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Violence Against American Indian and Alaska Native Women and the Criminal Justice

Response: What is Known*

By

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EXECUTIVE SUMMARY

The purpose of this report was to provide an overview of the epidemiology of violence against American Indian and Alaska Native women as well as an accounting of the criminal justice responses to this violence. Key findings include:

- National rates of homicide victimization against American Indian and Alaska Native women are second to those of their African American counterparts, but higher than those for white women. However, these national averages hide the extremely high rates of murder against American Indian and Alaska Native women present in some counties comprised primarily of tribal lands. Some counties have rates of murder against American Indian and Alaska Native women that are over ten times the national average. Like other women, American Indian and Alaska Native women are more likely to be killed by their intimate partners compared to other offenders.
- Using information to estimate nonfatal victimizations from official police report data, such as the Uniform Crime Reports (UCR) or the National Incident Based Reporting System (NIBRS) compiled by the Federal Bureau of Investigation is extremely problematic since we know less than half of violent victimizations against women are ever reported to police. Random sample surveys of women are the most appropriate method for estimating incidence rates. Unfortunately, a majority of studies that have examined violence against American Indian and Alaska Native women have relied on convenience samples of women (e.g. those available for study such as women seeking

medical care at a clinic), which cannot be generalized to the population of all women, even women in a particular tribe. The extreme diversity in social, cultural, and economic conditions across tribes as well as the differences that may exist between American Indian and Alaska Native women who reside in urban areas (roughly 60%) off tribal lands, makes estimating rates of violence against American Indian and Alaska Native women problematic. Making comparisons of incident rates is also difficult because of the extremely diverse nature of the survey questions used to uncover victimizations.

- An analysis of the National Crime Victimization Survey (NCVS) reveals that rates of rape and other sexual assaults are higher for American Indian and Alaska Native women compared to both African American and white women. Rape and sexual assaults against all women regardless of race were more likely to be committed known offenders. These results are consistent with findings from the National Violence Against Women Survey (NVAWS) that found American Indian and Alaska Native women were significantly more likely to experience a rape in their lifetimes compared to other women.
- With few exceptions, surveys of American Indian and Alaska Native women conducted in local areas including those residing on tribal lands as well as those residing in urban areas also generally find high rates of rape and sexual assault victimization. However, because of the extreme variation in the wording of the questions used, it is not always possible to know whether these victimizations were completed rapes or other sexual assaults. There has been one very rigorous survey that employed a random sampling design to uncover rape victimizations, both completed and attempted, within six tribal nations, which generally found high rates of rape with the exception of one tribe.

- According to NCVS data, rape and sexual assault victimizations against American Indian and Alaska Native women are just as likely to be reported to police compared to victimizations against other women, however, a friend, family member, or another official are most likely to do the reporting, not the victim herself. In only 6% of the victimizations that were reported were victims aware that the offender had been arrested. This is similar to the percent of other women who report that an arrest was made in their case.
- National annual incidence rates and lifetime prevalence rates for physical assaults are also higher for American Indian and Alaska Native women compared to other women. Like other women, American Indian and Alaska Native women are more likely to be assaulted by known offenders compared to strangers. Roughly equal proportions of these victimizations against American Indian and Alaska Native women are reported to police compared to other women. In addition, reports to police by American Indian and Alaska Native women are just as likely to result in arrest compared to reports made by other women. These national patterns do not, however, reflect variation in reporting and arrest rates that may occur across tribal nations.
- The unique position of American Indian and Alaska Native tribes as both sovereign and dependent creates problematic jurisdictional barriers that sometimes prohibit an effective criminal justice response to American Indian and Alaska Native victims of violence. Several federal laws have limited tribal government's power to prosecute offenders including the Major Crimes Act (1885), which mandated that virtually all violent crimes committed on tribal lands were to be prosecuted by the federal government. Although tribes have the power to concurrently prosecute cases of violence, the Indian Civil Rights

Act (1968) mandates that tribal courts are not permitted to punish offenders with more than \$5,000 in fines, one year in jail or both. Importantly, tribal sovereignty in punishing offenders does not apply to non-American Indian and Alaska Natives (*Oliphant v. Suquamish Indian Tribe*, 435 U.S. 1978).

- Complicating jurisdictional issues even more is Public Law 280 (1953), which gave state governments jurisdiction over offenses committed against American Indian and Alaska Natives on tribal land in six “mandatory” states including Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin, and some states that also assumed part or total jurisdiction over some tribes within state boundaries including Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington. Since Public Law 280 (PL-280), however, several states have retroceded authority to specific tribes making jurisdictional issues even more complicated.
- Complicated jurisdictional issues still produce unique barriers to American Indian and Alaska Native women seeking help from a criminal justice authority on tribal lands. When an act of violence occurs on tribal lands, there are several possible law enforcement officials who may respond including tribal officers, Federal Bureau of Investigation officers, Bureau of Indian Affairs officers, and in PL-280 states, state police officers. Deciding who has jurisdictional authority is dependent on several factors including the crime that was committed, whether the offender or the victim was an American Indian and Alaska Native, and whether the crime was committed exclusively on tribal land. The jurisdictional confusion that may ensue when an act of violence occurs sometimes produces an inadequate and delayed response to female victims. Importantly,

some tribes have worked out cross-deputization agreements with state police authorities, which serve to alleviate the jurisdictional confusion over authority.

- Additional problems in law enforcement are exacerbated on many tribal lands by insufficient funding, inadequate training, and victims' lack of trust for outside authority.
- Although tribal governments do not have jurisdiction to prosecute non-American Indian and Alaska Native offenders in criminal courts, they do have authority to enact civil orders against them, including Personal Protection Orders (PPOs). PPOs provide injunctive relief for petitioners who seek to use legal remedies to end threatening behavior, cease contact with another individual, or to alter custody arrangements. The Violence Against Women Act (VAWA) of 1994 established "Full Faith and Credit" for PPOs, which mandates jurisdictions to honor PPOs enacted in other jurisdictions. Importantly, this means that States and tribal governments must enforce the protection orders of other State and tribal jurisdictions. In reality, however, the variety of orders and accompanying legal punishments and the understanding of the intent of the order vary by each State and tribal government, creating significant barriers to the enforcement of "Full Faith and Credit."
- In addition to legal barriers that may impede American Indian and Alaska Native women from obtaining justice, there are also other barriers including the social isolation of many tribal lands that precludes some American Indian and Alaska Native women from obtaining adequate medical care including the availability of rape kits being performed by trained medical staff to aid prosecution. Cultural barriers also prevent some American Indian and Alaska Native women from seeking assistance from those outside the

community, while issues of privacy may also prevent others from seeking help inside close-knit tribal communities where “everyone knows everyone else’s business.”

- Some American Indian and Alaska 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. One example of this is the Navajo Peacemaking system. Other culturally sensitive victim support services are being created across the country, in both urban settings as well as on rural tribal lands.
- A great deal of progress has been made to combat violence against American Indian and Alaska Native women as a result of the VAWA 1994 and its reauthorizations in 2000 and 2005. Initiated in 1995, one of the most significant initiatives administered specifically for American Indian and Alaska Native communities has been the Services-Training-Officers-Prosecutors (STOP) Violence Against Indian Women (VAIW) program. The primary purpose of the STOP VAIW Discretionary Grants Program was to reduce violent crimes against American Indian and Alaska Native women. In 2006, over \$6.7 million was awarded to 35 American Indian and Alaska Native communities under this initiative. Additionally, American Indian and Alaska Native tribal governments and tribal associations could obtain funding under other grant programs including the Legal Assistance for Victims Program, the Rural Domestic Violence, Dating Violence, Sexual Assault, and Stalking Assistance Program, The Supervised Visitation and Safe Exchange Program, and the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program. Over \$21 million dollars were awarded to tribal communities under these initiatives in 2006 and 2007. Title IX of VAWA 2005 significantly increased

existing set-asides to tribal nations and created a new consolidated initiative called the Tribal Government Program, which gives tribal governments a longer list of options on how funds can be utilized to combat violence against American Indian and Alaska Native women.

In the past few decades, we have learned a tremendous amount about the vulnerabilities that American Indian and Alaska Native women have to violent victimization as well as the unique obstacles they face when seeking help from law enforcement authorities and other officials for these victimizations. We have several recommendations that we believe will provide more fruitful investments to combat this violence in the future:

- Valid and reliable data on violence against American Indian and Alaska Native women are essential in formulating policies likely to prevent this violence and to respond effectively. Importantly, without solid baseline rates of violence against American Indian and Alaska Native women at both national and local levels, there is no way to assess the overall effectiveness of interventions. Using official data from police reports is not desirable for these endeavors because police reporting by female victims can be influenced by a number of factors. Moreover, since less than half of all violent victimizations against American Indian and Alaska Native women are ever reported to police, using survey methodology is the only reliable way to estimate and track trends in violence against American Indian and Alaska Native women. However, because many local tribes will not have the resources to conduct surveys, official data from police will likely remain the principal means to monitor levels of violence. As such, it is important that efforts be made to improve the official databases that exist at the local tribal level.

We recommend using the National Incident-Based Reporting System (NIBRS) developed by the Federal Bureau of Investigation since its data template allows the collection of detailed information about the incidents including the victim/offender relationship along with other socio-demographic characteristics of the victim and offender. The jurisdictional issues described in this report should not prevent tribes from creating databases from initial victim reports.

- We now have consistent and reliable evidence from several random sample surveys conducted at the local tribal level, as well as from two national random sample surveys that violence disproportionately affects American Indian and Alaska Native women. It is important, however, that victimization of American Indian and Alaska Native women continue to be monitored by already existing surveys. Since the National Crime Victimization Survey (NCVS) remains the only large-scale survey conducted annually, every attempt should be made to restore the sample size of the NCVS in order to monitor violence against small subsets of the population, including American Indian and Alaska Native women. The current sample of the NCVS is insufficient to monitor patterns and trends of different forms of victimization (rape, assault) against American Indian and Alaska Native women, even when multiple years are aggregated. Future survey research efforts should be focused on understanding the causes of violence against American Indian and Alaska Native women, not just measuring the magnitude of this violence. To do this, collection efforts must be theoretically guided.
- Different research designs using different wording in questions to uncover victimization events at the local level will continue to produce disparate findings in the future. We contend that new resources directed at counting “how many” American Indian and

Alaska Native women are victims are misguided. Even the most conservative estimates indicate that violence is an extremely serious problem in many American Indian and Alaska Native communities. The limited resources that are available would be better invested in developing interventions and prevention programs, scientifically evaluating their efficacy for protecting American Indian and Alaska Native women, and making sure all female victims of violence have safe havens in the meantime.

- Research intended to evaluate the efficacy of programs and policies created to protect American Indian and Alaska Native women must employ scientifically rigorous standards when possible to determine if programs had their intended “impacts.” Unfortunately, much of the evaluation research to date has predominately evaluated the “process” by which programs were implemented. While these are important, they do not tell us anything about whether programs had the intended consequences of protecting women. We are not alone in this call. The National Research Council Committee on the Assessment of Family Violence Interventions similarly identifies improving the standards of evidence used in the evaluation of family violence programs as critical. We have learned far too many times that ineffective policies can sometimes do more harm than good.

INTRODUCTION

While recent research has illuminated the reality of violence present in some American Indian and Alaskan Native communities, only relatively recently has scholarly and Congressional attention been given to the vulnerability that American Indian and Alaska Native women face to violent victimization. The Violence Against Women Act (VAWA) of 1994 was extremely important legislation for protecting female victims of violence in general, and even more important for American Indian Alaska Native women. VAWA 1994, along with its subsequent revision in 2000 and 2005, have explicitly set aside funds to combat and respond to violence against American Indian and Alaska Native women. For example, VAWA 1994 set aside 4% of its allotment for Services and Training for Officers and Prosecutors (STOP) Grants for American Indian and Alaska Native federally recognized tribes.¹ In the reauthorization of VAWA in 2000, this allotment was increased to 5%. In addition, many of the sections in the 2000 reauthorization of VAWA allotted 5% to American Indian and Alaska Native tribes. For example, 5% of the funds established for Safe Havens for Children Pilot Programs, which grants money to provide supervised visitation and safe visitation exchange of children by and between parents in situations involving domestic violence, were set aside for American Indian and Alaska Native tribes.²

Because of the high rates of victimization against American Indian and Alaska Native women have been uncovered at both the local tribal levels and at the national level, section 904 of the 2005 VAWA reauthorization Act explicitly called for a baseline study to: (1) examine violence against American Indian and Alaska Native women; and (2) examine the effectiveness of local, tribal, state and federal responses to such violence. In addition, section 904 required the

¹ Section 40121 authorized 25% of allotments to go to police, 25% to go to prosecutors, and 25% to go to victim services. Tribes could apply for funds as individual nations or as a consortium of tribes together.

