for the high overhead system. The practical elements of a law enforcement system were dictated by and funded through Congress.

Code of Federal Regulations Courts

- In the 1870's, the federal government placed "Indian police" on the reservations to maintain law and order. In 1878, Congress appropriated money to pay them. By 1881, Indian police could be found at 49 of the 68 agencies.
- Until 1884, Indians arrested by the Indian police were tried and sentenced by federal agents. In that year, codes of offenses were drafted for the reservations and Courts of Indian Offenses were established. Despite widespread resistance to the imposition of these judicial systems, by 1890 such courts existed at most of the agencies. Most of the Pueblos, however, retained their traditional methods of justice. Courts of Indian Offenses operated according to Department of Interior regulations; no legislation was enacted to define their jurisdiction or to govern their procedures. No procedural protections were extended to criminal defendants.
- The tribal constitutions that resulted from the Indian Reorganization Act of 1934 (IRA) did little to remedy the deficiencies of the Courts of Indian Offenses. They did not expressly create tribal courts, nor did they outline their structure; the typical IRA constitution, patterned after a model prepared by the Department of the Interior, merely authorized the tribal council to



establish a court system by ordinance and to adopt a law and order code. This subordination of the judicial system to the tribal council began what has become a major hindrance to the development of effective tribal court systems - lack of separation of powers between these branches of government.

- In 1935, the Department of the Interior issued revised regulations to govern the Courts of Indian Offenses and the Indian police. These regulations have not been changed substantially since that time. The courts became known as C.F.R. courts, a reference to the source of the regulations governing them (Code of Federal Regulations). The regulations indicated that they would remain effective on the reservations of tribes newly organized under the IRA until a tribe adopted and implemented its own law and order code.
- Like the tribal constitutions, the law and order codes that resulted were generally patterned after the Department of the Interior model, the 1935 regulations. In practical terms, then, the new "tribal courts" which came into existence were, by and large, simply C.F.R. (Code of Federal Regulation) courts by another name; in terms of structure and procedures; the two systems were practically identical. Lacking independent legal expertise, many of the tribes that did not adopt standard IRA constitutions also used the 1935 regulations as models for their law and order codes. On those reservations that did not establish tribal courts, C.F.R. courts continued to administer justice.
- The regulations and Solicitor opinions restricted the jurisdiction of courts operating in Indian Country. Specifically, the 1935 regulations and the codes which used them as models provided for the assertion of criminal jurisdiction over members of federally recognized tribes only. In addition, these codes excluded from tribal court jurisdiction, offenses covered by the Major Crimes Act, even though the act does not expressly make federal jurisdiction exclusive. Many of the tribal constitutions limited civil jurisdiction to "Indians" and required the consent of non-Indian defendants to civil suit.

Federal Policies

Pre-Constitution Policy (1533-1789)

- Representatives of British and Spanish colonies negotiated treaties with Indian tribes. Treaties are agreements between two sovereign governments, and are considered to be the supreme law of the land.
- These treaties had the effect of according tribes an equivalent status to that of the colonial governments.



The Formative Years (1789-1871)

- The new U.S. government assumed the role of the British and Spanish governments in making treaties with Indian tribes. U.S.-tribal treaties are indexed in international law publications with treaties made by all other nations of the world.
- Federal policy instead of state policy dominated because the United States Constitution specified in Article 1, Section 8 (Commerce Clause) that, "The Congress shall have the power to... [t]o regulate Commerce with foreign nations and among the several states, and with the Indian tribes."
- The Marshall Trilogy (*Johnson v. McIntosh* - 1823; *Cherokee Nation v. Georgia* - 1831; *Worcester v. Georgia* - 1832) handed down by the Supreme Court further defined the relationship tribes had with the U.S. government, and established the doctrine of federal trust responsibility.

The Era of Allotment and Assimilation (1871-1928)

- The U.S. quit making treaties with tribes during this time. One of the reasons for this was that treaty making was seen as an impediment to the assimilation of Indians into "white" society.
- To encourage assimilation, Congress passed the General Allotment Act of 1887 (also called the Dawes Act). This act changed the communal ownership of tribal lands to individual ownership. Each Indian male over 18 years old was given an allotment of acres and the rest of the tribal lands, considered to be "excess" were sold to non-Indians.
- The Indian Citizenship Act was passed in 1924. This granted Indians United States citizenship for the first time.

Reorganization Era (1928-1945)

- The Merriam Report of 1928 set the tone for reform. It declared allotment to be a complete disaster.
- The Indian Reorganization Act of 1934 set up Reservation Business Councils to govern tribes, and provided for the adoption of constitutions and the granting of federal charters.

Termination Era (1945-1961)

- Legislation passed that called for a reversal of the tribal self-government movement previously endorsed and called for an end to the trust relationship between federal and tribal governments.



- This resulted in the termination of more than 50 tribal governments. The federal government simply no longer recognized them as Indian Nations.
- Public Law 280, passed in 1953, gave six states mandatory and substantial criminal and civil jurisdiction over Indian Country. The states included were Alaska (except for Metlakatla Reservation), California, Minnesota (except Red Lake Reservation), Nebraska and Oregon (except Warm Springs Reservation). Ten other states also opted to accept some degree of P.L. 280 jurisdiction. They are: Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah and Washington.

Self-Determination Era (1961-present?)

- The abuses of the termination era led to reforms. This period has been characterized by expanded recognition of the powers of tribal self-government.
- Important legislation includes: Indian Civil Rights Act of 1968, Indian Self-Determination and Education Assistance Act of 1975, Indian Child Welfare Act of 1978, American Indian Religious Freedoms Act of 1978 and Native American Graves Protection and Repatriation Act of 1990.



Jurisdiction: The Modern Quagmire

Indian Country Jurisdiction for Public Safety Dispatchers *by Alan Mentzer*

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This article can be found on
page 36 of the Sept/Oct 1997
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This article can be found on the World Wide Web at:
<http://www.9-1-1magazine.com/MAGAZINE/1997/0997/features/mentzer.html>

Former Chief of Police [Alan Mentzer](#) is a Professor and Chairman of the Criminal Justice Department of the Truckee Meadows Community College in Reno, Nevada.

Dispatcher: "9-1-1 dispatch, do you need police, fire, or medical assistance?"

Citizen: "Help! There's a dog chasing kids and it just bit one bad. Send someone to Fourth and Jackson Streets in Wadsworth."

Dispatcher: "Yes, ma'am, I'll have Tribal police, deputies, and an ambulance on the way. Do you know if it's an Indian or non-Indian dog?"

While this conversation may sound bizarre to public safety operators in locations outside Indian Country, this is not an unheard of conversation in dispatch centers who provide services to Native American reservations. While the dispatch center will send the closest unit to stabilize an emergency, the ownership of the vicious dog may decide whether this incident is handled by Tribal police or deputy sheriffs and whether the case is adjudicated in Tribal or State court.

Even for experienced dispatchers working multi-jurisdiction communication centers, there remains a great deal of confusion when dispatching calls-for-service in areas within and adjacent to Indian Country. Misunderstanding jurisdiction has led to criminal cases being dismissed, cover units being refused, and failures to serve the public properly.

What is "Indian Country?"

"Indian Country" is defined by Chapter 18, Section 1151 of the United States Code. In simple terms, Indian Country is any land granted by treaty or allotment to Native American nations, tribes, reservations, communities, colonies, or individuals and recognized by the federal government. There are about 285 federally recognized reservations, colonies, and communities in the United



States. Reservations may consist of two or more traditional tribes because of relocation dating from the 1800s.

Most reservations are in isolated rural settings. But there are several reservations, like the Salt River Pima-Maricopa Community outside Phoenix, Arizona or the Reno-Sparks Indian Colony in Nevada, which are located within major metropolitan areas.

Indian Country Jurisdiction

Congress in 1953 enacted Public Law 88-280 (P.L. 280) which eliminated criminal jurisdiction for tribes in California, Nebraska, and Wisconsin. It also eliminated criminal jurisdiction in Oregon and Minnesota except the Warm Springs (Oregon) and Red Lake (Minnesota) reservations. In Alaska, only the Annette Islands and the Metlakatla Indian Community retained sovereignty in criminal matters.

These tribes' previous criminal jurisdiction over Indians was conveyed to state authorities. Indian lands in these states are policed by local or state officers and adjudicated in state courts; tribes retained civil authority over non-Indians in P.L. 280 states.

Indian Country in non-P.L. 280 states has been policed in two ways. The traditional manner was the use of police officers from the U.S. Bureau of Indian Affairs (BIA). The current trend is for tribes to administer their own police departments like any other governmental entity. In a few instances, tribes have contracted police services from local or state agencies.

In non-P.L. 280 states there exists what the Indian Country Section of the International Association of Chiefs of Police calls a "tripartite" system of law enforcement. Criminal jurisdiction is shared between tribal, state, and federal authorities. Table 1 graphically explains this matrix of jurisdiction.

In deciding jurisdiction, one of the first things that a dispatcher has to determine is whether the crime took place on Indian Country. This requires a dispatcher to be aware of tribal boundaries. The second question is whether the victim or suspect is Indian or non-Indian. In a time when most professional public safety agencies pride themselves on being "color blind" in their service to the public, ethnicity in Indian Country is the major issue in deciding jurisdiction. To further complicate matters, there is no one definition of what being Indian is.

Who is an Indian?

Native Americans are legally defined as members of one of the 545 federally recognized Indian tribes. A Native American tribe is a group which share a common social, political, religious, and geographic heritage. Each of these tribes



decides its own requirements for membership. Some tribes demand 50% or 25% blood ancestry while others require only proof of lineage to a tribe.

Indians are not required to live on reservations, but many do so by choice. Native Americans can be elected to public office, are subject to the military draft, and pay taxes. Contrary to popular beliefs, Indians do not receive monthly checks from the government just for being Indian and the vast majority of tribes are not earning major revenues from gambling or mining. There are many "urban Indians" who maintain their cultural identities, but are generations removed from living on a reservation.

