

Violence Against American Indian/Alaskan Native Women

DOJ publishes notice of VAWA tribal jurisdiction program

Thursday, June 13, 2013

The [Department of Justice](#) is moving forward with tribal jurisdiction provisions of [S.47](#), the Violence Against Women Reauthorization Act of 2013.

The law recognizes tribal jurisdiction over non-Indians who commit domestic violence offenses in Indian Country. The provision doesn't kick in until March 2015 but DOJ is authorized to start a pilot project for tribes that are ready to exercise authority sooner.

"Domestic violence and dating violence committed in Indian country by Indian abusers against their Indian spouses, intimate partners, and dating partners generally fall within the criminal jurisdiction of the tribe," DOJ says in a notice that will be published in the [Federal Register](#) tomorrow.

"But prior to the effective date of the tribal provisions in VAWA 2013, if the victim is Indian and the perpetrator is non-Indian, the tribe lacks criminal jurisdiction as a matter of federal law and the crime can be prosecuted only by the United States or, in some circumstances, by the state in which the tribe's Indian country is located," the notice states.

Comments on the pilot project program will be accepted 30 days after the notice is published.

Forthcoming Federal Register Notice:

[Tribal Jurisdiction over Crimes of Domestic Violence: Pilot Project](#) (To Be Published June 14, 2013)

Futures Without Violence

The Facts On Violence Against American Indian/Alaskan Native Women

Impact Statement

American Indian women living on Indian reservations experience unique challenges that intensify the epidemic of violence against them. Accurate statistical data quantifying incidences of violence against women on reservations, or “Indian country”, is in small quantity. Comprehensive data on violence against women under tribal jurisdiction does not exist since no federal or Indian agency nor organization systematically collects this information

Data on crime in Indian country is also lacking. This is partially due to the underreporting of crimes to tribal authorities and partly due to underreporting to the federal authorities. While a comprehensive survey of the devastation caused by violence against American Indian women remains elusive, the glimpse that emerges from existing data collection is grim. The scope of this data collection examines violence committed against American Indian women and issues around the effectiveness of the local, state and federal responses.

Note on Terminology

Futures Without Violence is committed to using terminology that respects and honors the individuals to whom this research is concerned. Currently, there are over 560 federally recognized American Indian and Alaskan Native Indian tribes in the U.S. While no single term is universally accepted by all indigenous peoples in the U.S., the terms “American Indian, Alaskan Native, Indigenous, and Native American,” are used for data reporting purposes only, and appear in the form the terminology was originally published. It is not meant to minimize, exclude or generalize the individuals involved nor endorse one form of terminology over the other.

Domestic Violence/Intimate Partner Violence/Physical Assault

- American Indian women residing on Indian reservations suffer domestic violence and physical assault at rates far exceeding women of other ethnicities and The Facts on Violence Against American Indian/Alaskan Native Women locations. A 2004 Department of Justice report estimates these assault rates to be as much as 50% higher than the next most victimized demographic.
- National annual incidence rates and lifetime prevalence rates for physical assaults are also higher for American Indian and Alaskan Native women compared to other women.
- In a 2008 CDC study, 39% of Native women surveyed identified as victims of intimate partner violence in their lifetime, a rate higher than any other race or ethnicity surveyed. This finding has been common over the years. A study from 1998 that utilized a large national probability sample (n=8000) found that American Indian/Alaskan Native American women were the most likely racial group to report a physical assault by an intimate partner
- According to the Bureau of Justice Statistics, US Department of Justice, Office of Justice Programs at least 70% of the violent victimizations experienced by American Indians are committed by persons not of the same race— a substantially higher rate of interracial violence than experienced by white or black victims.
- In a 2006 study, 96% of American Indian respondents who had been a victim of rape or sexual assault had experienced other physical abuse as well.
- During a physical assault, American Indian and Alaska Native women were more likely to be injured than women of all other groups and more of these injuries needed medical care.
- Violence against Indian women occurs as a gauntlet in the lives of Indian women: at one end verbal abuse and at the other murder. Most Indian women do not report such crimes because of the belief that nothing will be done.

Sexual Assault

- Federal government studies have consistently shown that American Indian women experience much higher levels of sexual violence than other women in the U.S. Data gathered by the U.S. Department of Justice indicates that Native American and Alaskan Native women are more than 2.5 times more likely to be raped or sexually assaulted than women in the USA in general (5 vs. 2per 1,000).

- Additionally, 34% or more than one in three Native women will be raped during their lifetime, whereas for women as a whole the risk is less than one in five.

- A 2004 study that examined intimate partner rape among American Indian women found that one in five respondents (20.9%) reported they had been a victim of at least one incident in their lifetime.

Stalking

- 17 percent of Native American and Alaskan Native women have been stalked in their lifetime.

Health Connections/ Risk Factors

- Native American victims of intimate and family violence are more likely than victims of all other races to be injured and need hospital care.

- In general studies of American Indians, researchers have found evidence that this population has higher levels of alcohol abuse and dependence, suicide rates, and mental distress than the general population.

- A 2009 study that examined the overlap of intimate partner violence and alcohol, drug, and mental disorders found significant unadjusted prevalence ratios (severe physical and sexual abuse) for anxiety, PTSD, mood and any mental disorder.

- During the past twenty years, there has been growing recognition among health care professionals that domestic violence is a highly prevalent public health problem with devastating effects on individuals, families and communities. The health care setting offers a critical opportunity for early identification and even primary prevention of abuse.