² Section 1301 of VAWA 2000.

establishment of a task force to assist with developing and implementing the study consisting of representatives from a) national tribal domestic violence and sexual assault nonprofit organizations, b) tribal governments, and c) national tribal organizations.

The goal of this report is to provide a synthesis of the empirical literature at both the local and national levels that has provided magnitude estimates of violence against American Indian and Alaska Native women along with a review of the methodologies on which the estimates are based. The report includes the crimes of homicide, rape and sexual assault, physical assault, and stalking. In addition to this review, we conduct original data analyses of homicide data from the Indian Health Service and the Supplementary Homicide Reports (SHR) as well as rape and assault data from the National Crime Victimization Survey (NCVS) to provide an epidemiological assessment of violence against American Indian and Alaska Native women and how the contextual characteristics of these victimization differ from women of other groups including white, African American, and Asian American women.

Finally, we provide a detailed review of what is known about criminal justice responses to violence against American Indian and Alaska Native women including the barriers to the legal interventions of such violence. Included here is a synthesis of other interventions that have been used at local levels to respond to and prevent violence against American Indian and Alaska Native women including such innovations as Navajo Peacemaking. We conclude with our recommendations for future research. Before we begin, however, it is first important to define what we mean by the term American Indian/Alaska Native.

Who is an American Indian or an Alaskan Native?

There are many obstacles in determining exactly who is an American Indian and Alaska Native primarily because there is a great deal of variation in definitions across government agencies and across Indian nations. According to the federal government's Bureau of Indian Affairs (BIA), an American Indian is legally defined as a person who is an enrolled or registered member of a tribe or whose blood quantum is one-fourth or more, genealogically derived. This level varies, however, with some tribes setting their blood quantum requirements much lower and some setting them higher. In contrast, the U.S. Bureau of the Census relies on self-identification, that is, you are an American Indian and Alaska Native if you say you are.

In the 2000 Census, respondents were asked to report one or more races they consider themselves to be. In 2000, 2,475,956 people considered themselves to be American Indian and Alaska Native alone (0.9% of the population) and an additional 1,643,345 considered themselves to be American Indian and Alaska Native in combination with one or more other races (0.6% of the population), the majority of which were in combination with white. In sum, 4,119,301 people, or 1.5% of the U.S. population, described themselves entirely or partially as American Indian and Alaska Native in 2000 (U.S. Census, 2002). Males and females represent roughly equal proportions of the total American Indian and Alaska Native population, 49% and 51% respectively. About one-third of both males and females are under the age of 18. Regarding socioeconomic factors, many American Indian and Alaska Natives who reside on isolated tribal lands have very few educational and economic opportunities. This is reflected in national averages for educational attainment and income. A higher percentage of American Indian and Alaska Natives have less than a high school education and fewer American Indian and Alaska Natives have a bachelor's degree compared to the general population. The median income for

both American Indian and Alaska Native men and women is also significantly lower than their male and female counterparts in the general population. Moreover, the percent of the American Indian and Alaska Native population American Indian and Alaska Natives who live under the poverty threshold is almost double that of the total population (25.7% compared to 12.4%) (U.S. Census, 2002).

Although American Indian and Alaska Natives reside in every state, there are some areas of the country with larger American Indian and Alaska Native populations. In 2000, 43% lived in the West, 31% in the South, 17% in the Midwest, and 9% lived in the Northeast. More than half of American Indian and Alaska Natives resided in urban areas. Of cities with 100,000 or more population, New York and Los Angeles had the largest number of American Indian and Alaska Natives followed by Phoenix, Tulsa, Oklahoma City, and Anchorage. States with the greatest percentage of American Indian and Alaska Natives include Alaska (19%), Oklahoma (11.4%), New Mexico (10.5%), South Dakota (9%), Montana (7.4%), Arizona, (5.7%), and North Dakota (5.5%) (U.S. Census, 2002).

It is often assumed that most American Indian and Alaska Natives reside on tribal lands, however, almost 60% of American Indian and Alaska Native individuals reside in urban areas. Only about 40% live in rural locations, most often on tribal lands (U.S. Census, 2002). Moreover, there is also a great deal of variability in whether American Indian and Alaska Natives accept traditionalism or become acculturated to mainstream society. The continuum stretches from someone who was born and remains on tribal lands to those who were born in a city and feels little connection to their ancestral tribe. Moreover, this cultural and social diversity exists even within a single reservation. For example, some American Indian and Alaska Natives on a reservation may live in a very traditional manner, speaking the native language and

practicing traditional religions, while others may be fully entrenched in modern society with no ties to traditional practices. In fact, about one-quarter of individuals who self-identified themselves as American Indian and Alaska Native to the U.S. Census did not have formal ties to a tribe (U.S. Census, 2002).

In sum, making generalizations about the characteristics of the entire population of “American Indian and Alaska Natives” is extremely problematic. Nevertheless, estimating the unique vulnerabilities to violence among this population is extremely important. As the U.S. Census states, “all levels of government need information on race to implement and evaluate programs or enforce laws” (U.S. Census, 2002, p. 10) including such laws as the Equal Employment Opportunity Act, the Voting Rights Act, and for our purposes, the Violence Against Women Act. The purpose of this report is to provide such an accounting of violence against American Indian and Alaska Native women.

HOMICIDE VICTIMIZATION

We know from previous research that homicide victimization rates for American Indian and Alaska Natives living on certain tribal lands are significantly higher than rates for any other race/ethnic group in the United States (Bachman, 1992). However, we know very little about homicide victimization against American Indian and Alaska Native women specifically. To understand as much as possible about homicides against American Indian and Alaska Native women, two sources of data and two different geographical units of analysis were analyzed in this report, data at the county level and data at the national level.

National Level Homicide Data

National level data were obtained from the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program: Supplementary Homicide Reports (SHR) for 1976 through 2002 (Fox, 2005).³ Although there is variation in definitions of murder across states, the UCR generally defines murder and non-negligent manslaughter as the willful killing of one human being by another. Riedel further states, "As a general rule, any death due to injuries received in a fight, argument, quarrel, assault, or commission of a crime is counted as a murder or non-negligent manslaughter" (Riedel, 1999). The UCR program collects detailed information on all murders known to the police in local jurisdictions, including the age, sex, and race of the victim and, if known, of the perpetrator; the weapons used, the relationship between the victim and the offender; and the circumstances of the murder. Of course, the reliability of these data is only as good as the local law enforcement agencies that originally collect the information. That is, a case first has to be defined by law enforcement as a homicide to be recorded. This reliability may be further compromised by the complicated jurisdictional issues that surround the adjudication of violent crime in Indian Country⁴ (see section on Criminal Justice Responses on pages 67-79 for a more detailed discussion of this issue).

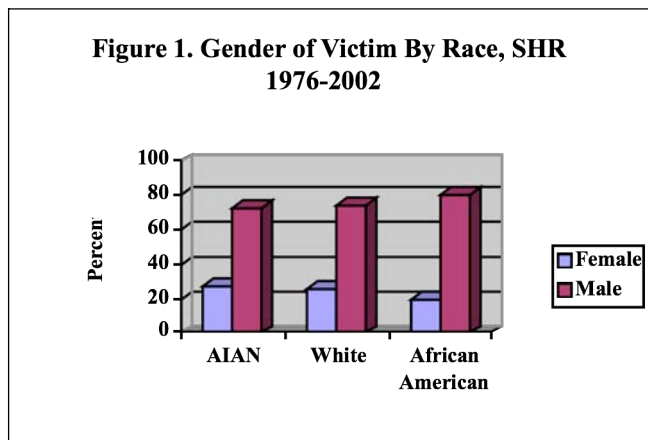
In the national level analysis, total homicides against American Indian and Alaska Native, white, and African American females were examined for the entire 1976-2002 time period. During this time period, American Indian and Alaska Native females were more

³ SHR data were obtained from the Inter-University Consortium for Political and Social Research (ICPSR), Study Number 4179 (Fox, 2005).

⁴ "Indian Country" is defined in the Major Crimes Act 18 U.S.C. § 1153 as:

- (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.

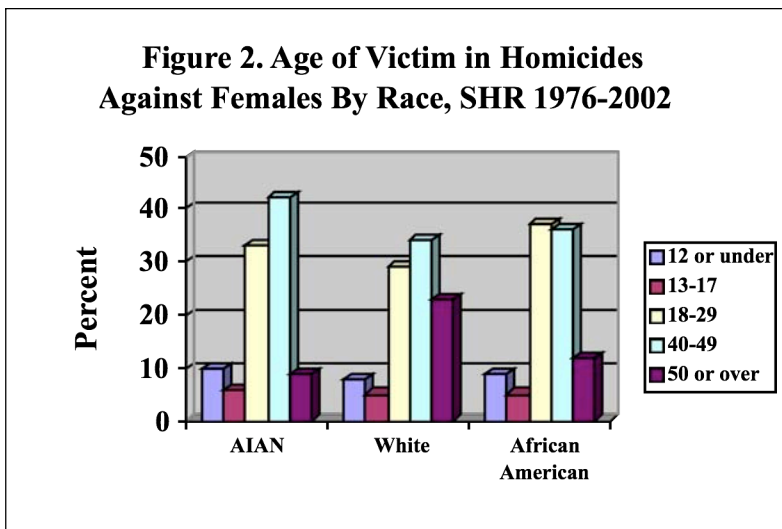
frequently represented among homicides within their racial group (27%) followed closely by white females (26%). African American females represented only 19% of all African American homicides (see Figure 1).



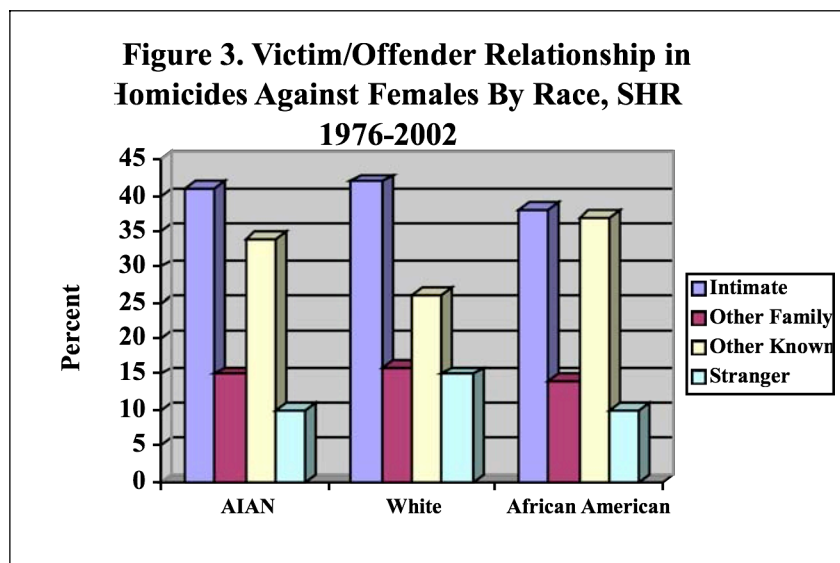
For the 1976 through 2002 time period, using the average annual number of homicides for females for each racial group and estimates from the 1990 Census for a population base for the denominators, total homicide rates of victimization per 100,000 females in each racial group were 7.3 for American Indian and Alaska Natives (average annual number of victimizations = 36), 10.4 for African Americans (average annual number = 1,160), and 5.0 for whites (average annual number = 2,578). Thus, at the national level, although African American women make up a lower proportion of homicides within their racial group, rates of victimization indicate that they are at greater risk of homicide compared to either American Indian and Alaska Native or white females. American Indian and Alaska Native females, however, are at a greater risk of being murdered than white females. However, as we shall see in the next section, American Indian and Alaska Native women living in some communities experience significantly higher rates of homicide victimization than this national average would indicate.