Jurisdictional Questions For The Dispatcher:

Dispatchers in non-P.L. 280 states who serve jurisdictions in or adjacent to Indian Country, should be aware of the following:

1. State Jurisdiction in Indian Country

Local and state law enforcement agencies have jurisdiction over non-Indian against non-Indian crimes in Indian Country. These crimes will normally be adjudicated in state court. A highway patrol trooper or deputy sheriff in Indian Country can arrest a non-Indian for reckless driving or for domestic battery and prosecute the defendant in state court. Dispatchers can send local and state officers to non-Indian crimes on a reservation.

2. Exclusive Jurisdiction over Indian Offenders

Federal and tribal law enforcement agencies have exclusive jurisdiction over Indian offenders in Indian Country. Tribal or BIA officers will normally arrest misdemeanor offenders within Indian Country and prosecute in tribal court. The FBI, BIA investigators, or tribal investigators with federal authority will arrest felony offenders and prosecute in federal court.

State courts have no jurisdiction to prosecute Indian offenders for offenses committed in Indian Country. Local or state agencies, absent a cross-deputization or mutual agreement, can legally detain (but not arrest) an Indian offender for federal or tribal officers. Local or state officers who have BIA Deputy Special Officer Commissions cannot normally arrest Indian offenders for traffic or misdemeanors, but only assist in felony arrests. Under the Indian Law Enforcement Reform Act, such arrests cannot be made unless the reservation involved has granted tribal jurisdiction to BIA Officers or cross-deputized local or state officers.

3. Service of Warrants and Civil Process

Local and state peace officers can serve non-Indians with arrest or search warrants on non-Indians in Indian Country. They cannot serve state warrants, subpoenas, domestic violence protection orders, or other civil process on Indians in Indian Country.



Local or state officers have inadvertently made false arrests and illegal searches because the officers did not realize they were inside tribal boundaries. The courts view tribal sovereignty in same light as state sovereignty. A local officer entering a reservation to make an arrest is viewed the same way as a California officer going to Oregon, arresting a suspect, and bringing him back to California without extradition proceedings.

Dispatchers will often receive telephone calls from citizens and victims about a suspect, a subject to be served process, or stolen property located at a residence in Indian Country. A dispatcher needs to be able to explain to a caller how jurisdiction greatly complicates these kinds of calls.

To make a legal arrest or properly serve state legal process in Indian Country, a state warrant or process needs to be endorsed by tribal or federal court. Tribal or BIA officers can then make the arrest or service. This situation is really no different than warrants and process being served across state lines. A domestic violence protection order from Kansas City, Missouri cannot be immediately served in Kansas City, Kansas. A search warrant issued in Stateline-Lake Tahoe, Nevada cannot be automatically served in the adjacent city of South Lake Tahoe, California.

4. Fresh Pursuits

Dispatchers need to be aware of the unique legal circumstances in cases of fresh pursuits of Indian offenders from state land onto Indian Country by local or state officers. The incident is similar to chasing a suspect from one state into another. Normally the pursuing local or state officers will continue the pursuit while notifying the tribal jurisdiction that a pursuit has entered the reservation. Should the local or state officers stop the suspect, they can only detain the defendant until tribal or BIA officers arrive.

A local and state officer cannot immediately remove the Indian offender from Indian Country and return him to state land. Tribal sovereignty is comparable to national or state sovereignty. An Arizona officer cannot arrest a pursued offender who was chased into New Mexico and return him to Arizona without a formal extradition hearing.

After the defendant is stopped in Indian Country, there are two courses of action for tribal or BIA officers to follow. The first is for the tribal officer to arrest for violations committed within the reservation (i.e., reckless driving). If the tribal police department books its arrestees at a jail located off Indian Country, state charges may be filed once the Indian offender is off the reservation. Such an arrest made by tribal officers, though, must be for a legitimate offense, not as a pretext arrest to circumvent extradition.

In the second case, if the arrestee is booked at a tribal jail located within Indian Country or if no offense was committed on the reservation, a state arrest warrant



needs to be sought. The state arrest warrant needs to be endorsed or a formal extradition hearing held in tribal or federal court. Once the tribal or federal magistrate approves extradition, tribal or BIA officers can arrest and surrender the defendant to local or state officers. While this procedure seems unwieldy, it is the same procedure that takes place everyday between states and the U.S. and Canada.

Three-Prong Test for Determining Jurisdiction

At the Federal Law Enforcement Training Center, B.T. Baker instructs Indian Country jurisdiction to federal officers and investigators. Because of his background as both a working federal agent and attorney, he created a simple three-prong test that can help dispatchers decide appropriate jurisdiction. The use of B.T. Baker's Three-Prong test, detailed in Table 2, by telephone complaint takers or dispatchers can help clear up confusion in most multi-jurisdictional incidents.

These tools can help dispatchers have a better understanding of Indian Country jurisdiction and help them serve the public while recognizing the unique legal right of tribal sovereignty. As professionals in Public Safety Communication, knowledge of this unique area of law will greatly assist dispatchers in providing all citizens with public safety services including America's original people.



Table 1

Indian Country Jurisdiction In Criminal Cases
(Non-PL-280 States)

SUSPECT	VICTIM	JURISDICTION
Indian	Indian	<ul style="list-style-type: none">• Misdemeanor: Tribal jurisdiction• Felony: Federal jurisdiction• No state jurisdiction• No federal jurisdiction for misdemeanors
Indian	Non-Indian	<ul style="list-style-type: none">• Misdemeanor: Tribal jurisdiction• Felony: Federal jurisdiction• No state jurisdiction
Non-Indian	Indian	<ul style="list-style-type: none">• Misdemeanor: Federal jurisdiction• Felony: Federal jurisdiction• Normally no state jurisdiction, but U.S. Attorney may elect to defer prosecution to the state.• No Tribal jurisdiction
Non-Indian	Non-Indian	<ul style="list-style-type: none">• Misdemeanor: State Jurisdiction• Felony: State jurisdiction• Normally U.S. Attorney will decline prosecution.• No Tribal jurisdiction
Indian	Victimless	<ul style="list-style-type: none">• Misdemeanor: Tribal jurisdiction• Felony: Federal jurisdiction
Non-Indian	Victimless	<ul style="list-style-type: none">• Misdemeanor: Usually state jurisdiction• Felony: Usually state jurisdiction• Normally U.S. Attorney will decline prosecution.

Reference:

1. "Crime in Indian Country," Indian Country Section, International Association of Chiefs of Police.
2. U.S. Attorney's Manual, Title 9, Criminal Chapter 20, Section 230.



Table 2

Public Safety Dispatcher's Three-Prong Test for Determining Criminal Jurisdiction in Indian Country (Non-PL-280 states)

1. Did the crime occur on state land or Indian Country land?

a. If offense occurred on state land, it is state jurisdiction whether or not the victim or offender is Indian. (Local and state officers or federal and tribal officers with state authority can make arrests and the cases are prosecuted in *state court*.)

b. If the crime occurred in Indian Country (a federally recognized Native American reservation, community, colony, or allotment), go to Question 2.

2. Is the offender or victim a Native American?

a. If neither subject is Indian, it is state jurisdiction. (Local and state officers or federal and tribal officers with state authority can make an arrest and the case is normally prosecuted in *state court*.)

b. If the offender or victim is Indian, go to Question 3.

3. Is the crime a felony or misdemeanor?

a. Felony and Major Crimes committed by Indians and non-Indians are normally prosecuted in *federal court*. Federal or tribal officer may arrest, state officers normally have to have authority. (In some cases the U.S. Attorney will exercise comity and refer prosecution of non-Indian offenders who victimized Indians to state courts.)

b. Misdemeanor offenses committed by Indians are criminally prosecuted in *tribal court*. (Tribal officers or federal officers with tribal authority may arrest or cite.)

c. Misdemeanor offenses committed by non-Indians may be *civilly* prosecuted in *tribal court* or *criminally* prosecuted in *state court*. (Tribal officers or federal officers with tribal authority may arrest or cite into tribal court; local or state officers or tribal officers with state authority may arrest or cite into state court.)

Reference: B.T. Baker, Legal Instructor, Federal Law Enforcement Training Center, U.S. Department of the Treasury.



Public Law 280

- State laws have generally been held to be inapplicable within the boundaries of an Indian reservation, based upon the rationale of infringement upon tribal self-government and federal pre-emption.
- Public Law 280 adds further complexity to the jurisdictional scheme. Enacted in 1953, it resulted from an attempt by Congress to resolve the question of state jurisdiction over Indians. It provided for the assumption of criminal and civil jurisdiction over Indians by six states, and gave other states the option of assuming such jurisdiction, "at such time and in such manner as the people of the State shall, by an affirmative legislative action, obligate and bind the State to assumption thereof." In 1968, the act was amended to require tribal consent to the assumption of jurisdiction by "optional" states and to authorize retrocession by a state of jurisdiction already assumed under the act.
- Public Law 280 departs from the traditional principle that a state has no jurisdiction on an Indian reservation, by conferring upon six specified states general civil and criminal jurisdiction within reservations. Public Law 280 explicitly stated that it did not authorize the "alienation, encumbrance, or taxation of any real or personal property," nor was it to be applied in such a manner as to deprive an Indian tribe or group "of any right, privilege, or immunity afforded under federal treaty, agreement, or statute with respect to hunting, trapping, or fishing, or the control of licensing or regulation thereof." The extension of civil jurisdiction under Public Law 280 is limited to the availability of state courts to hear civil causes of action arising upon Indian reservations. Bryan v. Itasca County, U.S. (No. 75-5027, June 14, 1976).