- Given the multiple risks present in the AI/AN communities, the prevalence of posttraumatic stress disorder (PTSD) is substantially higher among AI/AN persons in the general community.

- It is likely that higher rates of exposure to traumatic events coupled with the overarching cultural, historical, and intergenerational traumas make this population more vulnerable to PTSD.

- Alcohol and drugs appear to play a larger role in the sexual attacks of American Indian and Alaska Native women compared to other women. Over two-thirds (68%) of American Indian and Alaska Native sexual assault victims believed their attackers had been drinking and/or taking drugs before the offense.

American Indian Children and Youth

- American Indian and Alaska Native children are more likely to receive needed mental health care services through a juvenile justice system and inpatient facilities than non-Indian children. They are also the group most likely to encounter systems with a consistent lack of attention to established standards of care for the population.

- The number of American Indian children and adolescents reporting depression and suicidal ideation is a significant cause for concern in the United States.

Victim Perspective (Tribal specific/Culturally Sensitive) Resiliency

- Some American Indian and Alaskan Native communities are developing culturally sensitive interventions for violence against American Indian and Alaska Native women both within and outside of the criminal justice system. These family or community forums emphasize restorative and reparative approaches to justice.

- Problems in law enforcement are exacerbated on many tribal lands due to insufficient funding, inadequate funding, inadequate training, and victims' trust for outside authority.

Historical Trauma

- The abuse of Indian women and children can be traced to the introduction of unnatural life ways into Native culture. Scholars support this idea and suggest that violence against American Indian and Alaska Native women directly relates to historical victimization. According to proponents of this idea, domination and oppression of native peoples increased both economic deprivation and dependency through retracting tribal rights and sovereignty. Consequently, American Indian and Alaska Natives today are believed to suffer from internalized oppression and the normalization of violence.

Jurisdictional /Sovereignty Problems

- There are many jurisdictional complexities and limitations in Indian Country. The confusing division of authority among tribal, federal and state governments results in a jurisdictional maze that is complicated by the lack of tribal courts' criminal jurisdiction over non-Indians, the practical impact of Public Law 280, and other limitations on tribal criminal jurisdiction. The difficulty of determining jurisdiction, and provisions for concurrent jurisdiction of certain cases, can cause conflict and confusion for law enforcement, prosecution, courts, service providers, and crime victims in Indian Country. As a result, non-Indians who commit acts of domestic violence that are misdemeanors on Indian reservations are virtually immune from prosecution in most areas of the country. This is because the Supreme Court has held that tribal governments may not prosecute non-Indians.

- About one-quarter of all cases of family violence (violence involving spouses) against American Indians involve a non-Indian perpetrator, a rate of inter-racial violence five times the rate of inter-racial violence involving other racial groups.

- A larger percent of victimization against American Indian and Alaskan Native women are committed by white offenders compared to American Indian and Alaska Native offenders.

- Jurisdiction over law enforcement varies by the location of the offense (on or off reservation), what parties are involved (the race/ethnicity of the victim and offender), the nature of the crime (major crime or misdemeanor) and if the tribe resides in a PL-280 state. Passed in 1953, Public Law 280 gave state governments jurisdiction over offenses committed in Indian Country or involving American Indian and Alaska Natives in PL-280 states. The six "mandatory" states required to adopt PL-280 were Alaska, California, Minnesota, Nebraska, Oregon and Wisconsin.

- In addition to practical problems of funding, training, coordination, and jurisdictional complexities, tribal governments suffer from an inability to use what sovereignty duties they are realistically allowed to implement. Researchers have suggested that the erosion of the tribal government's ability to address crime significantly harms American Indian and Alaska Native women in particular. American Indian advocates argue that tribal government's inability to prosecute non-American Indian and Alaska Natives attracts offenders of various crimes to Indian country.

- In 1994, the Violence Against Women Act (VAWA), a part of the Federal Crime Control Bill, gave federal support to develop and strengthen law enforcement and prosecution strategies to combat violence against Indian women and children and develop and strengthen victim services particularly involving violent crimes against women. VAWA created the Violence Against Women Office (VAWO) – now known as the Office of Violence Against Women – within the Office of Justice Programs (OJP), Department of Justice.

Lack of Resources /Social Isolation on Reservation

- Poverty contributes to a number of less than desirable environmental conditions that create increased stress and trauma. Approximately 26% of AI/AN live in poverty, compared with 13% of the general population and 10% of White Americans. Single parent AI/AN families have the highest poverty rates in the country.

- With well over 500 federally recognized tribes, there are barely 26 Native specific shelters in existence today with only a few more in development.

- The barriers of social isolation precludes some American Indian and Alaska Native women from obtaining adequate medical care including the availability of rape kits being preformed by trained medical staff to aid in prosecution.

Emerging Trends /Interventions

- Extended safety and support.** In the work to end violence against Indian women, many Native nations are finding that shelter options alone do not provide the time or the stability for women to create a solid base for change in their lives. Longer-term housing and affordable permanent housing that goes beyond providing simply the physical structure, needs to be implemented in order to create opportunities for battered women leaving abusive relationships to live in a community that extends safety, support and a place to work toward reclaiming their connections with themselves and each other.

- Domestic Violence intervention in the health care setting.** The health care setting offers a critical opportunity for early identification and even primary prevention of abuse.

Citations omitted.