When the contextual characteristics of homicide victimization against women are examined by race, we see more similarities than differences. For example, when examining the

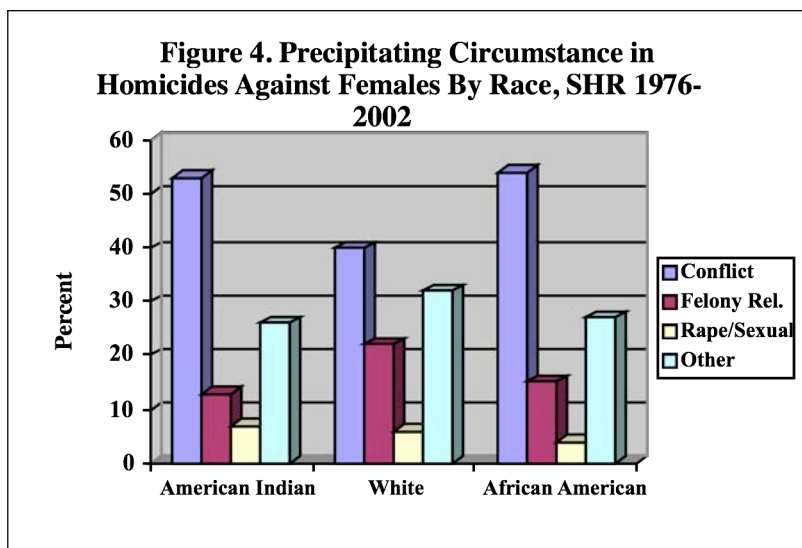
age of victims, it can be seen that the majority of female homicide victimizations regardless of race occur between the ages of 18 and 49 (Figure 2).



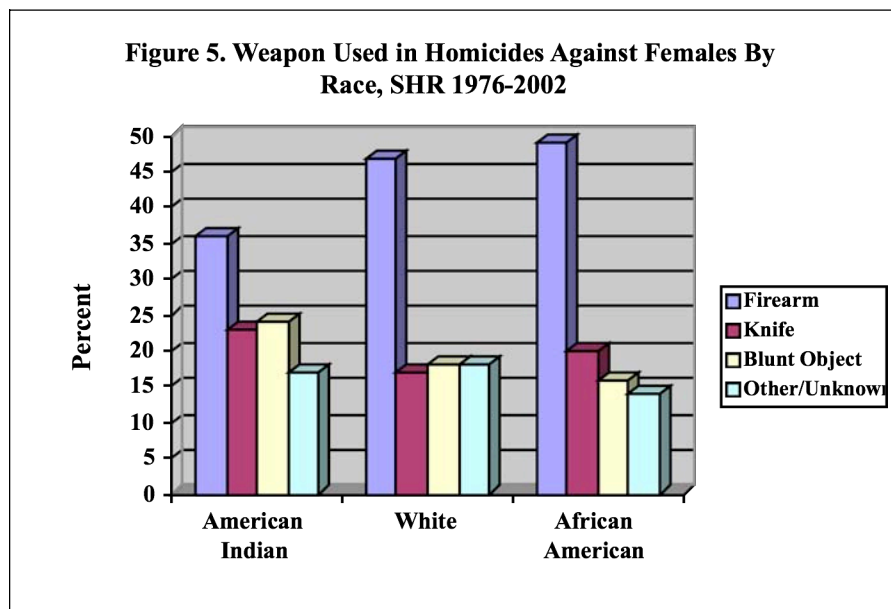
Women of all races are more likely to be killed by their intimate partners (such as spouses, boy/girlfriends, and exes), followed by other known offenders such as friends and acquaintances (Figure 3). Other non-intimate family members kill an average of 15% of all female victims. Women of all races are least likely to be killed by strangers.



As shown in Figure 4, the precipitating circumstance of homicides against women, regardless of race, is most likely to be conflict situations (Alvarez & Bachman, 2007). Although American Indian and Alaska Native females are less likely to be killed as the result of another felony (e.g. robbery) compared to white and African American females, they are slightly more likely to be killed as the result of a rape or sexual assault: 7% of all American Indian and Alaska Native female homicides compared to 5% for white females, and 4% of all African American females.



The weapons involved in homicides against American Indian and Alaska Native women show a somewhat different distribution compared to either white or African American female victims. While firearms represent the most likely weapon to be used in murders against women regardless of race, American Indian and Alaska Native women are more likely to be killed by both knives and blunt objects compared to other women (Figure 5).



County Level Homicide Data

The county level data presented in this report were obtained for American Indian and Alaska Natives from Indian Health Services, Vital Statistics, National Center for Health Statistics (NCHS), 1994-1998.⁵ Unlike UCR data, the information for this data was obtained via standardized death certificates, not from law enforcement agencies. Because these data do not rely on reports to police, they do not suffer as much as the UCR from the problem of under-reporting. One limitation of homicide data from the NCHS reporting system is classification; that is, it is the responsibility of the certifier to determine if a death was in fact a homicide, regardless of any legal intervention that may or may not have occurred. This is a crucial decision that

⁵ The data used to calculate rates at the county level were not obtained from the Federal Bureau of Investigation but from Indian Health Service, the National Center for Health Statistics (NCHS), which relies on data from the Vital Statistics, which are based on death certificates from Medical Examiners Officers, not from police reports. These data are published at that national level by the Centers for Disease Control and Prevention. Unlike the Supplementary Homicide Reports compiled by the FBI, these data are not available to the public at the ICPSR website. They were obtained through personal correspondence with Joanne Pappalardo at the Indian Health Service. In addition, like all vital statistics homicide data *and* FBI Supplementary Homicide Report Data, the numerator for rate calculation includes those victims who were killed within a particular jurisdiction (e.g. county, state). As such, it is possible that a victim may be included within a county that she/he did not actually reside. For example, rates of homicide for county X will include all victims killed within that county during a given time period regardless of a victim's actual location of residence. Unlike the SHR data, only 5 years of data could be made readily available at the county level.

impacts the reliability and validity of this information. Additionally, the death certificate information must be provided to the National Center for Health Statistics to ensure the data is recorded. Another disadvantage of the NCHS data is that there is no information on the offender or the precipitating circumstance of the killing.

The selection of county-level data was based on two criteria: 1) the race specific county population must be reflective of the national percentage reported in the 2000 U.S. Census and 2) the race specific county level population must contain at least 100 American Indian and Alaska Natives. Specifically, those U.S. counties that had at least 1% American Indian and Alaska Natives and at least 100 American Indian and Alaska Native persons within the county were included. Specifically, rates are expressed as per 100,000 American Indian and Alaska Native females and calculated as follows:

$$Rate = \left(\frac{\text{Number of AI Female Victims}}{\text{Total AI Female Population}} \right) \times 100,000$$

Table 1 displays the rate of homicide for American Indian and Alaska Native females by county; for ease of presentation, only those counties with at least 1 homicide (non-zero counties) are displayed. As can be seen, the low rate of homicide occurred in San Bernardino County, California (2.06) and the highest rate occurred in Bon Homme County in South Dakota (555). A glance across the table illuminates the reality of homicide risk for American Indian and Alaska Native women who live in American Indian and Alaska Native communities. In fact, the majority of these communities have extremely higher rates of homicide compared to the national average for American Indian and Alaska Native females.

Table 1. Average American Indian and Alaska Native homicide rates against females for US counties with at least 1% American Indian and Alaska Native population, at least 100 American Indian and Alaska Natives, and at least 1 homicide during the 1994-1998 period, NCHS, Indian Health Service.

| State | County | Rate Per 100,000 American Indian and Alaska Native Women |
|-------|------------------------------|--|
| AK | Aleutians East Borough | 43.57 |
| AK | Anchorage Municipality | 15.51 |
| AK | Bethel Census Area | 3.18 |
| AK | Bristol Bay Borough | 78.13 |
| AK | Fairbanks North Star Borough | 12.82 |
| AK | Valdez-Cordova Census Area | 29.24 |
| AK | Yukon-Koyukuk Census Area | 27.65 |
| AZ | Apache County | 6.63 |
| AZ | Coconino County | 3.59 |
| AZ | Gila County | 12.23 |
| AZ | Maricopa County | 12.47 |
| AZ | Mohave County | 29.94 |
| AZ | Navajo County | 3.31 |
| AZ | Pima County | 9.85 |
| AZ | Pinal County | 21.02 |
| AR | Sebastian County | 18.55 |
| CA | Fresno County | 3.1 |
| CA | Humboldt County | 10.96 |
| CA | Kern County | 4.19 |
| VA | Sacramento County | 2.79 |
| CA | San Bernardino County | 2.06 |
| CA | Sonoma County | 7.97 |
| CO | Denver County | 28.24 |
| CO | La Plata County | 33.56 |
| ID | Bingham County | 14.23 |
| IA | Woodbury County | 43.38 |
| KS | Labette County | 73.26 |
| KS | Sedgwick County | 8.4 |
| LA | Terrebonne Parish | 7.72 |
| MN | Beltrami County | 5.15 |
| MN | Mille Lacs County | 45.15 |
| MN | St. Louis County | 10.8 |
| MS | Neshoba County | 11.09 |
| MT | Hill County | 14.48 |
| MT | Missoula County | 16.58 |
| MT | Yellowstone County | 10.16 |
| NE | Dakota County | 92.17 |
| NE | Knox County | 62.11 |
| NV | Humboldt County | 56.34 |
| NV | Washoe County | 6.25 |
| NM | Bernalillo County | 18.22 |
| NM | Dona Ana County | 16.5 |
| NM | McKinley County | 6.18 |
| NM | Sandoval County | 2.61 |
| NM | San Juan County | 3.76 |
| NM | Santa Fe County | 9.74 |
| NC | Bladen County | 57.97 |
| NC | Cumberland County | 9.06 |

| State | County | Rate Per 100,000 American Indian and Alaska Native Women |
|--------------|---------------------|---|
| NC | Graham County | 70.18 |
| NC | Harnett County | 89.69 |
| NC | Hoke County | 9.89 |
| NC | Robeson County | 10.98 |
| NC | Scotland County | 12.52 |
| NC | Warren County | 39.6 |
| ND | Burleigh County | 38.54 |
| ND | Ward County | 30.4 |
| OK | Adair County | 4.42 |
| OK | Blaine County | 42.28 |
| OK | Cherokee County | 5.77 |
| OK | Cleveland County | 4.52 |
| OK | Coal County | 38.61 |
| OK | Craig County | 17.29 |
| OK | Custer County | 25.09 |
| OK | Garfield County | 30.63 |
| OK | Kay County | 21.53 |
| OK | Latimer County | 80.97 |
| OK | Muskogee County | 3.78 |
| OK | Oklahoma County | 16.7 |
| OK | Okmulgee County | 24.09 |
| OK | Osage County | 6.11 |
| OK | Payne County | 13.44 |
| OK | Pontotoc County | 7.16 |
| OK | Pottawatomie County | 5.23 |
| OK | Tulsa County | 8.04 |
| OR | Multnomah County | 5.96 |
| SD | Bennett County | 21.62 |
| SD | Bon Homme County | 555.56 |
| SD | Charles Mix County | 14.19 |
| SD | Minnehaha County | 25.96 |
| SD | Pennington County | 11.86 |
| SD | Todd County | 10.49 |
| UT | Iron County | 62.7 |
| UT | San Juan County | 9.67 |
| WA | Ferry County | 32.79 |
| WA | Okanogan County | 8.73 |
| WA | Pierce County | 19.32 |
| WA | Snohomish County | 4.89 |
| WA | Spokane County | 6.7 |
| WA | Yakima County | 20.72 |
| WI | Brown County | 14.09 |
| WI | Forest County | 39.14 |
| WI | Menominee County | 10.49 |
| WY | Fremont County | 11.47 |

NONFATAL VIOLENT VICTIMIZATION

Despite over twenty years of research, the magnitude of nonfatal violence against women is still frequently disputed. For many reasons that include the stigma often attached to intimate partner violence, the fear of retaliation from their perpetrators, and numerous other safety concerns, estimating incidence rates of this violence has always been a difficult task and cannot be appropriately discussed without adequate attention given to the methodologies used to collect the data. Scholars and activists typically rely on a number of different sources of data for information on the nature and scope of violence, particularly violence perpetrated by intimate partners. Each of them, however, has significant deficiencies that affect the quality of the information gathered.