Major Crimes Act

18 USC § 1153. Offenses committed within Indian country

- (a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian Country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.
- (b) Any offense referred to in subsection (a) of this section that is not defined and punished by federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense



- By virtue of the Major Crimes Act, the federal government is vested with jurisdiction over fourteen specific offenses committed by Indians against the person or property of other Indians. With the exception of the fourteen offenses enumerated in the Major Crimes Act, tribes retain sole and exclusive jurisdiction over offenses committed by Indians which do not affect the person or property of non-Indians. The tribal and federal governments share concurrent jurisdiction over offenses committed by Indians against the person or property of non-Indians, and appear also to share concurrent jurisdiction over conduct punishable under the Major Crimes Act.

Assimilative Crimes Act

- In 1825, Congress enacted a second jurisdictional statute known as the Assimilative Crimes Act. This Act provided that state criminal laws not otherwise included in the federal criminal code were incorporated into federal law by reference and made applicable to federal enclaves. A violator of the Assimilative Crimes Act is charged with a federal offense and is tried in federal court, but the crime is defined and the sentence is prescribed by state law.
- In 1946, the U.S. Supreme Court ruled that the Assimilative Crimes Act applies in Indian country. Under this ruling, the criminal laws applicable to Indian country and subject to federal jurisdiction include both federal enclave crimes and state crimes not otherwise included in the federal criminal code. The Assimilative Crimes Act is relevant because it is one of the general laws of the United States that is extended to Indian country by the General Crimes Act.
- The scope of the General Crimes Act and the Assimilative Crimes Act is limited by two statutory exceptions and one judicially created exception. The exemptions include:
 1. offenses committed by one Indian against the person or property of another Indian;
 2. offenses over which criminal jurisdiction has been conferred on a particular tribe by treaty; and
 3. according to Supreme Court cases, crimes committed in Indian Country by a non-Indian against another non-Indian.
- The General Crimes Act extends only to crimes in which an Indian is involved as either a defendant or a victim.



Indian Civil Rights Act

- In 1968 Congress enacted the Indian Civil Rights Act. The act mandates restrictions on the exercise of tribal government similar to those imposed by the first ten amendments to the United States Constitution. Section 1303 authorizes federal jurisdiction in certain cases:

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

American Indians and Crime

The following information represents a compilation and new analysis of data on the effects and consequences of violent crime among American Indians. This report uses data from a wide variety of sources, including statistical series maintained by the Bureau of Justice Statistics (BJS), the FBI, and the Bureau of the Census. Data are reported from American Indian crime victims on how they were affected by the victimization and about who victimized them. The report also includes the first BJS estimates of the total number of American Indians under the custody or supervision of the justice system.

This report is the first step in a vigorous effort to document issues of crime and justice affecting American Indians. Statistical programs have been instituted to learn more about tribal criminal justice agencies, such as law enforcement and confinement facilities, and these will complement data available from other BJS series covering the justice system.

Highlights

- American Indians are more than twice as likely as others to become victims of violent crimes.
- American Indians suffer 124 violent crimes - murders, assaults, robberies and rapes - for every 100,000 persons. This is double the violent crime rate for Blacks and 2.5 times the national average of 50.
- The murder rate among American Indians is no higher than for Whites and only one-fifth as high as among Blacks.
- American Indians are twice as likely as Blacks and three times more likely than Whites to become victims of rape or aggravated assault.
- On any given day, 25 Indian adults are either incarcerated or on probation or parole.



- Indian children are more likely to be abused than those of any other ethnic group. Reports of child abuse and neglect among American Indians jumped 18 percent between 1992 and 1995 as the national rate was falling by 8 percent. Law enforcement officials suspect this is due to better reporting.
- An estimated 63,000 American Indians, or 4 percent of the adult population, are jailed or otherwise under control of the criminal justice system on an average day. This compares to 2 percent of Whites and 10 percent of Blacks.
- Family violence is no bigger a problem among American Indians than for the rest of the population.
- American Indians are more likely to be abused than those of any other ethnic group.
- There are 1,600 bureau and tribal law enforcement officers patrolling 56 million acres of Indian land. This is 1.3 officers for every 1,000 residents compared with 2.9 officers per 1,000 residents in non-Indian rural communities.

Violent Victimitizations, 1992-96

Number of violent victimizations per 1,000 persons age 12 or older	
All races	50
American Indian	124
Black	61
White	49
Asian	29

- American Indians* experience per capita rates of violence which are more than twice those of the U.S. resident population. (* Include Alaska Natives and Aleuts. Asians include Hawaiian Natives and Pacific Islanders).
- The murder rate among American Indians is 7 per 100,000, a rate similar to that found among the general population. The rate of murder among Blacks is more than 5 times that among American Indians.



Age of Victim, 1992-96

Rate of violent victimization per 1,000 persons in each group		
Age of Victim	All races	American Indians
12-17	116	171
18-24	100	232
25-34	61	145
35-44	44	124
45-54	27	43
55 or older	9	14

- Nearly a third of all American Indian victims of violence are between ages 18 and 24. This group of American Indians experienced the highest per capita rate of violence of any racial group considered by age - about 1 violent crime for every 4 persons of this age.

Sex of Victim, 1992-96

Rate of violent victimization per 1,000 persons age 12 or more in each group		
Sex of Victim	All Races	American Indians
Male	60	153
Female	42	98

- Rates of violent victimization for both males and females are higher among American Indians than for all races. The rate of violent crime experienced by American Indian women is nearly 50% higher than that reported by Black males.

Offender Race, 1992-96

Race of Victim	% of Violent Victimization that were interracial
American Indian	70%
Black	19
White	31
Asian	68

- At least 70% of the violent victimizations experienced by American Indians are committed by person not of the same race - a substantially higher rate of interracial violence than experienced by White or Black victims.

Alcohol use by the Offender, 1992-96

Race of Victim	% of Victims of Violence Reporting Offender Drinking
American Indian	46%
Black	28
White	36
Asian	22



- American Indian victims of violence were the most likely of all races of victims to indicate that the offender committed the offense while drinking.

Weapon Use by Offender, 1992-96

Percent of violent victimizations or murders		
	All Races	American Indians
Firearm in non-lethal violence*	11%	13%
Handgun in lethal violence**	50%	28%

* Average annual percentage, 1992-96

** Percent of murders, 1976-96

- More than 10% of American Indian non-lethal violent victimizations involved a firearm. American Indian murder victims were less likely to have been murdered by a handgun than victims of all races.

Crimes Reported to the Police, 1992-96

Race of Victim	% of Violent Victimization Reported to the Police
American Indian	46%
Black	50
White	41
Asian	39

- American Indian victims of violence reported the crime to the police at about the average rate for all races.

Arrests of Adults and Youth, 1996

Number of arrests for violent crimes per 100,000 persons in each group		
Race of Arrestees	All Ages	Under Age 18
American Indian	291	294
Black	937	1,356
White	182	283
Asian	98	192

Arrests for Drug and Alcohol Offenses, 1997

Number of arrests per 100,000 persons		
Arrest Offense	All Races	American Indian
Drug	592	344
Alcohol related	1,064	2,550

- The 1997 arrest rate among American Indians for alcohol-related offenses (driving under the influence, liquor law violations, and public drunkenness) was more than double that found among all races. Drug arrest rates for American Indians were lower than average.



Under Correctional Supervision or Control, 1997

Total under correctional supervision or control pr 100,000 adults	
U.S. Total	2,907
American Indian	4,193
Black	9,863
White	2,036
Asian	414

- An estimated 63,000 American Indians are under the care, custody, or control of the criminal justice system on an average day - about 4% of the American Indian population age 18 or older.
- On average in 1997 about 2,000 American Indians per 100,000 adults (persons age 18 or older) were serving a sentence to probation, about half the rate found among Blacks.
- In 1997, about 16,000 American Indians were held in local jails - a rate of 1,083 per 100,000 adults, the highest of any racial group.
- The rate of American Indians on parole is similar to that of the general population, about 300 per 100,000 adults.

In State or Federal Prison, 1997

Number in prison per 100,000 adults	
U.S. Total	629
American Indian	870
Black	2,895
White	335
Asian	104

- On a per capita basis, American Indians had a rate of prison incarceration about 38% higher than the national rate.

American Indians convicted in Federal District Court, FY 1997

Total	854	100%
Violent		
Murder	81	9%
Assault	153	18%
Robbery	22	3%
Rape	168	20%
Other	23	3%
Property	178	21%
Drug	93	11%
Other*	134	15%

*Includes persons for whom the offense was unknown.

- American Indians accounted for 1.5% of Federal case filings in U.S. District Courts in 1997, and half of these were for violent offenses.



- 854 American Indians were convicted in Federal court - 9% for murder and 20% for rape.

Measuring Criminal Victimization Among American Indians

- American Indians have higher per capita rates of violent criminal victimization than Whites, Blacks, or Asians in the U.S., according to data from the National Crime Victimization Survey (NCVS).

Population Estimates, July 1998		
All Races	270,029,000	100%
American Indian	2,357,000	0.9%
White	222,932,000	82.6%
Black	34,370,000	12.7%
Asian	10,370,000	3.8%

- Two demographic factors distinguish American Indians from other racial groups: in 1998 the median age of the American Indian population is nearly 8 years younger than the U.S. resident population, and American Indians are the most likely to report Hispanic ethnicity.

Violent Crime Rate Among American Indians

- The NCVS provides estimates of the violent crimes of rape, sexual assault, robbery, and assault for persons age 12 or older. During 1992-1996 the NCVS found that American Indians experienced an average of almost 150,000 violent crimes per year from among the estimated 10.8 million violent crimes occurring on average per year among all racial groups. Victimization data for 1996 indicate that American Indians accounted for about 1.4% of all violent victimizations that year, about the same percentage as in preceding years.
- The average annual violent crime rate among American Indians - 124 per 1,000 persons age 12 or older - is about 2.5 times the national rate.

Violent Victimization, 1992-96

# of violent victimizations per 1,000 person age 12 or older	
All races	50
American Indian	124
Black	61
White	49
Asian	29

- American Indians are overrepresented among victims of violence compared to their share of the general population age 12 or older.