Police Reports

Uniform Crime Reports (UCR): Relying on police reports, such as those used by the UCR to estimate incidence rates of violence is especially problematic for intimate partner violence. The primary reason is that a large percentage of these crimes are never reported to police. For example, survey data reveals that, at best, only about 50% of intimate partner assaults are reported to police and, at worst, less than one in four are ever reported (Bachman, 2000; Tjaden & Thoennes, 1998a). Another problem with using police report data is that, except for the crime of homicide, the current UCR program does not include information on the victim/offender relationship within its reports. Thus, it is not even possible to determine the magnitude of violence perpetrated by specific offenders such as intimates within UCR data. To remedy this problem, in 1988 the FBI implemented a change in its collection of crime information that includes more characteristics of the incident and is appropriately called the

National Incident Based Reporting System (NIBRS).

NIBRS data is very specific and includes many more offenses for which local agencies must report including many details of an incident such as the age, gender, race, ethnicity, and resident status, of victims and offenders. In total, NIBRS categorizes each incident and arrest in one of 22 basic crime categories that span 46 separate offenses. A total of 53 data elements about the victim, property, and the offender are collected under NIBRS. Because of the resources involved in gathering this much detail, just over half of all States currently use the NIBRS format for collecting information about reported crimes. This deficiency is further exacerbated by the fact that most of those American Indian and Alaska Native women living on tribal lands do not fall under the jurisdiction of state or local jurisdictions for crimes of violence (see section on Criminal Justice Responses to Violence, pp. 67-78). However, in the end, NIBRS data suffer the same fundamental problem as the UCR data – a crime has to be reported to police to be counted.

Victimization Surveys

Both the UCR and the NIBRS data collection methods are problematic when estimating incidence rates of violence. If victimizations are not reported to police, they are never counted in either data collection effort, particularly rapes and violence that occurs between intimates. Because of this weakness in police reports, random sample surveys of the population are typically the social science tool of choice for uncovering and measuring incidents of violent victimization. However, surveys employing diverse methodologies (e.g. different sampling techniques, different questions to uncover victimization) and different definitions of violence have resulted in tremendously diverse estimates, especially for small populations like American Indian and Alaska Natives. For example, for the general population of women, survey estimates

of how many women experience violence by an intimate partner annually range from 9.3 per 1,000 women to 116 per 1,000 women. Further, the methodological differences across survey methodologies often preclude direct comparison across studies (Bachman, 2000).

One of the most important distinctions across survey methodologies has to do with how samples are selected. To accurately estimate incidence rates of violence against American Indian and Alaska Native women, surveys must be based on *probability sampling methods*, meaning that they must be *randomly selected* (Bachman & Schutt, 2007). Probability sampling is a systematic way to select respondents from a target population so that every person (or other element such as school, prison, etc.) has an equal, independent and known probability of being selected. Only in this way can the information (e.g. rates of victimization) be generalized to some larger population. Unfortunately, much of the research investigating violence against women in the general population, and violence against American Indian and Alaska Native women in particular is based on convenience samples. These samples are simply available to researchers, such as samples of women who go to a clinic, women who seek help at shelters, women who are involved in some community group, and so on. Information obtained from these types of non-probability samples cannot be generalized to any population. In reality, because of the diversity in the American Indian and Alaska Native population already discussed, obtaining a representative sample of American Indian and Alaska Native women is especially problematic.

A nationally representative sample of American Indian and Alaska Native women has the advantage of illuminating the patterns and magnitude of violence against this group overall, but a national sample will not capture the tribal-to-tribal variation that exists in victimization. On the other hand, while representative samples of specific tribes may be able to capture the unique vulnerabilities that exist across certain tribes, they would not be able to measure the general

vulnerability of all American Indian and Alaska Native women compared to other women, nor would they be able to measure victimization against American Indian and Alaska Native women residing in urban locations, which as stated above, comprise over half of the American Indian and Alaska Native population. As such, both national level data and local surveys provide us with important insight into the magnitude of violence against American Indian and Alaska Native women.

In the sections that follow, we will describe what is known about rape and sexual assault, physical assault, and stalking from surveys at both the national and local levels. Because estimates of violence against American Indian and Alaska Native women are inextricably related to sample selection and the screening questions used, these methodological details will be highlighted. Before we continue, it is important to underscore a few issues. First, the definitions of violence used in the studies reviewed in this report for each offense varied. More importantly, even when researchers were purporting to measure the same offense (e.g. rape), the questions used to uncover these victimizations also varied. For example, two studies may attempt to be measuring rape victimization but one may ask respondents, “Have you been a victim of a sexual attack in the last 12 months?” and the another may ask, “Have you been forced or coerced to engage in sexual intercourse (vaginal, anal or oral) against your will by someone, even someone you know, in the last 12 months?” Clearly, the types and number of victimizations obtained from each of these questions would be different, even though results of both would be purported to measure “rape.” This variability in question wording is true for studies attempting to measure intimate partner assault and stalking as well. Consequently, it is extremely important to remember that the numbers of victims uncovered in each survey for various types of crimes is

inextricably tied to the methodologies used. Throughout our discussion, we will highlight the methodologies associated with each study and, in addition, they are summarized in Appendix A.

Second, many state rape statutes have replaced the label of “rape” with a gradation of offenses, typically labeled as “sexual assaults,” which are ordered according to severity with the most serious offense typically reserved for those involving forced or coerced intercourse, either vaginally, orally, or anally (Bachman & Paternoster, 1993). This most severe offense, regardless of its label across states, is what the criminal justice system typically defines as rape. However, many studies described in the next section may purport to measure rape, when in fact it is impossible to determine from the questions asked of respondents whether the victimization involved “sexual intercourse” or involved some other sexual offense. Because of these issues, we use the term “rape and sexual assault” throughout the report as a global category of sexual violence, unless we are referring specifically to study findings that could validly isolate incidents of “forced or coerced sexual intercourse” from other sexual assaults. In this case, we use the term “completed rape.”

RAPE AND SEXUAL ASSAULT

National Surveys

The National Crime Victimization Survey (NCVS): The only survey that monitors rape and sexual assault on an annual basis is the National Crime Victimization Survey (NCVS). The NCVS relies on a nationally representative sample of American households. The data used for the contextual analyses presented here were obtained from the NCVS for 1992-2005, Study

Number 4699, which is publicly available at the Inter-University Consortium for Political and Social Research⁶.

During 1992-2005, the NCVS annually interviewed an average of 80,000 individuals 12 years of age and older, asking them about their victimization experiences during the six months prior to the interview. Importantly, because of funding cuts, the sample size for the NCVS has been significantly reduced for the past several years. For example, in 1992, there were approximately 100,000 individuals interviewed, but by 2005, the sample size had been cut to 67,000 individuals⁷. These sample cuts have had serious implications for the estimation of victimization for the population in general, but particularly for subsets of the population like American Indian and Alaska Natives. If these cuts continue, it will no longer be possible to use the NCVS to monitor victimization against populations such as American Indian and Alaska Natives and other subsets of the population (e.g. other race/ethnic groups, the elderly). The low base rate of victimization for rapes and sexual assaults combined with the sample cuts and small population size required us to aggregate all available data (1992-2005) for the NCVS.

The NCVS has the capacity to estimate rates of both completed and attempted rape in addition to other sexual assaults. In addition to directly asking respondents if they have experienced “Any rape, attempted rape, or other type of sexual attack,” NCVS interviewers also ask the following question:

Incidents involving forced or unwanted sexual acts are often difficult to talk about. Have you been forced or coerced to engage in unwanted sexual activity by:

- a. Someone you didn't know before?*
- b. A casual acquaintance?*
- c. Someone you know well?*

⁶ Available at <http://www.icpsr.umich.edu/cocoon/ICPSR/STUDY/04699.xml>.

⁷ See <http://www.ojp.usdoj.gov/bjs/pub/pdf/cvus/cvus05mt.pdf> for a detailed list of sample sizes from 1996 in the NCVS statistical tables listed on the Bureau of Justice Statistics Website.

If respondents reply “Yes” to one of these questions, they are then asked, “Do you mean forced or coerced sexual intercourse?” to determine whether the incident should be recorded as a rape or as another type of sexual attack. After we present annual victimization rates from published reports, we will present an original data analysis of the NCVS to explore how the contextual characteristics of rape and sexual assault victimization of American Indian and Alaska Native women differ from those of white, African American, and Asian/Pacific Islander women.

Table 2 below presents of the combined rates of rape and sexual assault victimization by race for 1992 through 2001 that were obtained from the Bureau of Justice Statistics (Perry, 2004). As can be seen, American Indian and Alaska Native women are almost 3 times as likely to experience a rape or sexual assault compared to either white, African American or Asian American women. To reiterate, these are national estimates and include American Indian and Alaska Natives who reside both on and off tribal lands.

Table 2: Average annual rates of rape and sexual assault victimizations by race, NCVS 1992-2001.

| | Average Annual Rate per 1,000 persons Age 12 and over |
|--|--|
| All races | 2 |
| American Indian and Alaska Native | 5 |
| White | 2 |
| African American | 2 |
| Asian American | 1 |

Source: To be consistent with Bureau of Justice Statistics estimates of victimization, this table was obtained from Perry (2004), Table 7.

Next, we present our own analysis of the NCVS rape and sexual assault data for 1992 through 2005. The tables that follow are original data analyses generated from the ICPSR public use data tape for the National Crime Victimization Survey, 1992-2005: Concatenated Incident-Level File (ICPRS 4699). These tables are based on weighted sample estimates and are meant to be used for descriptive purposes only. As Table 3 illustrates, while males also experience rape

and sexual assault, they comprise a very small percentage of all victims. In the subsequent analyses, we restrict our sample to female victims only.

Table 3: Average annual number of rape and sexual assault victimizations by race, and gender of victim, NCVS 1992-2005.

| | Average Annual Number | % Female Victims | % Male Victims |
|--|-----------------------|------------------|----------------|
| All races | 342,420 | 91 | 9 |
| American Indian and Alaska Native | 6,956 | 87 | 13 |
| White | 272,866 | 91 | 9 |
| African American | 56,146 | 93 | 7 |
| Asian American | 6,454 | 82 | 18 |

Source: Original data analysis.

Table 4 presents the percent of rapes and sexual assaults that were completed rapes by race/ethnicity; victimizations against American Indian and Alaska Native women were more likely to result in a completed rape compared to other women.

Table 4: Average annual percent of rape and sexual assault victimizations against females by race, and completed status, NCVS 1992-2005.

| | Percent Completed Rape |
|--|------------------------|
| All races | 36 |
| American Indian and Alaska Native | 40 |
| White | 36 |
| African American | 38 |
| Asian American | 30 |

Source: Original data analysis.

Variables Used in the NCVS Contextual Analysis

Legally, rapes and sexual assaults can involve force or the threat of force. To examine the extent of physical force used in incidents of sexual violence, we looked at several variables that were intended to measure the severity of the victimization. First, victims were asked, “Did the offender hit you or knock you down?” The second variable measured the extent to which victims sustained other injuries in addition to the rape and sexual assault injuries including gun shot or

stab wounds, broken bones, internal injuries, chipped teeth, bruises, black eye, cuts, or swelling. In addition to injuries, victims were also asked if they “were injured to the extent that you received any medical care, including self treatment?” And finally, weapon presence was measured by asking victims, “Did the offender have a weapon such as a gun or knife, or something to use as a weapon, such as a bottle or wrench?”

Offender information was also examined insofar as the victim could recall them. The victim/offender relationship was aggregated into four categories, which included intimate (spouse or ex-spouse, boy/girlfriend or ex-boy/girlfriend), other family member (sibling, parent including step-parent, aunt/uncle, grandparent including step-grandparent), other known, and stranger. Victims were also asked the perceived race of the offender, which could include white, African American, or other, which could include American Indian and Alaska Native or Asian American. The final variable regarding offenders was whether victims perceived that the offender was under the influence drugs or alcohol at the time of the offense.

In addition to these contextual characteristics of the offense, we also examined the police reporting behavior of victims and whether an arrest or charge was made after a report. Victims were asked if the police were “informed or did they find out about this incident in any way?” If they said “Yes”, they were asked, “How did the police find out about it?” To ascertain if an arrest was made, for those victimizations reported to police, victims were also asked, “As far as you know, was anyone arrested or were charges brought against anyone in connection with this incident?”

Results of NCVS Contextual Analysis for Rape/Sexual Assaults

Table 5 presents the distribution of rape and sexual assault victims that were hit or knocked down during the attack by race of the victim. As can be seen, American Indian and

Alaska Native women were much more likely to be hit during the commission of their sexual victimization compared to all other women.