- The aggravated assault rate among American Indians (35 per 1,000) was more than 3 times the national rate (11 per 1,000) and twice that for blacks. The rate of robbery experienced by American Indians (12 per 1,000) was similar to that of Black residents (13 per 1,000).

Annual Average Rate of Rape and Sexual Assault, Robbery, and Assault by Race of Victim, 1992-96

Number of victimizations per 1,000 persons age 12 or older in each racial group					
	All races	A/I*	White	Black	Asian
Violent victimization	50	124	49	61	29
Rape/ Sexual assault	2	7	2	3	1
Robbery	6	12	5	13	7
Aggravated assault	11	35	10	16	6
Simple assault	31	70	32	30	15

*American Indian

- American Indians experienced about 1 violent crime for every 8 residents age 12 or older compared to 1 violent victimization for every 16 Black residents, 1 for every 20 white residents and 1 for every 34 Asian residents.

Types of Violent Crimes

- The types of violent crimes experienced by American Indians were generally similar to that found across the nation. The most common type of violent crime experienced by American Indian victims was simple assault (56%).

Violent Crime by Type of Crime and Race of Victim, 1992-96				
Percent of Violent Victimization				
	All races	A/I*	White	Black
Total	100	100	100	100
Rape/ Sexual assault	4.3	5.6	4.3	4.4
Robbery	11.7	9.9	9.7	21.5
Aggravated assault	21.8	28.4	21.0	25.7
Simple assault	62.2	56.1	65.0	48.5

*American Indian

Simple Assault Rates, 1992-96	
Race of Victim	# of Simple Assaults per 1,000
American Indian	70
Black	30
White	32
Asian	15



- Among all the violent crimes reported by American Indians, 28% were aggravated assault, 10 robbery, and 6% rape/sexual assault. Asian and Black victims of violence were more likely than American Indian or White victims to have reported a robbery.
- The violent crime rate among American Indian males was 153 per 1,000 males age 12 or older, more than double that found among all males (60 per 1,000 age 12 or older). The violent crime rate for American Indian females during this period was 98 per 1,000 females, a rate higher than that found among White females (40 per 1,000) or Black females (56 per 1,000).

Violent Crime Rates for Persons 12 or Older, by Age, Sex, Locality of Residence, and Race, 1992-96					
Victim Characteristics	All Races	A/I*	White	Black	Asian
Total	50	124	49	61	29
Sex					
Male	60	153	59	68	37
Female	42	98	40	56	21
Age					
12-17	116	171	118	115	60
18-24	100	232	101	105	41
25-34	61	145	61	66	34
35-44	44	124	43	51	24
45-54	27	43	27	30	15
55 & older	9	14	8	11	5
Location					
Urban	65	207	63	75	29
Suburban	48	138	48	52	29
Rural	37	89	37	33	30

* American Indian

- Among the different age groups, violent crime rates were highest (232 per 1,000 persons) for American Indians age 18-24. This violent crime rate was more than twice that found among Whites and Blacks of the same age.
- About 40% of American Indians reside in rural areas, compared to 18% of Whites and 8% of Blacks. The violent crime rate for American Indians was highest for those in urban areas, 207 per 1,000 and lowest for those in rural areas, 89 per 1,000. However, this rural crime rate for American Indians is more than double that found among rural Whites (37 per 1,000) or Blacks (33 per 1,000). The urban crime rate for American Indians is more than 3 times that found among urban Whites.



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- About half (52%) of the violent crimes committed against American Indians occurred among those age 12 to 24 years. Two percent of the violent crimes committed against American Indians were against the elderly, age 55 or older.
- Nearly 6 in 10 of the violent crimes experienced by American Indians had been committed against males, similar to the national distribution.

Percent of Violent Victimization					
Victim age/sex	All races	A/I*	White	Black	Asian
Total	100%	100%	100%	100%	100%
12-17	24.2%	20.4%	23.8%	26.8%	24.0%
18-24	23.6	31.5	23.4	24.0	21.7
25-34	23.6	23.5	23.6	23.2	26.3
35-44	17.0	18.0	17.1	16.6	18.3
45-54	7.5	4.7	7.8	6.1	7.3
55 & older	4.1	1.9	4.3	3.3	2.4
Male	57.4%	58.9%	58.4%	50.5%	62.6%
Female	42.6	41.1	41.6	49.5	37.4

* American Indian

- American Indians with incomes under \$10,000 had the highest rate of violent victimization, 182 per 1,000. At every income category American Indians had a higher rate of violent victimization than persons of other races.

Number of victimizations per 1,000 persons				
Income	All races	A/I*	White	Black
Less than 10,000	73	182	74	71
10,000-19,000	54	137	51	70
20,000-29,999	48	104	47	56
30,000-39,999	46	72	46	54
40,000 or more	42	84	42	50

*American Indian

- More than half the violent victimizations that American Indians experienced involved victims and offenders whom had a prior relationship, about the same percentage as for all violent victimizations.



Victim-Offender Relationship in Violent Victimization, by Race, 1992-96

Percent of violent victimizations		
Victim-Offender Relationship	All Races	American Indians
Intimate	10.7%	8.9%
Family	4.7%	6.7%
Acquaintance	33.7%	38.7%
Stranger	50.8%	45.7%

- Overall, strangers were reported to have committed 46% of the violent crimes against American Indians.

Violent Victimization of American Indians, by Victim-Offender Relationship and Type of Victimization, 1992-96

Percent of violent victimizations against American Indians				
Type of Victimization	Total	Intimate/ Family Member	Acquaintance	Stranger
All	100%	15	38	46
Rape	100%	25	43	32
Robbery	100%	10	14	76
Aggravated Assault	100%	7	41	51
Simple Assault	100%	19	40	40

- More than half of the violent victimizations of American Indians involved offenders with whom the victim had a prior relationship. About 1 in 6 violent victimizations among American Indians involved an offender who was an intimate or family member to the victim, about the same as for victims of all races.

Percent of Violence		
Victim-Offender Relationship	All Races	American Indians
Intimates	11%	8%
Family Members	5	7
Acquaintances	34	38
Strangers	51	46

Race of Offender

- Violent crime against White or Black victims is primarily intraracial. Among White victims of violence, 69% of offenders were White. Likewise, Black victims of violence were most likely to have been victimized by a Black offender (81%).



Percent of violent victimizations, by race of victim and race of offender, 1992-96				
Race of Victim	Total	Other	White	Black
All Races	100%	11%	60%	29%
A/I*	100	29	60	10
White	100	11	69	20
Black	100	7	12	81
Asian	100	32	39	29

* American Indian

NOTE: Table excludes an estimated 420,793 victims of violence (3.9% of all victims) who could not describe the offender's race.

- The majority (60%) of American Indian victims of violent crime described the offender as White, and nearly 30% of the offenders were likely to have been other American Indians. An estimated 10% of offenders were described as Black.
- The less serious the offense, the higher was the percentage of American Indian victims of violence describing the offender as "other race."
- American Indian victims of rape/sexual assault most often reported that the victimization involved an offender of a different race. About 9 in 10 American Indian victims of rape or sexual assault were estimated to have had assailants who were White or Black.

Intimate and Family Violence

- Intimate and family violence each account for about 9% of all violent victimizations experienced by American Indian victims, about the same percentage as found among all victims of violence.
- Most striking among American Indian victims of violence is the substantial difference in the racial composition of offenders in intimate violence incidents when contrasted with family violence. Among violence victims of all races, about 11% of intimate victims and 5% of family victims report the offender to have been of a different race; however, among American Indian victims of violence, 75% of the intimate victimizations and 25% of the family victimizations involved an offender of a different race.
- Intimate and family violence involve a comparatively high level of alcohol and drug use by offenders as perceived by victims - as is the case for Indian and non-Indian victims. Indian victims of intimate and family violence, however are more likely than others to be injured and need hospital care.



**Victim Offender Relationship in Violent Victimization, by Race,
1992-96**

Percent of violent victimizations		
Victim/Offender Relationship	All Races	American Indian
Intimate	10.7%	8.9%
Family	4.7	6.7
Acquaintance	33.7	38.7
Stranger	50.8	45.7

NOTE: Intimate violence refers to victimizations involving current and former spouses, boyfriends and girlfriends. Family violence refers to victimizations involving spouses and other relatives.

Alcohol, Drugs and Crime

- Alcohol and drug use was a factor in more than half of violent crimes against American Indians.

Violent crime, by the perceived drug or alcohol use of the offender and by race of victim					
Race of victim	Total	Alcohol	Drug	Both	Neither
Total	100%	28%	8%	7%	57%
A/I*	100	38	9	8	45
White	100	29	8	7	56
Black	100	21	7	7	65
Asian	100	20	3	2	75

NOTE: Table excludes those respondents who were unable to report whether or not they perceived the offender to have been using alcohol or drugs.

- Substantial differences can be found by race in the reports of victims of violence of their perceptions of drug and alcohol use by offenders. Among those who could describe alcohol or drug use by offenders, American Indian victims of violence were the most likely to report such perceived use by the offender.
- Overall, in 55% of American Indian violent victimizations, the victim said the offender was under the influence of alcohol, drugs, or both. The offender's use of alcohol and/or drugs was somewhat less likely in violent crimes committed against Whites (44%) or Blacks (35%).
- The perceived use of alcohol and drugs reported by American Indian victims of violence varied with the race of the offender: Intraracial violence was more likely to involve a drinking offender while interracial violence involved higher levels of offender drug use.
- According to American Indian victims of violence, offender use of alcohol was a factor in nearly two-thirds of the violent victimizations in which the offender was neither White nor Black.



Percent of victimizations in which the offender was perceived using alcohol, drugs or both				
Victim/Offender	Alcohol	Drugs	Both	Neither
A/I*/White	30%	10%	8%	52%
A/I/Back	35	13	3	49
A/I/other	57	1	8	34
White/White	36	8	1	48
Black/Black	21	8	6	66
Asian/other	18	2	3	77

* American Indian

- An estimated 3 in 4 American Indian victims of family violence reported that they perceived the offender to have been drinking at the time of the offense. About half the persons of all races who were victims of family violence reported a drinking offender.