Table 5: Average annual percent of rape and sexual assault victimizations against *females* by race, in which the victim was hit, 1992-2005.

| | Percent of Victimizations in which the Victim was Hit |
|--|--|
| All races | 72 |
| American Indian and Alaska Native | 91 |
| White | 71 |
| African American | 78 |
| Asian American | 62 |

Source: Original data analysis .

By NCVS definition, all rapes are categorized as resulting in physical rape injuries. In addition to the rape related injuries victims sustained, we next examined the percent of victimizations that resulted in other physical injuries, such as cuts and bruises and broken bones, and the percent of these injuries that required medical care, as presented in Table 6. American Indian and Alaska Native women were more likely to be injured than either white or African American women. Moreover, injured American Indian and Alaska Native women were more likely to require medical care compared to injured victims of all other races.

Table 6: Average annual percent of rape and sexual assault victimizations against *females* by race, in which the victim sustained injuries *in addition to rape injuries* and percent of injuries requiring medical care, 1992-2005

| | Percent of Victimizations in which Victim was Injured | Percent of Injuries Requiring Medical Care |
|--|--|---|
| All races | 17 | 34 |
| American Indian and Alaska Native | 20 | 47 |
| White | 16 | 33 |
| African American | 16 | 35 |
| Asian American | 24 | 36 |

Source: Original data analysis.

Weapon presence, of course, is also an indicator of violence present in the victimization.

Table 7 presents the percent distribution of victimizations in which the offender brandished a

weapon. Again, American Indian and Alaska Native women were more likely to face an armed offender than women of other races. In fact, American Indian and Alaska Native women were over two times as likely to face an armed offender compared to other women.

Table 7: Average annual percent of rape and sexual assault victimization against females in which the offender had a weapon, 1992-2005

| | Percent of Victimization in which Offender Had Weapon |
|--|--|
| All races | 9 |
| American Indian and Alaska Native | 25 |
| White | 9 |
| African American | 9 |
| Asian American | 6 |

Source: Original data analysis.

We next examined other contextual characteristics of the rape and sexual assault victimizations by looking at the victim and offender relationship, the race of the offenders involved, and perceived drug and alcohol usage by offenders.

Table 8 presents the percentage distribution for the victim and offender relationship categories of intimate (spouses, boy/girlfriends, and exes), other family members (e.g. parents and step parents, siblings, other extended family), other known (e.g. friends and acquaintances), and strangers. As can be seen in Table 8, the majority of all rape and sexual assaults against women, regardless of race, are committed by known offenders. Of the known offenders, a larger percent of these victimizations against American Indian and Alaska Native women are committed by intimate partners compared to other women. Consistent with this, data also indicate that the majority of sexual assaults occurred in private compared to public locations. Sixty-five percent of sexual assaults against American Indian and Alaska Native women occurred at or near their private residence.

Table 8: Average annual percent of rape and sexual assault victimizations against females by race and perceived relationship status of offender(s), NCVS 1992-2005.

| | Intimate | Other Family | Other Known | Stranger |
|--|-----------------|---------------------|--------------------|-----------------|
| All races | 24 | 5 | 45 | 26 |
| American Indian and Alaska Native | 38 | 0 | 33 | 29 |
| White | 24 | 5 | 44 | 27 |
| African American | 23 | 6 | 47 | 25 |
| Asian American | 20 | 4 | 45 | 31 |

Source: Original data analysis.

The percentage distribution of the racial identity of offenders is presented in Table 8. While the majority of rapes and sexual assaults against other women were intra-racial, victimizations against American Indian and Alaska Native women were more likely to be inter-racial. That is, a larger percent of victimizations against American Indian and Alaska Native women are committed by white offenders compared to American Indian and Alaska Native offenders. However, based on the data from the last table, it cannot be inferred that these white offenders are necessarily strangers since the majority of victimizations are committed by known offenders. About one-third of victimizations against American Indian and Alaska Native women were committed by other American Indian and Alaska Native offenders.

Table 9: Average annual percent of rape and sexual assault victimization against females by race, and perceived racial/ethnicity status of offender(s), NCVS 1992-2005.

| | White Offender(s) | African American Offender(s) | Other* Offender(s) |
|--|--------------------------|-------------------------------------|---------------------------|
| All races | 63% | 25% | 13% |
| American Indian and Alaska Native | 57 | 10 | 33 |
| White | 76 | 12 | 12 |
| African American | 6 | 88 | 7 |
| Asian American | 35 | 13 | 52 |

Source: Original data analysis.

* Other includes American Indian, Alaska Native and Asian American

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 compared to 34% of white victims, 35% of African American victims, and 27% of Asian American victims.

To determine the extent of police involvement in rape and sexual assault victimizations, victims were asked if the police were notified about the victimization. Table 10 presents the percentage distributions of those victimizations in which police were notified and the percent of these notifications in which the victim, herself, reported the incident to police. As can be seen, a greater percent of sexual assaults against American Indian and Alaska Native women were reported to police compared to other women, however, less than one in five (17%) of victims made the report herself. In the other cases, another household member, some official, or some other person reported the incident to police. This low percent of victim reporting is consistent with percentages for all women.

Table 10: Average annual percent of rape and sexual assault victimization against females by race, in which the victimization was reported to police and the percent of these reports that were made by the victim herself, 1992-2001.

| | Percent of Victimization Reported to Police | Percent of Reports that were Reported by Victim |
|--|--|--|
| All races | 34% | 21% |
| American Indian and Alaska Native | 49 | 17 |
| White | 34 | 21 |
| African American | 35 | 21 |
| Asian American | 27 | 13 |

Source: Original data analysis.

Clearly, if a sexual assault is not reported to police, there is no opportunity for the victimization to be adjudicated and for punishment to be handed down. However, when rape and sexual assault victims who reported their victimization to police were asked whether an arrest

was made in their cases, it appears arrest was a rare event for these reports regardless of racial status. While American Indian and Alaska Native victims were less likely to report an arrest being made in their cases (6%) compared to other women, women of other races were also very unlikely to report an arrest being made. Only 10% of white, 12% of African American, and 10% of Asian American women who reported their victimizations to police reported that an arrest had been made.

The National Violence Against Women Survey (NVAWS)

Conducted in 1995 through 1996, the NVAWS relied on a nationally representative sample of 8,000 women. Unlike the screening questions used by the NCVS, the instrument used to uncover rape victimizations in the NVAWS utilized very behavior-specific questions that solicited information about all forms of rape including vaginal, anal, and oral penetration. These questions are provided in Table 11 and are intended to measure both completed and attempted rapes, but not other forms of sexual assault.

Table 11. Questions Used in the National Violence Against Women Survey to uncover incidents of rape and sexual assault.

1. Has a man or boy ever made you have sex by using force or threatening to harm you or someone close to you? Just so there is no mistake by sex we mean putting a penis in your vagina.
 2. Has anyone, male or female, ever made you have oral sex by using force or threat of force? Just so there is no mistake, by oral sex we mean that a man or boy put his penis in your mouth or someone, male or female, penetrated your vagina or anus with their mouth.
 3. Has anyone ever made you have anal sex by using force or threat of harm? Just so there is no mistake, by anal sex we mean that a man or boy put his penis in your anus.
 4. Has anyone, male or female, ever put fingers or objects in your vagina or anus against your will or by using force or threats?
 5. Has anyone, male or female, ever attempted to make you have vaginal, oral, or anal sex against your will, but intercourse or penetration did not occur?
-

As can be seen from Table 11, these questions provide many more cues for respondents to recall incidents of rape that they may have experienced. In addition, to asking respondents about their victimization experiences in the “previous 12 months,” the NVAWS also asked respondents about victimizations that occurred “during their lifetime.”

According to the NVAWS, 34% of American Indian and Alaska Native women had experienced a completed or attempted rape in their lifetimes compared to 18% of white, 19% of African American, and 7% of Asian and Pacific Islander women. Because of the small number of American Indian and Alaska Native women in the sample, annual victimization rates could not be reliably calculated. However, it is important to note that a recent version of the NVAWS that is currently in the field intends to conduct an over-sample of American Indian and Alaska Natives so more reliable annual victimization estimates can be produced.

Both of these national surveys provide important information about the magnitude of rape and sexual assaults against American Indian and Alaska Native women and how this vulnerability compares to other women. However, it does not provide information about the unique vulnerabilities American Indian and Alaska Native women who reside in specific locations face. For this, local surveys are needed.

Local Surveys

Consistent with the findings from these national studies, the majority of local studies have found a moderately high prevalence of rape and sexual assault against American Indian and Alaska Natives. To reiterate, we have provided a table listing the methodological details including the sample and screening questions of these local surveys in Appendix A.

The most extensive and rigorous study at the local level to date was conducted by Yuan, Koss, Polacca and Goldman (2006). Participants from six tribes were randomly selected from tribal enrollment lists, voting registers, or health service registries. Respondents of the survey were personally interviewed by American Indian and Alaska Natives of the same tribe or a different tribe. A total of 1,374 respondents 18 years of age or older were interviewed, 575 men and 793 women. This rigorous sampling strategy is important; it allows the findings of the study to be generalized to the larger tribes. Although the specific tribes were not released to protect confidentiality, three tribes were from the Southwest, one was from the Northwest, one was from the Northern Plains, and one was from the Northeast. All participants were living on or near tribal lands. These researchers used questions modeled after the NVAWS to solicit incidents of rape, however, the reference period for victimization was since “you were 18.” As such, annual incidence rates could not be completed from this survey.

Yuan et al. (2006) found that across all six tribes, 14% of respondents reported experiencing a completed or attempted rape since the age of 18. It is not possible to make comparisons of this rate with those from the NVAWS because the NVAWS uses “in your lifetime” as the reference period, which may include incidents that occurred before respondents reached the age of 18. In fact, NVAWS data indicate that the vast majority of these “lifetime” reports were, in fact, for victimizations that occurred in childhood.

Yuan and her colleagues also found that the majority of these victims were raped by a male relative, followed by romantic partners and other known persons. There was variation in the rate of rape across the six tribes with the lowest lifetime prevalence of rape being 4% and the highest being 29%. Researchers cautioned that respondents from the tribe with the 4% lifetime prevalence rate were interviewed by tribal members from the same tribe and that the tribe that

was “characterized by social unrest and political infighting among tribal members at the time of data collection” (Yuan et al. 2006, p.1586). It is logical to assume that rates of disclosure about victimizations committed by a family member may be reduced if respondents knew the interviewers, as known interviewers could not reasonably be expected to provide them with anonymity or even confidentiality. This coupled with the social unrest and political infighting among tribal members at the time of the interviews may have contributed to a low rate of candor by respondents when disclosing incidents of victimization.

Another recent study of violence against American Indian females was conducted by Zahnd, Holtby, Klein and McCain (2002), who interviewed American Indian women residing in California. Because the majority of American Indians reside in urban areas in California, they primarily recruited a convenience sample of women from American Indian service agencies in several urban areas of California, but also included women residing in rural tribal lands (total n=110). Although the women lived in urban areas, 71% of them reported having a reservation and 42% reported living on a reservation at some time during their childhood. Zahnd et al. asked respondents about childhood experiences with victimizations (before the age of 18), about experiences they had since the age of 18, and about experiences they had in the past 12 months. Their focus was also limited to victimizations by known offenders. They did not utilize behavior-specific questions to uncover victimizations, but instead, for childhood victimizations, asked respondents if they had experienced a “sexual incident” including sexual touching, unwanted sexual force, penetration or rape (p.40). The question about adulthood rape was, “ever forced to have sex by any adult, including anyone who was a member of your family, or anyone outside your family” (p.42). Over one in four of the women (26%) reported being forced to have sex and 58% reported some other type of sexual incident before the age of 18. Since becoming an adult

(18 years of age), 26% reported being forced to have sex (because of the small sample size, results were not reported for previous 12 month rape victimizations separately). Despite the general question on rape, this prevalence rate is much higher than either that reported by the NVAWS or the study conducted by Yuan et al. Almost three in four (73%) of all victimizations perpetrated were by intimate partners. It is important to note, however, that it was not a random sample.