Percent of violent victimizations in which the victims felt certain they could distinguish alcohol use by the offender		
Victim/Offender Relationship	All Races	American Indians
Intimate	64.7%	60.9%
Family	49.2	76.5
Acquaintance	36.1	40.0
Stranger	28.9	42.0

Location of Violent Crime

- Just over 40% of American Indian victims of violence reported that the incident occurred in or around their own home or that of a friend, relative, or neighbor. This is higher than the approximately one-third of violent victimizations reported by victims of all races to have occurred at or near a home.
- Nineteen percent of violent victimizations against American Indians took place in open areas, on the street or on public transportation. Fewer than 1 in 10 violent crimes were reported to have occurred at school.
- Half of the violent crimes committed against American Indians occurred after dark. About 1 in 5 of the violent victimizations took place between midnight and 6 a.m.
- On average nearly 2 million violent crimes occurred in the workplace every year. The workplace accounted for about 1 in 5 violent crimes experienced by the public.



- Among American Indians about 14% of the violent victimizations were reported to have occurred in the workplace. About 1 in 4 employed American Indian victims of violence said that the incident occurred in the workplace.

Weapons used in violent crime

- In about a third of the violent crime incidents American Indian victims were faced with an offender who had a weapon. About 13% of the crimes involved an offender with a firearm.
- In almost 70% of the violent crime incidents, the American Indian victim resisted the offender, most frequently through the use of physical force. American Indian victims used a weapon in self-defense in less than 3% of the violent incidents committed against them.

Injury rates, hospitalization, and financial loss

- American Indian victims of a violent crime were more likely to have been injured than were White or Asian crime victims. Nearly a third of the American Indian violent crime victims were injured during the incident. About a quarter of all violence victims of all races were injured during the incident.

Violent victimizations in which the victims sustained physical injury or received medical care, by race					
Reported physical injury	All victims	A/I*	White	Black	Asian
Yes	25%	32%	24%	31%	25%
Type of injury					
Sexual assault	2	4	2	2	3
Shot/internal injury	1	3	1	3	2
Broken bones	2	5	2	2	1
Bruises	18	18	18	19	17
Other injuries	3	2	2	4	2
Treatment					
Not treated	57%	48%	59%	45%	55%
Treated	44	53	41	55	44
At hospital	19	32	16	26	24

* American Indian

NOTE: The percent treated was calculated on those injured during the violent incident. Detail may not add total because of rounding.

- As a result of their victimizations, an estimated 18% of American Indian victims of violence sustained bruises, the most commonly reported



injury. Among those injured, about half received some kind of medical treatment - a third at the hospital.

- Seventy one percent of American Indian crime victims who were injured during the incident and sought medical treatment had medical insurance or qualified for public medical benefits.
- Injured American Indian victims of violence who sought treatment for their injuries were as likely as other racial groups to have some form of coverage for medical benefits.

Injured Victims	% with Coverage
American Indians	71%
White	69
Black	71
Asian	64

Child Abuse and Neglect

- In the U.S. from 1992 to 1995, American Indians and Asians were the only racial or ethnic groups to experience increases in the rate of abuse or neglect of children under age 15, as measured by incidents recorded by child protective service agencies.
- The increase in reported incidents involving American Indian children was more than 3 times as large as that for Asian children. The per capita rate for American Indian children was 7 times that of Asian children.

Number of victims per 100,000 children age 14 or younger			
	1992	1995	% Change
All children	1,866	1,724	-8%
American Indian	2,830	3,343	18%
White	1,628	1,520	-7
Black	3,560	3,323	-7
Asian	454	479	6
Hispanic	1,486	1,254	-16

NOTE: Rates were calculated on the number of children age 14 or younger because they account for at least 80% of the victims of child abuse and neglect.

- Each year the National Child Abuse and Neglect Data System of the Department of Health and Human Services obtains from child protective service agencies nationwide the number of reports of alleged maltreatment of children. Published data for 1995 indicate that about 1 million children were substantiated to have been victims of neglect, physical abuse, sexual abuse, emotional maltreatment, medical neglect, or other forms of verified maltreatment.



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	# of victims of maltreatment*	% American Indian
1992	1,044,480	1.5%
1993	966,163	1.6
1994	1,011,595	1.8
1995	1,000,502	1.9

* Reported by child protective agencies. Data may contain duplicate counts of incidents.
Source: National Child Abuse and Neglect Data System

- Non-Hispanic American Indians accounted for just under 2% of the victims of child abuse/neglect in reports collected nationwide in 1995. There is evidence that their share has been increasing. Non-Hispanic American Indians, who accounted for just under 1% of the population age 14 or younger, were overrepresented twofold as victims of child abuse.
- On a per capita basis, 1995 data indicate about 1 substantiated report of a child victim of abuse or neglect for every 30 American Indian children age 14 or younger.
- Nationwide, the 1995 rates translate into about 1 child victim of maltreatment known to a child protective services agency for every --
 - 58 children of any race
 - 66 White children
 - 30 Black children
 - 209 Asian children
 - 80 Hispanic children

Reporting Violent Crime to Police

- American Indians differ little from other racial groups in their reporting of violent crime to the police or in the likelihood that the victim knows of the arrest of the offender.
- Average number of victimizations: 10,785,800

	Victims	Reported to Police	Subsequent Arrest of Offender (reported offenses only)
AI*	149,600	45%	28%
White	8,880,100	41	28
Black	1,570,400	50	22
Asian	184,700	39	19

- Forty-five percent of American Indian victims of violent crime reported the crime to the police. This level of crime reporting was similar to that found among White (41%) and Black (50%) violent crime victims.



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- Among victims not reporting the crime to the police, the reasons that persons of different racial backgrounds had for not reporting were also similar. Nearly half of both American Indians not reporting the violent crime to the police and victims of all races who did not report the violence to the police said that they considered the matter private or too minor to bother the police.

Percent of victims of violence not reporting victimization to the police, 1992-96		
Reason for not reporting	All races	American Indians
Total	100%	100%
Personal matter	21	26
Too unimportant	24	24
Police of limited assistance	11	14
Reported to other authority	13	8
Fear of or worry about offender	7	6
Too busy	3	2
Other reasons	22	20

- For those violent crimes reported to the police victims said that police made an arrest in about a quarter of the cases.
- Violent victimizations reported to the police, by whether an arrest was made and whether victim services were provided, by race of victim, 1992-96.

Percent of violent victimizations reported to the police					
	All races	A/I*	White	Black	Asian
Arrest made?					
Yes	27%	27%	28%	22%	19%
No	66	65	65	70	71
Don't know	7	8	7	8	11
Victim service assistance?					
Yes	10%	12%	10%	9%	9%

* American Indian

NOTE: The percent reporting an arrest and the percent reporting that they had received assistance from a victim services agency were based on those victimizations reported to the police.

- Twelve percent of the victims who reported their violent crime to the police received victim services assistance.



- American Indians differ little from other racial groups in their reporting of violent crime to the police or in the likelihood that the victim knows of the arrest of the offender.

Contact with Prosecutors

- There were no differences between victims of violence who were American Indians and victims of all races in the percentage having contacts with the prosecutor's office or a victim services agency. For all victims such contacts are higher in those cases in which an arrest was known to have occurred.
- Average annual number of violent victimizations reported to the police: 4,525,200

Resulted in --	Arrests	No arrests
Victims of all races	1,223,400	3,296,800
Subsequent contact with --		
Prosecutor's office	23%	3%
Victim Services	17	7
American Indian victims	19,000	49,000
Subsequent contact with --		
Prosecutor's office	25%	3%
Victim Services	21	8

Examining Race and Ethnicity in Violent Victimization

- The NCVS asks respondents about both race and ethnicity. For 1992-96 about 9% of all participants, or about 18.5 million residents age 12 or older in an average year, were of Hispanic origin and belonged to one of the four primary racial groups sampled in the survey - White, Black, American Indian or Asian. Hispanic residents were estimated to consist of 17.8 million White, 0.5 million Blacks, about 0.1 million Asians and a slightly smaller number of American Indians.
- Across each racial group, Hispanic residents were found to have higher average per capita rates of violent victimization. Among all racial and ethnic groups, non-Hispanic Asians were found to have the lowest estimated rates of violent victimization, about 1 violent crime for every 36 residents. By contrast, American Indian residents who also identified themselves as Hispanic reported a rate of violent victimization that translated into about 1 violent crime for every 4 residents.



- While about 7% of all American Indian participants in the NCVS reported they were also of Hispanic ethnicity, nearly 14% of those American Indians victimized by violence were of Hispanic origin.
- Among American Indians who also described themselves as Hispanic, the rate of violent victimization was 4 times the rate found among all Hispanics and twice the rate found among non-Hispanic American Indians.

Murder Among American Indians

- Each year about 150 American Indians become murder victims. Little year-to-year variation occurred in the number of American Indian murder victims, but recent years were below the peak number reached in 1986.
- American Indians were 0.7% of all murder victims nationwide, about the same as their share of the population. From 1976 to 1996 an estimated 3,100 American Indians were murdered. Due to variations in reporting by law enforcement agencies over time, detail on these murder victims is available for 2,826 American Indian murder victims or about 92% of the total estimated number of victims.

States with largest # of A/I* murder victims	# of murders of A/I	% if all murders of A/I	% of A/I population
U.S. total	2,826	100%	100%
California	386	13.7	13.7
Oklahoma	326	11.5	11.9
Alaska	268	9.5	4.2
N. Carolina	245	8.7	3.9
Arizona	233	8.2	10.8
Washington	191	6.8	4.4
Minnesota	164	5.8	2.5
New Mexico	160	5.7	6.7
New York	75	2.7	3.1
Oregon	71	2.5	2.0
All other States	707	25.0	36.8

* American Indian

American Indian murder victims		
	Percent of all A/I murder victims	Percent of total A/I population
U.S. total	0.7%	0.8%
California	0.6	1.0
Oklahoma	6.2	8.1
Alaska	28.0	15.5
N. Carolina	2.0	1.2



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Arizona	4.1	5.8
Washington	4.2	1.8
Minnesota	7.4	1.2
New Mexico	7.5	8.9
New York	0.2	0.4
Oregon	2.7	1.4
All other States	0.3	0.4

NOTE: Supplementary Homicide Data are for 1976-96. Population data are for 1994.

- Over the 21-year period, just under 14% of the murders of American Indians occurred in California, proportional to California's share of the American Indian population. Alaska, by contrast, accounts for about 10% of American Indian murder victims over the period but just over 4% of the American Indian population nationwide. In Alaska, 1976-96, American Indians and Alaska Natives composed about 16% of the population but 28% of that State's murder victims. The 10 States in which about 63% of the American Indian population reside have accounted for about 75% of the murders.

Rates of Murder

- As observed across the other racial groups, the number of murders per capita among American Indians has been declining. The rate of murder among American Indians in 1996 was below the national average for ages under 40. For ages 40 or older, murder rates are close to the national average.

Age of murder victims, 1996					
	Total	A/I*	White	Black	Asian
17 or younger	7.9	4.0	4.9	24.3	4.3
18-24	19.6	9.1	9.5	76.6	9.0
25-29	14.5	11.2	7.4	58.2	6.2
30-34	10.8	10.8	6.2	40.8	5.3
35-39	9.2	8.8	5.8	32.7	3.4
40-49	6.6	7.2	4.3	24.1	3.2
50 and older	4.4	5.7	3.3	14	3.3

* American Indian

- For persons age 24 or younger in 1996, American Indian rates of murder closely paralleled the rates among White and Asians and were well below the rates among Black victims. For those age 25 to 29, the 37% decline in the rate of murder among American Indians reflects the largest decline of any racial group.



Circumstances of Murder

Circumstances of murder, by race, 1976-96					
Murders w/ known circumstances	All races	A/I*	White	Black	Asian
Total	100%	100%	100%	100%	100%
Violent Felony	14	11	16	11	27
Other Felony Offenses	10	5	10	11	8
Suspected Felony	4	4	4	3	3
Brawl under influence of alcohol/drugs	5	13	6	4	2
Arguments	43	45	38	50	35
Other Circumstances	24	22	27	21	25
Number	344,928	2,515	181,043	156,203	4,545

NOTE: Table excludes an estimated 101,446 murder victims for whom the circumstances were not known.

SOURCE: FBI, Supplemental Homicide Reports, 1976-96.

- Supplemental data regarding murders with known circumstances indicate that American Indian murder victims were more likely to have been killed during a brawl involving alcohol or drugs (13%) than White (6%), Black (4%), or Asian (2%) murder victims. Forty-five percent of American Indian murder victims were killed during an argument, and 11% were killed during the commission of a violent felony.
- Murders by someone of a different race from the victim, by race of victim and type of murder, 1976-96

Percent of murder victims killed by someone of a different race, committed during...		
Race of murder victim	Commission of a felony	An argument
American Indian	74%	38%
Black	8	5
White	43	9
Asian	80	27

Victim-Offender Relationship in Murder Cases

- In American Indian murder cases in which the victim-offender relationship was known, strangers accounted for approximately 16% of the murders. Acquaintances accounted for about half the murders. Victim-offender relations in American Indian murder cases were similar to those found among all murders.



Murders, by victim-offender relationship and race, 1976-96				
	Victims of all Races	A/I*	White	Black
Total	100%	100%	100%	100%
Victim/offender had prior relationship	81.2	83.9	78.4	84.5
Victim/offender were strangers	18.8	16.1	21.6	15.5
Same race	13.8	3.9	14.4	13.4
Different race	5.0	12.2	7.1	2.1
# of murder victims	281,603	2,242	147,417	128,551

* American Indian

NOTE: Table excludes victims with unknown relationship to offender and victims and offenders of unspecified races.

Race of Murderers

- In most murder cases involving a White or Black victim, the offender was of the same race as the victim. However, when the races of the offender and victim were known, more than 40% of American Indian murder victims were killed by an offender who was not an American Indian; in 33% of the cases the offender was White.

Race of murder victims, 1976-96				
Race of Offender	All Races	A/I*	White	Black
Total	100%	100%	100%	100%
A/I*	0.8	56.9	0.6	0.1
White	47.6	32.5	85.6	5.8
Black	50.4	9.7	13.3	94.0
Number	313,032	2,381	162,609	143,854

* American Indian

NOTE: Table excludes cases in which the race of the victim or offender is unknown.

SOURCE: Supplemental Homicide Data are for the period 1976-96. Population data are for 1994.

- Compared to all murder victims, American Indian murder victims were substantially less likely to have been killed by a handgun but more likely to have been killed by a rifle or shotgun or stabbed.



Murder weapons used, by race of victim, 1992-1996		
Weapon*	All Races	American Indians
Handgun	50.3%	28.1%
Rifle/shotgun	11.2	17
Other firearm	4.5	1.6
Knife	18.5	29.1
Blunt object	5.3	8.0
Personal weapon, including hands	6.1	11.3
Other types of weapons	4.1	4.9

* Excludes cases in which type of weapon is unknown

- American Indian murder victims were substantially less likely (28% to 50%) than all murder victims to have been killed by a handgun. Almost 30% of American Indian murder victims were killed by a knife, compared to less than 20% of all murders.

Arrests and Convictions of American Indians

- Arrest data for 1996, provided by local law enforcement agencies, indicate that American Indians account for 0.9% of the arrests for Part I violent crimes (murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault), an estimated 6,600 arrests for these offenses.
- Approximately 17% of American Indians arrested for these violent offenses are under age 18, nearly the same percentage found among arrestees for all violent crimes in 1996. The 1996 arrest rates for Part I violent crimes among American Indian youth were about the same as for White youth and were about a fifth of those of Black youth.
- Unlike the pattern of violent crime arrest rates for other racial groups - higher for youth than for the whole population - among American Indians the arrest rates for those under age 18 did not vary from the overall rate.

Arrests of Adults and Youth for Violent Crimes, by Race, 1996

Number of arrests for Part I violent crimes per 100,000 persons in each group, 1996		
Race of Arrestees	All Ages	Under Age 18
All Races	275	445
American Indian	291	294
Black	937	1,356
White	182	283
Asian	98	192

NOTE: Arrest rates for youth were based on the estimated number of arrests of persons under the age of 18 and calculated on the number of residents age 10-17.

SOURCE: FBI, Crime in the United States, 1996.



- American Indians have a rate of arrest for alcohol violations (DUI, liquor law violations, and public drunkenness) more than double the national rate. Arrests of American Indians under age 18 for alcohol related violations are also twice the national average.

Number of arrests per 100,000 population				
	All Ages		Youth	
	All races	A/I*	All races	A/I*
Total violent	275	291	445	294
Murder	7	7	9	5
Rape	13	16	19	14
Robbery	59	37	165	67
Aggravated Assault	197	231	252	208
Total Property	1,039	1,369	2,783	3,026
Total Alcohol Violations	1,079	2,545	649	1,341
DUI	553	1,069	61	98
Liquor Laws	255	727	510	1,108
Drunkenness	271	749	78	135

* American Indian

NOTE: Arrest rate is the number of arrests per 100,000 resident population. Arrest rate for youth were based upon the estimated number of arrests of persons under age 18. The youth arrest rate was calculated on the number of residents age 10-17.

Felony Convictions in State Courts

- On average there are annually about 900,000 felony convictions in State courts. American Indians account for just over 1/2 of 1% of felony convictions across the nation.

Felony Convictions		
	Average Annual #	Percent
Total	898,290	100%
American Indian	4,980	0.6
White	468,944	52.2
Black	418,124	46.6
Asian	6,243	0.7

NOTE: The annual average estimates are based on the National Judicial Reporting Program, 1990, 1992, 1994, and 1996.

- In 1996 State and local courts throughout the U.S. convicted an estimated 1 million defendants. Among these were an estimated 7,000 felony convictions of American Indians, a rate of approximately 1 felony conviction for every 200 American Indians age 18 or older. By contrast in 1996 Whites experienced a felony conviction rate of about 1 conviction per 300 adults; among Blacks the rate of felony conviction



was 1 for every 51 adults; and Asians reflected the lowest rate, about 1 felony conviction for every 600 Asian residents age 18 or older.

American Indians Under Correctional Supervision

- American Indians accounted for about 1% of the more than 5.7 million adults under correctional care, custody and control on a single day in 1997. The estimated 62,600 American Indians with a correctional status accounted for just over 4% of the American Indian adult population.
- By comparison, an estimated 2% of White adults, 10% of Black adults, and less than a half of 1% of Asian adults were under correctional supervision.
- In 1997, 54% of the American Indians under correctional supervision were in the community - on probation (47%) or parole (7%). Twenty five percent were held in local jails, 18% in State prisons, and 3% in Federal prisons.
- In 1997 just under half of the American Indian offenders under the care, custody or control of Federal, State or local correctional authorities were confined in prisons or jails. By contrast, less than a third of correctional populations nationwide were confined in prisons or jails.

American Indian Correctional Population	
Total	62,659
Probation	47%
Local jails	26
State prisons	18
Federal prisons	3
Parole	7

Nationwide Correctional Population	
Total	5,751,277
Probation	57%
Local jails	10
State prisons	20
Federal prisons	2
Parole	12

- American Indians comprised just over 1% of the offenders on probation or parole or in State or Federal prisons but an estimated 2.9% of persons in local jails nationwide. American Indians accounted for 2.5% of those detained in local jails who had not been convicted of crimes and 3% of the convicted offenders in jail serving shorter sentences or awaiting transfer to other institutions.