Another study focused on American Indian women residing in the New York City area. Simoni, Sehgal and Walters (2004) examined the prevalence of rape and sexual assault among a convenience sample of female American Indians recruited from an American Indian community center in New York City. Respondents were asked if they had ever been “sexually abused” by a spouse or sexual partner or by someone other than a spouse or sexual partner. Results showed that 20% of respondents reported being sexually abused by an intimate partner, 34% reported sexual abuse perpetrated by a non-partner, 15% of respondents had been sexually victimized by both an intimate and non-partner at least once during their lifetime. Unfortunately, because of question wording, it is not clear what behaviors constituted “sexual abuse.”

There have been other local attempts to measure rape and sexual assault against American Indian and Alaska Native women, but they have focused specifically on victimizations perpetrated by intimate partners. For example, Robin, Chester and Rasmussen (1998) examined the prevalence of intimate partner perpetrated rape and sexual assault in a southwestern American Indian tribe. A questionnaire was administered to a convenience sample of 104 male and female tribal members over the age of 21. When asked if they had ever “been forced to have sex” by their intimate partners, 28.6% of female respondents reported that they had at least once in their life. Another study by Fairchild, Fairchild and Stoner (1998) conducted a convenience

survey of 341 American Indian women who obtained routine ambulatory care at a Navajo Indian Health Service (IHS) center. They found that 12.1% of respondents had experienced “sexual abuse” by a domestic partner during their lifetime. Unfortunately, the exact questions used to solicit information on these incidents of “sexual abuse” were not reported in the study so it is unclear what victimizations were actually measured.

Another study examining intimate partner perpetrated rape was performed by Malcoe and Duran (2004) who examined the prevalence of lifetime and recent violence among a convenience sample of 422 American Indian women who were patrons or volunteers at a tribally operated clinic in Oklahoma. Respondents were asked if their intimate partners had “insisted on any type of sex with you, when you did not want to, but did not use physical force,” “used verbal threats to make you have sex with him,” or “used force, like hitting you, holding you down, or using a weapon, to make you have any type of sex with him.” Their sample reported higher rates of rape and sexual assault; about one in five respondents (20.9%) reported they had been a victim of at least one of these incidents in their lifetime.

When samples of even more “captive” populations such as women seeking help in domestic violence shelters or substance abuse treatment are used, higher estimates of victimization are usually obtained. Adding even more uncertainty to these studies is the ambiguous nature of the questions used, which typically asked respondents about “sexual abuse.” In their convenience sample of respondents at a domestic abuse shelter in the Rocky Mountain Region, Norton and Manson (1995) found that 38% of respondents had experienced completed partner rape and 12% reported attempted partner rape within the previous year. An even higher prevalence of sexual abuse was found when Saylor and Daliparthi (2006) investigated the victimization experiences of American Indian women in substance abuse treatment centers in

California. The authors found that over two-thirds (67%) of respondents had been a victim of sexual abuse during their lifetime. Of these women, 77% reported that the abuse had occurred multiple times. Again, estimates from convenience samples of this kind cannot be generalized to the larger population of American Indian and Alaska Native women.

Although we will discuss physical assault in the next section, it is important to note here that several researchers have found a strong relationship between sexual and physical violence. That is, forms of victimization are generally not mutually exclusive; women who are victims of rape and sexual assault are also often victims of physical assault (Hamby, 2004). For example, Saylor and Daliparthi (2006) found that over 96% of American Indian respondents who had been a victim of rape or sexual assault had experienced other physical abuse as well. Similarly, Malcoe and Duran (2004) found that women who reported being severely physically abused by a partner were much more likely to be sexually assaulted by a partner, compared to women who were not severely physically abused.

PHYSICAL ASSAULT

Similar to rape and sexual assault victimizations, researchers interested in estimating magnitude estimates of physical assault against women, particularly intimate partner assaults, typically rely on survey methodology. In this section, we will again describe what is known about assault victimizations against American Indian and Alaska Native women at both the national and local levels, however, we will not reiterate the sampling methodologies of those surveys highlighted above. In the next section examining the NCVS, we will also provide a contextual analysis of assault victimizations against American Indian and Alaska Native women

and how they compare to victimizations of other women, using the same variables described earlier.

National Surveys

National Crime Victimization Survey (NCVS): To measure incidents of violence, the NCVS asks the following questions:

Other than any incidents already mentioned, has anyone attacked or threatened you in any of these ways:

- a. With any weapon, for instance, a gun or knife*
- b. With anything like a baseball bat, frying pan, scissors, or a stick –*
- c. By something thrown, such as a rock or bottle –*
- d. Include any grabbing, punching, or choking –*
- e. Any rape, attempted rape or other type of sexual attack –*
- f. Any face-to-face threats –*
- g. Any attack or threat or use of force by anyone at all? Please mention it even if you are not certain it was a crime.*

To further cue respondents about incidents of victimization not perpetrated by strangers, they are then asked:

- 3) People often don't think of incidents committed by someone they know. Did you have something stolen from you OR were you attacked or threatened by –*
 - a. Someone at work or school –*
 - b. A neighbor or friend –*
 - c. A relative or family member –*
 - d. Any other person you've met or known?*
- 4) Did you call the police to report something that happened to you which you thought was a crime?*
- 5) Did anything happen to you which you thought was a crime, but did NOT report to the police?*

NCVS rates of intimate partner violence, which includes all forms of violence measured by the NCVS including rapes, robberies, and assaults (the majority are assaults), indicate that American Indian and Alaska Native women have the highest rate of victimization (18.2) compared to either African American (8.2), white (6.3), or Asian American (1.5) women (Catalano, 2007).

Using the same NCVS 1992-2005 data that was used in the previous section, we will provide a descriptive analysis of the contextual characteristics of physical assaults against American Indian and Alaska Native women and how they compare to victimizations against white, African American, and Asian American females.

Results of NCVS Contextual Analysis for Physical Assaults

As shown in Table 12, almost half of all assault victimizations (47%) against American Indian and Alaska Natives are against females.

Table 12: Average annual number of assault victimizations by race, and gender of victim, NCVS 1992-2005.

| | Average Annual Number | % Female Victims | % Male Victims |
|--|------------------------------|-------------------------|-----------------------|
| All races | 6,241,382 | 42% | 58% |
| American Indian and Alaska Native | 98,830 | 47 | 53 |
| White | 5,188,657 | 41 | 58 |
| African American | 854,266 | 50 | 50 |
| Asian American | 99,627 | 39 | 61 |

Source: Original data analysis.

We begin our contextual analysis of NCVS assault data by looking at indicators of severity, beginning with the attack. Table 13 presents the percent distribution of assault victimizations in which female victims were hit by race/ethnicity. As can be seen, American Indian and Alaska Native females, followed closely by African American females, were more likely to be hit, compared to white or Asian American females.

Table 13: Average annual percent of assault victimizations against females by race, in which the victim was hit by the offender, NCVS 1992-2005.

| | Percent of Victimization in which Victim was Hit |
|--|---|
| All races | 45% |
| American Indian and Alaska Native | 51 |
| White | 44 |
| African American | 50 |
| Asian American | 43 |

Source: Original data analysis.

We next examined the percent victimizations that resulted in injuries and the percent of these injuries that required medical care, as presented in Table 14. American Indian and Alaska Native women were more likely to be injured than women of all other groups and more of these injuries required medical care.

Table 14: Average annual percent of assault victimizations against *females* by race, in which the victim sustained injuries, NCVS 1992-2005

| | Percent of Victimization in which Victim was Injured | Percent of Injuries Requiring Medical Care |
|--|--|--|
| All races | 61% | 41% |
| American Indian and Alaska Native | 70 | 56 |
| White | 60 | 38 |
| African American | 63 | 49 |
| Asian American | 53 | 53 |

Source: Original data analysis.

Table 15 presents the percent distribution of victimizations in which the offender brandished a weapon. Although American Indian and Alaska Native women were more likely to face an armed offender compared to either white or Asian American women, African American women were the most likely to be assaulted with a weapon.

Table 15: Average annual percent of assault victimizations against *females* in which the offender had a weapon, NCVS 1992-2005.

| | Percent of Victimization in which Offender Had Weapon |
|--|---|
| All races | 18% |
| American Indian and Alaska Native | 21 |
| White | 17 |
| African American | 27 |
| Asian American | 22 |

Source: Original data analysis.

We next examined other contextual characteristics of assault victimizations by looking at the victim and offender relationship, the race of the offenders involved, and perceived drug and alcohol usage by offenders.

Table 16 presents the percentage distribution for the victim and offender relationship categories of intimate (spouses, ex-spouses, boy/girlfriends, and ex-boy/girlfriends), other family members (e.g. parents and step parents, siblings, other extended family), other known (e.g. friends and acquaintances), and strangers. As can be seen, the majority of assaults against women regardless of race were committed by known offenders. Of the known offenders, a larger percent of assaults against American Indian and Alaska Native women were committed by known offenders such as friends and acquaintances followed by intimate partners. A higher proportion of American Indian and Alaska Natives were also assaulted by other family members compared to other women and less likely to be assaulted by strangers. Data also indicate that the majority of assaults against American Indian and Alaska Native women occurred in private, at or near a private residence (59%) compared to public locations.

Table 16: Average annual percent of assault victimizations against females by race and perceived relationship status of offender(s), NCVS 1992-2005.

| | Intimate | Other Family | Other Known | Stranger |
|--|-----------------|---------------------|--------------------|-----------------|
| All races | 26% | 9% | 34% | 30% |
| American Indian and Alaska Native | 28 | 14 | 35 | 23 |
| White | 26 | 9 | 35 | 30 |
| African American | 26 | 9 | 36 | 29 |
| Asian American | 17 | 11 | 25 | 47 |

Source: Original data analysis.

The percentage distribution for the racial identity of offenders is presented in Table 17. The majority of assaults against white and African American women were intra-racial. However, similar to sexual violence, assault victimizations against American Indian and Alaska Native women were more likely to be inter-racial; a larger percent of victimizations against American Indian and Alaska Native women were committed by white offenders compared to American Indian and Alaska Native offenders. However, because less than one in four of these

victimizations are perpetrated by strangers (Table 16), we cannot infer that these white offenders are all strangers to the victim.

Table 17: Average annual percent of assault victimization against females by race and perceived racial/ethnicity status of offender(s), NCVS 1992-2005.

| | White Offender(s) | African American Offender(s) | Other* Offender(s) |
|--|------------------------------|---|-------------------------------|
| All races | 63% | 25% | 11% |
| American Indian and Alaska Native | 55 | 8 | 36 |
| White | 74 | 14 | 12 |
| African American | 11 | 84 | 5 |
| Asian American | 45 | 23 | 33 |

Source: Original data analysis.

* Other includes American Indian, Alaska Native and Asian American

Similar to rape and sexual assault victimizations, alcohol and drugs appear to play a larger role in the assaults of American Indian and Alaska Native women compared to other women. Over one in three (38%) of American Indian and Alaska Native assault victims believed their attackers had been drinking and/or taking drugs before the offense compared to 29% of white victims, 27% of African American victims, and 19% of Asian American victims.

To determine the extent of police involvement in victimizations, victims were asked if the police were notified of the victimization. Table 18 presents the percentage distributions of those victimizations in which police were notified and the percent of these notifications in which the victim, herself, reported the incident to police. Over half (53%) of all assaults against American Indian and Alaska Native women were reported to police. As can be seen, a greater percent of assaults against American Indian and Alaska Native women were reported to police compared to white or Asian American women, but only 32% of these were made by the victim herself. Only about a third of reports made to police were made by the victim herself. This low percent of victim-reporting is consistent with percentages for all women.

Table 18: Average annual percent of assault victimization against females by race, in which the victimization was reported to police, NCVS 1992-2001.

| | Percent of Victimization Reported to Police | Percent of Reports that were Reported by Victim |
|--|--|--|
| All races | 47% | 30% |
| American Indian and Alaska Native | 53 | 32 |
| White | 45 | 29 |
| African American | 56 | 34 |
| Asian American | 35 | 24 |

Source: Original data analysis.

Overall, assault victimizations reported to police were more likely to result in an arrest compared to rape and sexual assault victimizations. American Indian and Alaska Native women who reported their victimizations to police were slightly more likely to report that an arrest had been made (18%), followed closely by African American women (16%), white women (14%), and Asian American women (13%).

The National Violence Against Women Survey (NVAWS): The NVAWS measured physical assault by using a modified version of the Conflict Tactics Scale (Strauss & Gelles, 1990). Respondents were asked about assaults that occurred as a child and as adults using the following screening questions:

“Not counting any incidents you have already mentioned, after you became an adult did any other adult, male or female ever...