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- Compared to jail inmates of all races, when the statuses of conviction are combined, American Indians were less likely to have been jailed for a violent or drug offense. However, consistent with their higher arrest rates for driving under the influence of alcohol, a substantial percentage of American Indians reported that they were in jail charged with or convicted of an offense involving driving while intoxicated (DWI). American Indians accounted for an estimated 10% of unconvicted jail inmates charged with DWI and just over 4% of convicted DWI offenders in local jails.

Unconvicted Jail Inmates, 1996		
	All races	American Indians
Total	100%	100%
Violent	36.7%	26.6%
Homicide	6.6	2.7
Sexual Assault	3.8	--
Robbery	8.8	2.2
Assault	15.4	15.7
Other Violent	2.1	5.9
Property	25.6%	27.4%
Burglary	7.7	11.5
Larceny	5.6	2.3
Motor vehicle theft	3.3	7.3
Other property	9.0	6.3
Drugs	20.2%	6.5%
Public-order	17.4%	39.5%
Weapons	2.2	8.2
DWI	3.6	13.8
Other public-order	11.6	17.5
Number	165,733	4,241

-- Too small to estimate

Convicted Jail Inmates, 1996		
	All races	American Indians
Total	100%	100%
Violent	21.7%	21.9%
Homicide	1.5	0.2
Sexual Assault	3.0	7.1
Robbery	5.5	7.9
Assault	10.0	10.1
Other Violent	1.7	1.6
Property	28.6%	27.0%
Burglary	8.0	8.1
Larceny	9.5	6.2
Motor vehicle theft	2.3	4.7
Other property	8.8	7.9



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Convicted Jail Inmates, 1996 (CONT)		
	All races	American Indians
Drugs	23.7%	15.8%
Public-order	25.6%	35.3%
Weapons	2.4	0.7
DWI	9.6	13.1
Other public-order	13.6	21.5
Number	314,867	9,824

- About half of convicted American inmates in local jails had been consuming alcoholic beverages at the time of the offense for which they had been convicted. An estimated 7 in 10 American Indians in local jails convicted of a violent crime had been drinking when they committed the offense.

Percent of convicted jail inmates reporting alcohol use at the time of their offense		
Most serious offense	All races	American Indians
All offenses	39.5%	48.8%
Violent	40.6	71.0
Property	32.8	37.1
Drug	28.8	14.3
Public-order	56.0	60.2

- Nearly 4 in 10 American Indians held in local jails had been charged with a public-order offense - most commonly driving while intoxicated.
- Sixteen percent of convicted American Indians serving time in local jails had been convicted of a drug offense.

American Indians in the Federal Justice System

- In fiscal year 1996 U.S. attorneys investigated 1,927 suspects for offenses committed in Indian Country.

Federal District Court Filings, 1997		
Type of Offense	All Cases	American Indian Cases
Total	100%	100%
Violent	6.7	47.5
Fraud	18.3	9.1
Property	5.2	12.9
Drugs	39.5	14.7
Regulatory	3.3	2.0
Other	27.0	13.8
Number	60,403	1,126



- In 1997 U.S. attorneys filed cases in Federal district court against 1,126 American Indians. Almost half of these cases involved a violent crime.
- The majority of cases were filed in U.S. district courts in South Dakota, Arizona, New Mexico and Montana.

American Indian Youth Detained

- In September 1994, American Indians were 75 of the 124 juvenile delinquents confined under Federal jurisdiction - about 60% of such juveniles.

American Indians and the Death Penalty

- Over the period 1973-97, 6,139 persons were sentenced to death in the U.S. During the same years 52 American Indians were sentenced to death, 0.8% of the total. Between 1976 and 1997 a total of 432 persons were executed, including 3 American Indians (0.7% of those executed). This translated into a rate of execution for those sentenced to death of about 7 per 100 persons receiving a death sentence and for American Indians, about 5.8 per 100.

	All Races	American Indians
Sentenced to death	6,139	52
Executions, 1976-97	432	3
Percent executed	7.0%	5.8%
Removed from death row by means other than execution	2,372	21
Percent removed by other means	38.6%	40.4%
Remaining under sentence of death, 1997	3,335	28
Percent remaining, 1997	54.3%	53.8%

- Among the 6,139 persons sentenced to death, 3,335 were still under a death sentence at the end of 1997 - 54.3% of those entering death row over the period. For American Indians, 28 of the 52 (53.8%) sentenced to death between 1973 and 1997 still remained under a death sentence at the close of 1997.
- About half of all death sentences imposed upon American Indians were in North Carolina (11) and Oklahoma (14). Oklahoma (8) had the largest number of American Indians currently under a sentence to death. No Federal death sentences were imposed on American Indians during the period 1973-97.



American Indian Tribal Criminal Justice

- The BJS Census of State and Local Law Enforcement Agencies, 1996 identified 135 tribal law enforcement agencies with a total of 1,731 full-time sworn officers. The Bureau of Indian Affairs (BIA), which also has law enforcement responsibility for selected tribal jurisdictions, reported 339 full-time officers authorized to make arrests and carry firearms.
- In addition to law enforcement services, American Indian tribes and the BIA operate jails in tribal areas.* (*BJS has conducted a survey of tribal confinement facilities. Analysis of survey responses will be reported in Survey of Jails in Indian Country, 1998, forthcoming, NCJ 173410) Data provided by BIA indicated that these facilities employed 659 persons and had an authorized capacity to house just over 2,000 adults and juveniles.

Tribal Jail Capacity and Jail Staff, by State and Tribe, 1998			
State	Tribe	Capacity	
		Adult	Juvenile
Alaska	Metlakatla	8	0
Arizona	Navajo Nation	208	36
	Colorado Indian Tribes	30	8
	Fort Mojave	1	1
	White Mountain Apache	31	17
	Hopi Tribe	68	28
	Tohono O'Odham	33	16
	Gila River	73	32
	Salt River Pima Maricopa	70	33
	San Carlos Apache	38	0
	Hualapai, Havasupai, Prescott Apache, Tonto Apache	36	8
	Supai	4	0
	Pascua Yaqui	1	1
California	Chehalis	2	0
Colorado	Southern Ute	4	0
	Ute Mountain Ute	14	2
Idaho	Shoshone Bannock	24	4
Michigan	Saginaw Chippewa	2	6
Minnesota	Boise Forte	8	1



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State	Tribe	Capacity	
		Adult	Juvenile
	Red Lake Chippewa	18	4
Mississippi	MS Band of Choctaw	32	8
Montana	Blackfeet	34	34
	Crow	12	2
	Gros Ventre & Assinboine	8	0
	Assiniboine and Sioux	21	21
	Northern Cheyenne	10	3
	Chippewa Cree	22	4
	Conf. Salish & Kootenai	16	4
Nebraska	Omaha	20	12
Nevada	Battle Mtn., Duckwater, Ely, Goshute, S. Fork Elko Band, Wells Band	28	0
New Mexico	Jicarilla Apache	0	8
	Laguna Pueblo	12	4
	Mescalero Apache	24	0
	Taos Pueblo	8	0
	Ramah Navajo	10	0
	Isleta Pueblo	6	0
	Zuni Pueblo	22	12
	Navajo Nation	41	14
North Dakota	Spirit Lake Sioux	25	8
	Standing Rock Sioux	42	8
	Turtle Mtn. Chippewa	22	8
	Three Affiliated Tribes	8	0
Oklahoma	Sac & Fox	0	69
Oregon	Conf. Tribes of Warm Springs	32	12
	BIA Law Enforcement	0	4
South Dakota	Cheyenne River Sioux	53	10



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State	Tribe	Capacity	
		Adult	Juvenile
	Crow Creek Sioux	10	4
	Lower Brule Sioux	14	2
	Oglala Sioux	52	32
	Rosebud Sioux	48	16
	Sisseton Wahpeton Sioux	16	4
Utah	Uintah & Ouray	24	0
Washington	Olympic Peninsula	14	4
	Puget Sound	7	1
	Kalispel & Spokane	8	0
	Conf. Tribes of Yakama	30	17
Wisconsin	Menominee	32	10
Wyoming	Shoshone Arapaho Tribe	26	4
TOTAL		1,462	536

NOTE: Data were supplied by the BIA, U.S. Department of the Interior, data for April, 1998. Staff of the facilities includes juvenile and adult detention officers and dispatchers.

Sources of Data on American Indians and Crime

One of the challenges facing all Federal statistical agencies is that representative statistical data about American Indians are difficult to acquire and use. This is true for a number of reasons with respect to crime data:

Sampling -- Most Federal surveys utilize nationally representative samples of persons, or households, thus limiting the capability to describe small population subgroups in detail. (American Indians comprise under 1% of the U.S. population) In addition, sampling procedures, relying upon selection of respondents within clustered geographical sampling units, may by chance miss those areas where concentrations of residences of small subgroups (such as American Indians) may be located. Finally, the fluidity of population movement between tribal and nontribal areas for both Indian and non-Indian populations makes it difficult to systematically describe those living in these areas. The 1990 Census revealed, for example, that nearly half the population of reservation and trust lands was non-Indian.

The design of national surveys such as the NCVS does not permit calculating separate statistics for each American Indian Tribe.

Coverage of Data -- Statistical coverage of incidents or cases in Indian Country utilizing law enforcement, judicial, or corrections data is difficult to quantify because Federal, State and local authorities may have



overlapping jurisdiction on tribal lands. Data about some crimes are collected by the Bureau of Indian Affairs (BIA) in Indian Country while other crimes by or against American Indians are recorded by local sheriffs or police. Arrest data are profoundly limited by the lack of information on arrest coverage among tribal and BIA law enforcement agencies.

Data on Trends -- Crime data relying upon either samples of population or incident and case-level data from administrative records suffers from the lack of repetitive collection so that change rates and trends can be analyzed. Much data on the employment, education, and quality of life measures of American Indians are only available from periodic collections and are often of only limited value for comparisons over time. Often many years have passed since they were last conducted. Agencies do not generally use some form of aggregation or multi-year averages for examining change or for comparisons to other racial or ethnic groups.