- a. Throw something at you that could hurt?*
- b. Push, grab or shove you?*
- c. Pull your hair?*
- d. Slap or hit you?*
- e. Kick or bite you?*
- f. Choke or attempt to drown you?*
- g. Hit you with some object?*
- h. Beat you up?*
- i. Threaten you with a gun?*
- j. Threaten you with a knife or other weapon?*
- k. Use a gun on you?*
- l. Use a knife or other weapon on you?”*

Respondents were also asked about victimization in relation to both current and former intimate partners. Because of the small number of American Indian and Alaska Natives interviewed for the NVAWS, published documents only report lifetime prevalence estimates of victimization by intimate partners. Lifetime prevalence rates of both assaults in general and assaults perpetrated by intimate partners are both higher for American Indian and Alaska Native women compared to women of other racial groups. Almost two-thirds (61.4%) of American Indian and Alaska Native women have been assaulted in their lifetimes compared to 51.3% of white women, 52.1% of African American women, and 49.6% of Asian American women (Tjaden & Thoennes, 1998a). A higher percent of American Indian and Alaska Native women (30.7%) had also experienced intimate partner assault in their lifetimes compared to white women (21.3%), African American women (26.3), or Asian or Pacific Islander women (12.8%) (Tjaden & Thoennes, 2000).

The National Family Violence Survey (NFVS): Bachman (1992) examined 204 American Indian and Alaska Native couples who were interviewed in the 1985 NFVS. The majority of the sample resided in urban or suburban settings, and 41% lived in rural areas, but respondents were not asked whether they resided on or off tribal lands. This survey used the original Conflict Tactics Scale (CTS) (Straus, 1979) to measure a variety of behaviors used in conflicts between family members during a reference period of “the past year.” It asked respondents to recall the times “in the past year” when they and their partner “disagree on major decisions, get annoyed about something the other person does, or just have spats or fights because they’re in a bad mood or tired or for some other reason.” The instructions went on to say: “I’m going to read a list of some things that you and your partner might have done when you had a dispute and would like you to tell me for each one how often you did it in the past

year.” The list spans many techniques including reasoning, verbal aggression, and finally physical aggression or “violence.” The CTS items are often subdivided into “minor” and “severe” violence. The minor violence items include: threw something at the other family member; pushed, grabbed, or shoved; and slapped. The severe violence index measures assaults that have a relatively high likelihood of causing injury and include: kicked, bit, or punched; hit or tried to hit with an object; beat up; choked; threatened with a knife or gun, or used a knife or gun. Results from Bachman’s (1992) analyses indicated that compared to white couples, American Indian and Alaska Native couples were more likely to experience all forms of violence, including incidents of severe violence. More than 1 in 12 American Indian and Alaska Native women (12.2%) experienced some form of violence by their husbands in the past year (Bachman, 1992).

Local Surveys of Assaults Against American Indian and Alaska Native Women

Since many of the studies examining sexual violence also measured incidents of physical assault, the table in Appendix A also provides detailed methodological information about the studies presented in this section. As noted above, the most extensive research at the tribal level to measure violence against women was recently conducted by Yuan, Koss, Polacca and Goldman (2006) (see previous section on p. 42 for sampling methodology). To measure incidents of physical assault, screening questions from the NVAWS were used. Results indicated that 45% of the female respondents reported experiencing a physical assault since the age of 18; and that intimate partners perpetrated the vast majority of these assaults. Similar to rape victimizations, there was a great deal of variability across the six tribes. The same tribe with the lowest prevalence of rape also had the lowest prevalence of physical assault (27%) compared to the high percent of women experiencing assault since the age of 18 for Tribe Six (65%). Again, comparisons to the national average of American Indian and Alaska Native women assaulted in

their lifetime cannot be made since the reference period used in the Yuan et al. (2006) research was “since the age of 18.”

Zahnd et al. also conducted an in-depth study of violence against American Indian women living in California (2000) (see previous section p. 43 for a discussion of their sampling methodology). To uncover incidents of violence, respondents in this convenience sample (N=110) were asked questions modeled after the NVAWS. With perhaps the largest prevalence rate found across all studies, Zahnd and her colleagues found that 81% of women in their sample had experienced some form of violence in childhood (under the age of 18), and 80% of women had experienced some form of violence since adulthood (after the age of 18). These incidents were frequently severe and included such victimizations as kicking, biting, choking, attempting to drown, hitting with an object, beating up, threatening with a weapon, or using a weapon. As stated above, the majority of all victimizations were perpetrated by intimate partners.

The majority of the other local studies of assault against American Indian and Alaska Native women have primarily focused on intimate partner assaults and also relied on convenience samples. For example, using questions similar to those on the NVAWS but cued for intimate partners only, Malcoe, Duran and Montgomery (2004) investigated the prevalence of intimate partner violence among 312 American Indian women who utilized the services of a Women, Infants and Children (WIC) clinic in southwest Oklahoma during the summer of 1997. Nearly 60 percent (58.7%) of respondents reported being victims of physical or sexual intimate partner violence during their lifetime, with 26.3% reporting that this violence had occurred during the previous 12 months. Indicators of severity for these physical assaults were fairly high. For example, over half of the sample (57.8%) indicated that they had been punched or hit with a fist, been thrown against a wall (49.3%), thrown across a room (40.3%), kicked (39.1%)

and choked (35.4%). The severe abuse reported often resulted in visible injuries. Nearly half of the respondents (49.9%) reported having a black eye, while 18.6% sustained a broken nose or bone. The most startling finding involved the prevalence of repeated injuries. Almost one-quarter (22.2%) of the respondents reported being injured on 20 or more occasions, and 6.6% of the sample reported sustaining injuries in excess of 50 times at the hands of an intimate partner.

Fairchild, Fairchild and Stoner (1998) conducted a survey of 341 women who obtained routine ambulatory care at an Indian Health Service (IHS) center that provided services to a large Navajo reservation in the southwest United States. Results indicated that 41.9% of respondents had experienced partner-perpetrated physical violence at least once in their lifetime and 16.4% were victims of intimate partner violence in the previous 12 months. Even higher prevalence rates were found from a sample of tribal members from a Southwestern tribe by Robin, Chester, & Rasmussen (1998). Using a version of the CTS similar to that used by the NVAWS, these researchers found that nearly equivalent percentages of American Indian men and women (75%) reported physical abuse in their lifetimes and in the recent 12 months (32%). However, this gender symmetry in victimization is misleading as a majority of female offenders reported that their assaultive behavior was in self-defense to an attack by their partners. Moreover, female victims from this sample were almost ten times more likely to require medical care for injuries sustained during their victimizations compared to American Indian male victims.

Not all local level studies have found high rates of assault victimization for American Indian and Alaska Native women. For example, Harwell, Moore and Spence (2003) found low rates of intimate partner violence in a convenience sample from Montana. A total of 1,006 surveys of American Indian adults living on or near a reservation in Montana were completed. Surprisingly, the authors found no difference between rates of past-year IPV for men and

women. Additionally, contrary to the findings of most other studies, the authors found that annual rates of intimate partner violence for American Indian and Alaska Native women (3%) were consistent with the findings for women in Montana overall (2%).

DATING VIOLENCE

An emphasis on dating violence was added to the 2005 VAWA and was defined as follows: violence that is committed by a person— “(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship” (VAWA, 2005, §40002 (a) (8)).

There were no published studies found that were devoted exclusively to dating violence. While there are no age parameters set for victims of dating violence in the general literature nor in the above definition, it is typically assumed that dating violence occurs in adolescence and young adulthood. It is possible, therefore, to use the NCVS examine the extent to which assaults against American Indian and Alaska Native women were perpetrated by boy/girlfriends or ex-boy/girlfriends across age groups. Table 19 reports the percent distribution of assaults against American Indian and Alaska Native women by age and victim/offender relationship.

Table 19: Average annual percent of assault victimization against *American Indian and Alaska Native females* by age and specific victim/offender relationship, NCVS 1992-2005.

| Victim Age Group | Intimate | Other Family | Other Known | Stranger |
|------------------|----------|--------------|-------------|----------|
| 12-17 | 3 | 6 | 60 | 30 |
| 18-29 | 40 | 16 | 21 | 23 |
| 30-39 | 26 | 14 | 38 | 22 |
| 50 and older | 11 | 16 | 47 | 26 |

Source: Original data analysis.

Results from the NCVS indicate that, compared to other American Indian and Alaska Native women, young adolescent American Indian and Alaska Native women are the least likely to experience intimate partner assault followed by those aged 50 and older. Those most likely to assault young American Indian and Alaska Native adolescents are other known offenders such as friends and acquaintances.

STALKING

Only recently has stalking been addressed as a critical social problem. Stalking literature evolved from “celebrity stalking” (see Dietz et al. 1991), which influenced the development of anti-stalking legislation in California in 1990 (Goode, 1995; Fischer, Cullen & Turner, 2002; Mullen & Pathe, 2002), now addresses legal, social, economic, and health concerns. More specifically, “star stalking” became a “women’s issue” alongside domestic violence (Lowney & Best, 1995; Mullen & Pathe, 2002). However, while stalking is viewed today as an issue of increasing importance, there has been very little research investigating this type of victimization and virtually no quantitative or qualitative data collected on how this affects American Indian and Alaska Native women.

National Studies

The NCVS conducted a supplemental survey to their larger study to examine the prevalence of stalking in 2006. However, results are not yet available. The only published national study to date that has measured stalking victimizations has been the NVAWS (Tjaden & Thoennes, 1998b). The survey defined stalking as “a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written or implied threats, or a combination thereof, that would cause a reasonable

person fear,” with *repeated* meaning on two or more occasions. Because it was the first, the NVAWS has set the standard for screening questions used to uncover stalking victimizations. As with all of its questions, the NVAWS avoided the term “stalking” in favor of several behaviorally specific questions that, together, constituted the definition of stalking in most state statutes. Respondents were asked the following questions:

“Not including bill collectors, telephone solicitors, or other sales people, has anyone, male or female, ever...

- a. Followed or spied on you?*
- b. Sent you unsolicited letters or written correspondence?*
- c. Made unsolicited phone calls to you?*
- d. Stood outside your home, school, or workplace?*
- e. Showed up at places you were even though he or she had no business being there?*
- f. Left unwanted items for you to find?*
- g. Tried to communicate in other ways against you?*
- h. Vandalized your property or destroyed something you loved?”*

Respondents who answered “Yes” to one or more of these questions were asked whether anyone had ever done any of these things to them on more than one occasion. Because stalking involves repeated behaviors, only respondents who answered in the affirmative were considered possible stalking victims. Because stalking must also include an element of fear by victims, respondents who reported being victimized on more than one occasion were then asked how frightened the victimizations made them feel and whether they feared the offender would seriously harm them or someone close to them. ONLY those respondents who were very frightened or feared bodily harm were counted as stalking victims. This methodological rigor is important when attempting to measure stalking because unlike other violent victimizations, the “fear element” is necessary to constitute stalking in most state criminal codes.

Consistent with other prevalence rates of victimization for rape and physical assault, the NVAWS found that American Indian and Alaska Native women were more likely to have

experienced stalking in their lifetimes compared to women of other racial groups. The percentage of women experiencing stalking in their lifetimes from each group are as follows: American Indian and Alaska Native 17%, white 8.2%, African American 6.5%; Asian American 4.5%. Although the results were not broken down by race, Tjaden and Thoennes (1998b) found that stalking victimizations were most likely to be perpetrated by intimate partners.

Using the NVAWS data, Dietz and Martin (2007) examined the impact of eliminating the “fear” requirement in the definition of stalking among female victims. They found that when fear is not required in the definition of stalking, the levels of lifetime victimization increase dramatically from 8 to 17 percent in the national sample, and from 17 to 27 percent among American Indian and Alaska Native women.

Local Studies

We could find only one published local study that provided an estimate of stalking for American Indians, however, this was not for a local tribe, but for the state of Texas. Kercher and Johnson (2007) evaluated the stalking supplement of the Crime Victims’ Institute Telephone Victimization Survey in 2006, which was generated through random digit dialing (CATI system). Respondents in the study were asked about stalking experiences, which were defined as “deliberate but unwanted acts by a person to get your attention because he or she wants to have a relationship with you, has a relationship with you, or assumes there is a relationship with you when there is not” (Kercher & Johnson, 2007, p.6). Based on the series of questions, 128 of the 701 respondents reported at least one form of stalking behavior in the past 24 months (approximately 18%). It is important to note that these questions did not require a pattern of conduct or an element of fear on the part of the victim. Results indicate that American Indians,

both male and female, who comprised 1.4% of the study population, accounted for 2% of stalking victimizations. Unfortunately, results were not presented by the gender of the victim.