These limitations severely circumscribe the depth and generalizability of data on American Indians and inhibit the Nation's ability to know much of the details about victims, offenders, and the consequences of crime for both. BJS has made a strong commitment toward improving this situation through the National Crime Victimization Survey, improvements planned for the National Incident-Based Reporting System, and periodic BJS surveys of offender populations.

National Crime Victimization Survey

The National Crime Victimization Survey (NCVS) is one of two statistical series maintained by the Department of Justice to learn about the extent to which crime is occurring. The NCVS, which gathers data on criminal victimization from a national sample of household respondents, provides annual estimates of crimes experienced by the public without regard to whether a law enforcement agency was called about the crime. Initiated in 1972, the NCVS was designed to complement what is known about crimes reported to local law enforcement agencies under the FBI's annual compilation known as the Uniform Crime Reports (UCR).

The NCVS gathers information about crime and its consequences from a nationally representative sample of U.S. residents age 12 or older about any crimes they may have experienced. For personal contact crimes the survey asks about the perpetrator. Asking the victim about his/her relationship to the offender is critical to determining whether the crime occurred between intimates.

In the latter half of the 1980's, BJS, with the Committee on Law and Justice of the American Statistical Association, sought to improve the NCVS components to enhance the measurement of crimes including rape, sexual assault, and intimate and family violence. The new questions and revised procedures were phased in from January 1992 through June 1993 in half the sampled households. Since July 1993 the redesigned methods have been used for the entire national sample.



One of the important contributions of the NCVS is that it permits multiple years of responses to the same questions to be analyzed, facilitating research on small subgroups of the population. For this study 5 years of NCVS data (1992-96) were combined, resulting in more than 1.1 million interviews, just over 7,000 of which were conducted among American Indians. This represents the largest national sample of American Indians assembled for purposes of better understanding the incidence and effects of criminal victimization. In addition, changes are being introduced to the NCVS which will permit future disaggregation of those incidents occurring on tribal lands from those occurring elsewhere.

Uniform Crime Reporting Program

The UCR program of the FBI provides another opportunity to examine the issue of crime and violence among American Indians through the incident-based Supplementary Homicide Report program and the summary-based arrest component of the UCR provides data by race of arrestees for both Part I and the less serious Part II crimes.

In 1996 detailed data by race and offense were available for about 3 out of 4 arrests nationwide (about 11.1 million of the estimated 15.2 million arrests that year). American Indians are estimated to account for just under 1% of those arrested for Part I violent crimes and a slightly higher percentage of those arrested for Part I property crimes. Part II arrest offenses show that American Indians comprise larger percentages of those arrested for DUI, vagrancy, liquor law violations, and public drunkenness.

Specific UCR coverage of those arrests by tribal or BIA law enforcement agencies is not known, and the extent to which they are included in the national estimates of arrests is not systematically described. In addition, the 1996 UCR does indicate reduced reporting of arrests by race and that a number of jurisdictions (Kentucky, Illinois, the District of Columbia, Florida, Vermont, Kansas, and Montana) supplied either limited or no arrest data. Some of these incomplete or missing States, notably Montana, may affect the national estimates for American Indians.

National Incident-Based Reporting System

The National Incident-Based Reporting System (NIBRS) represents the next generation of crime data from law enforcement agencies. Rather than being restricted to a group of 8 Index crimes that the summary-based program uses, NIBRS obtains information on 57 types of crimes. The information collected on each violent crime incident includes victim-offender demographics, victim-offender relationship, time and place of occurrence, weapon use, and victim injuries. An important contribution of NIBRS is that investigating officers are asked to record information on the race of victims and offenders in the incident.



As of the end of 1997, jurisdictions certified by the FBI as capable of reporting incident-based data in the required format accounted for just over 7% of the U.S. population (about 19 million Americans) and just over 6% of all Index crimes (murders, rapes, robberies, aggravated assaults, burglaries, larcenies, and motor vehicle thefts). In those states with certified NIBRS systems, about 50% of the population is now covered by NIBRS reporting to the FBI.

BJS is currently funding preliminary studies of NIBRS data on two Indian reservations and their utility for improving our knowledge of crime with special regard for such concerns as intimate violence, family violence, and domestic violence and the role alcohol may play in these kinds of police-reported incidents. The Mille Lacs (Minnesota) and Lummi (Washington) tribal law enforcement agencies will use NIBRS data as a part of a case-tracking system to follow the subsequent processing of criminal incidents brought to the attention of the police.

Surveys of Probationers and Jail and Prison Inmates

BJS also conducts national surveys of persons under probation supervision and those confined in local jails and State and Federal prisons. These nationally representative surveys are the principal source of information on those serving time following a conviction: their backgrounds, their prior criminal histories, and the circumstances surrounding the offense for which they had been incarcerated. Both jail and prison surveys obtain from violent offenders details about the offender's relationship to the victim and how the crime was carried out. All surveys ask respondents to identify their race and ethnicity.

Law Enforcement Management and Administrative Statistics

BJS maintains the Law Enforcement Management and Administrative Statistics (LEMAS) series as the principle national source of data on the operations of police and sheriff's departments nationwide. LEMAS compiles information every 3 to 4 years from all large law enforcement agencies (at least 100 sworn personnel) and a sample of all other departments. To create the sample BJS also sponsors the Census of State and Local Law Enforcement Agencies, collecting basic information about the functions and number of personnel of all agencies in the U.S.

LEMAS data are obtained on the organization and administration of law enforcement agencies, agency responsibilities, operating expenditures, job functions, weapons policies, and demographic characteristics of sworn personnel. BJS obtains similar information from campus law enforcement agencies and Federal law enforcement agencies.

LEMAS data are available on the race and ethnicity of law enforcement personnel since 1987.



National Judicial Reporting Program

The National Judicial Reporting program (NJRP) is a biennial sample survey of court records on convicted felons nationwide. Using a nationally representative sample of counties, NJRP compiles information on the sentences that felons receive in State courts and on the characteristics of convicted felons. The NJRP first reported felony sentencing data for 1986 and has provided national estimates at 2-year intervals since that time.

In addition to the convicted felon's race and ethnicity, NJRP obtains individual-level data on the conviction offense, sentences received, case-processing, methods of conviction, and a wide variety of other defendant characteristics.

Federal Justice Statistics Program

The Federal Justice Statistics Program (FJSP) provides annual data on workload, activities, and case outcomes in the Federal criminal justice system. Information is reported on all aspects of case processing in the Federal justice system including the number of persons investigated, prosecuted, convicted, incarcerated, sentenced to probation, released prior to trial, handled by magistrates, sentencing outcomes, and time served. Data for this series are obtained from the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons.

Data are available by defendant race and ethnicity at each processing stage of the Federal criminal justice system. The FJSP was initiated in 1980.

Persons Responsible for Report

Lawrence Greenfeld and Steven Smith wrote the report. Devon Adams and Todd Minton provided the statistical review. Maureen Henneberg, John Scalia, Jodi Brown, and Tracy Snell provided analytic assistance and comment. Norena Henry commented on drafts of the report. Melvinda Pete and Tom Hester produced the report. Marilyn Marbrook, assisted by Yvonne Boston, prepared the report for final publication.



Discussion Questions for Justice in Indian Country

FEDERAL VICTIM/WITNESS COORDINATORS:

- Please discuss when and how federal Victim/Witness Coordinators became involved in providing services to victims of crime in Indian Country. Include a discussion of how your office has become involved in providing such services and what types of jurisdictional issues arise in providing services for American Indian victims of crime.

FBI/LES:

One of the most difficult situations to address involves determining jurisdiction and law enforcement response in so called "checkerboard" areas: areas where tribal and non-tribal lands are interspersed. Attempts to cross-deputize local non-Indian law enforcement (such as Sheriff's Deputies or local police) and tribal and/or BIA officers has often been difficult.

- Please discuss the issues involved in cross-deputization for law enforcement.
- Discuss situations in which determination of jurisdiction has been particularly difficult and how your agency deals with such difficulties.
- Do federal law enforcement officers ever have jurisdiction in PL-280 states?

U.S. ATTORNEY'S OFFICE (PROSECUTORS):

Jurisdiction is a major consideration for prosecution. In most situations there will be concurrent tribal and federal jurisdiction for prosecution of Indian offenders. Some tribal members may believe that their U.S. Attorney does not zealously prosecute crimes in Indian Country. Other people may think that tribal people should not be punished in the federal system because they receive inordinately long sentences if convicted.

- How do you deal with these two opposing points of view?
- Please discuss how you work with tribal court systems to decide in which jurisdiction(s) a prosecution will take place. Include a discussion of the factors which may influence your office's decision to accept or decline a case, how declinations are communicated to tribal agencies, and the types of communication involved with tribal prosecutors.

IHS:

- Jurisdictional concerns are mostly an issue for the criminal justice system. Why is it important for you to be aware of these jurisdictional issues as a health care provider?
- Please discuss how you work with tribal, state, county, and/or other federal agencies in relation to crime victims.

BIA (SOCIAL SERVICES AND EDUCATION):



The prosecution of child sexual abuse cases is most often the type of case impacted by jurisdictional concerns (e.g., lack of prosecution because jurisdiction cannot be determined). Jurisdictional concerns also take place in Indian Child Welfare cases.

- Please discuss cases you have encountered where jurisdictional considerations hampered an investigation or prosecution of a child abuse case.
- What types of procedures does your agency have in place for dealing with such situations?



Worksheet for Justice in Indian Country

Large group discussion

1. What is the difference between sovereignty and jurisdiction?
2. Discuss how you have dealt with jurisdiction problems in your area. Has it been necessary to cross-deputize, develop written and/or oral agreements, etc? How did this develop and what were some of the barriers?
3. Please discuss how you work with other tribal agencies and systems to decide in which jurisdiction services will be received.
4. Discuss the factors which influence your office's decision to accept or decline a case. How are these declinations communicated to tribal agencies, and victims of crime and their families?
5. Do you sometimes feel that your office could have done more, but just didn't have the resources? What would be the resources you would need?