REASONS FOR VARIABILITY IN ESTIMATES OF VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN

As the previous sections have blatantly illustrated, there is extreme variability in prevalence rates of violence against American Indian and Alaska Native women across studies. As noted earlier, it is not surprising that research employing diverse methodologies and samples will obtain such diverse estimates of victimization. While there is undoubtedly variability across local tribal communities, much of the variability in estimates is related to methodological differences across studies. We will highlight these methodological issues in greater detail below. We want to begin with the assumption that underreporting plagues our ability to obtain estimates of all victimizations for a number of reasons, regardless of the rigor of a particular survey and sampling methodology. Victims are not only reluctant to report their experiences to law enforcement, but may also be reluctant to report to survey interviewers for a number of reasons including fear that their reports will not remain anonymous, shame and embarrassment, and fear of reprisal from the offender.

Screening Questions

Regardless of the definitions of violence stated by researchers in published reports, these conceptual definitions are essentially meaningless when divorced from the operational definitions and screening questions used to measure an incident. For example, regardless of how broadly a researcher defines rape (e.g. including anal, oral, and vaginal penetration), unless they

ask specifically about each manifestation of rape, they will not be measuring all manifestations of rape.

At the national level, the screening questions used by the NCVS and the NVAWS vary considerably in the behavior-specific language and also in the number of questions asked. Regarding physical assault, although many of the behaviors used in the screening instruments are the same across surveys (e.g. grabbing, choking, throwing something), there are a few behavioral cues present in the NVAWS (pulled hair, slapped, bit) that are not present in the NCVS. Importantly, however, the manner in which the questions are asked across surveys is quite different. Lynch (1996) describes the NCVS questions as a “short cue” strategy, in which “a single syntactically correct question is followed by a large number of short cues. This approach maximizes the number and types of cues that can be asked, and at the same time, minimizes the time required to administer the cues” (Lynch, 1996, p. 420). In contrast, the NVAWS uses several syntactically correct questions to elicit reports of victimizations that were perpetrated by a number of different offenders including current and former spouses, boy/girlfriends and former boy/girlfriends, and so on. The NCVS does not cue respondents about such specific relationship types, but rather with general categories like “a relative or family member.” Undoubtedly, the number and specificity of relationship and behavioral cues will serve to increase recall of reports from respondents.

The differences in screening questions used in the NCVS and the NVAWS to measure incidents of rape and sexual assault are more evident. As displayed in Table 11 the NVAWS uses several behaviorally specific questions to uncover a wide range of victimizations that meet the legal definition of rape in most states. These questions are further cued by specific relationship categories. It is logical that multiple behaviorally specific cues such as these will be associated

with a greater disclosure by survey respondents compared to the one question about sexual intercourse posed by the NCVS. In fact, Fisher et al (2000) have demonstrated that when subsamples from the same population are given the two different sets of rape screening questions, estimates obtained using the NVAWS questions result in higher prevalence rates of victimization. Research shows that when sample parameters are made as similar as possible across the NCVS and the NVAWS (e.g. victims 18 years of age or older and single offender victimizations), the NVAWS screening questions still estimate a higher number of intimate partner violence incidents (Bachman, 2000).

Differences in screening questions also affect the magnitude and quality of estimates obtained from local surveys. While being sensitive to cultural differences across tribes, it is important for researchers interested in obtaining estimates at the local tribal level to seek guidance from research that has already been done on measuring violence against women. For example, Yuan et al (2006) relied on questions already developed by the NVAWS, as did Malcoe and Duran (2004) and Zahnd and her colleagues (2002). Using survey questions that have a national equivalent also allows researchers to make comparisons across local and national estimates of violence against American Indian and Alaska Native women.

Reference Period Used

In many published reports and literature reviews therein, estimates of violence against American Indian and Alaska Native women are provided without regard to the screening questions and without regard for the various types of “reference periods” utilized across studies. Prevalence rates are very different for those estimating victimization in a respondent’s “lifetime,” or since a respondent turned “18 years of age,” or “during the past 12 months.” A glance across surveys conducted at the local level show a wide range of reference periods

employed and attention to this detail is important when making estimate comparisons across studies. There are other differences between the NCVS and other surveys regarding the accuracy of appropriately placing a victimization within a specified period of time (e.g. last six months) that requires eliminating victimizations reported in the first interview (called bounding) that also serve to decrease NCVS estimates relative to survey estimates that are not bounded (see Bachman, 2000 for a detailed discussion).⁸

Sampling Differences

Random versus Availability Samples: One of the most important sampling distinctions across surveys is whether the sample was obtained through a random sampling procedure or was based on a nonrandom procedure such as a convenience sample that was simply available to the researcher (Bachman & Schutt, 2007). This latter type includes “captive samples” obtained from programs such as substance abuse treatment centers or domestic violence shelters. Not surprisingly, these populations are at an increased risk of being victimized. As a result, findings from these studies would represent an inflated prevalence of violence and abuse compared to the general population (Wahab & Olson, 2004; Hamby, 2000). Although these captive samples probably pose the greatest threats to the generalizability of samples, nonrandom samples also include those obtained from other “available” groups such as those who are involved in a social group, who go to the hospital, and so on. Although these samples are easier to obtain in terms of time and money than a random sample, there is no way to ensure that the respondents obtained from these samples are representative of the larger American Indian and Alaska Native

⁸ Bounding is best explained by example, during each interview, respondents are asked about any victimization they may have experienced within the past 6 months. Interviews then focus on the specific period during which the incident occurred. Incidents reported in that interview are compared with incidents reported in a previous interview. When a report appears to be a duplicate of an earlier reported incident, respondents are reminded of the earlier report and are asked whether the new report represents the incident mentioned previously or a different incident. The sole purpose of the first interview in the NCVS, then, is to set an initial time reference (bounding). Data collected at the first interview are not included in published NCVS estimates of violence by BJS or in the public-use data tapes.

population, regardless of whether the target population is a small local tribe or the entire American Indian and Alaska Native population nationally.

Random Digit Dialing Versus In Person Solicitation: The way that researchers obtain survey participants can also alter the findings of studies. In order to save money and include a large sample size, many studies, such as the NVAWS utilize a sampling strategy that uses random digit dialing of telephone numbers to obtain the sample. In contrast, the NCVS relies on census addresses as the sampling frame, and the first interview is usually conducted in person. This in-person-solicitation is undoubtedly responsible for the high response rate (number of individuals originally asked who actually agree to complete the survey) obtained by the NCVS (94%) compared to the NVAWS (72%). The Census sampling frame used by the NCVS contains households that may or may not have telephones. This is important, especially in Indian Country, where many poor or isolated individuals do not have telephone access and lack specific mailing addresses. These individuals would not be captured in random digit dialing sampling strategies. This is especially problematic because individuals with lower incomes are generally more at risk of violence compared to their more affluent counterparts. As such, surveys that do not attempt to represent all people from a selected population, both those with telephones and those without, will not obtain a representative sample (Wahab & Olson, 2004; Hamby, 2000; Yuan et al., 2006). To date, the only study examining violence against American Indian and Alaska Native women conducted at the local level to utilize a rigorous random sampling design was Yuan et al. (2006).

Cultural Sensitivity of Interviewers

Survey interviewers, especially those interviewing respondents in person, can also have a major impact on the results of studies. Often interviewers are not knowledgeable of the distinct

aspects of tribal culture and language. As a result, participants may be less open to sharing intimate aspects of their lives, such as abuse, with someone that they consider to be an outsider. Additionally, interviewers may be less likely to understand the unique features and language of the American Indian and Alaska Native community, which can lead to incorrect findings and conclusions (Wahab & Olson, 2004; Hamby, 2000).

Researchers such as Yuan et al. (2006) and Zahnd et al. (2002) went to great lengths to ensure that American Indian interviewers were used and appropriately trained in interviewing techniques for sensitive topics such as victimization. Yuan et al. (2006) state, “We selected and trained five American Indian interviewers, based on their experience with unbiased interviewing, their familiarity with American Indian culture, their concern with confidentiality, and their sensitivity.” When tribal communities are small, it is probably best to use interviewers from a different tribe in order to ensure confidentiality to respondents (Bachman & Schutt, 2007).

Is it a necessity that interviewers be of the same ethnicity as respondents? The empirical literature is fairly equivocal on this topic with some contending that interviewers of the same race (just like interviewers of the same gender) are more likely to obtain honest disclosures from respondents if the questions are about issues relevant to gender and race (Davis, 1997). Others, however, contend that provided interviews are sensitive and trained in the art of developing rapport with their respondents there is no difference in rates of disclosure (Reese & Brown, 1995; Tate, 1994).

THE CRIMINAL JUSTICE SYSTEM'S RESPONSE TO VIOLENCE AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN

Although American Indian and Alaska Native women share most of the same obstacles that women of the general population face when seeking protection from the criminal justice system, in many cases the criminal justice system's response to American Indian and Alaska Native is complicated by a variety of legal, social, economic and political barriers. This section describes both the shared experiences and unique conditions American Indian and Alaska Native women face when seeking justice through federal, state and tribal justice systems.

Historical Context

Scholars often suggest that violence against American Indian and Alaska Native women directly relates to historical victimization (BigFoot, 2000; Bubar & Thurman, 2004; Poupart, 2002; Smith, 2003). 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 (Bubar & Thurman, 2004; Peacock et al., 2002; Perry, 2002; Poupart, 2002). Colonization aided a breakdown of traditional support systems through intergenerational trauma and the forced removal of tribal communities to reservations and more recently, the removal of American Indian and Alaska Native children into boarding schools (BigFoot, 2000; Bubar & Thurman, 2004; Magen & Wood, 2006). Historical and ongoing marginalization in terms of social, economic and political rights places American Indian and Alaska Natives at greater risk for victimization than other groups who did not share similar historical inequalities (Perry, 2002; Poupart, 2002). And importantly for this

report, scholars have also argued that the methods of colonization encouraged male authority and gender dominance (Berger, 2004; Bubar & Thurman, 2004; Coker, 1999; Hamby, 2000; Smith, 2003).

Supreme Court decisions passed by the Marshall courts in the middle of the nineteenth century established the United States government's "paternalistic" attitude toward indigenous Americans (Poupart, 2002, p. 149). While American Indian and Alaska Native tribes are sovereign nations,⁹ they still bear the relationship as a domestic dependent to the United States federal government.¹⁰ Indian Nations are neither extra-national powers nor states. Only the federal government, not individual states can intervene in tribal affairs.¹¹ Importantly, this unique relationship created significant problems in the criminal justice system, particularly in how law enforcement responds to crimes involving American Indian and Alaska Natives on and off designated tribal lands, and what jurisdiction holds authority to prosecute offenders.

The foundation of the American legal system and that of most tribal legal systems also differ in perspective. The American legal system typically views justice as a system based on deterrence, which seeks retribution and punishment. Addressing problems under Western concepts of law focuses on individual cases, while indigenous views of law and order are based on communal values (Deer, 2005; Valencia-Weber & Zuni, 1995). Traditional American Indian and Alaska Native judicial systems emphasize healing the victim and offender's relationship and the restoration of harmony within the community (Gray & Lauderdale, 2006; Peacock et al., 2002). Many traditional tribal judicial procedures address the victim's needs through allowing their story to be shared. Unlike Western systems of justice, which concentrate on punishing the offender, native traditions typically encouraged the victim to actively participate in the criminal

⁹ *Cherokee Nation v. Georgia*, US (5 Pet.) 1, 16 (1831).

¹⁰ *Johnson v. M'Intosh*, 21 U.S. (8 Wheat.) 543, 574 (1823).

¹¹ *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832).

justice process (Deer, 2004a; Poupart, 2002; Valencia-Weber & Zuni, 1995). Some contend that tribal systems of justice offer women more protection (Deer, 2004a; Poupart, 2002; Valencia-Weber & Zuni, 1995), and that American Indian and Alaska Native women do not feel that Westernized criminal justice systems sufficiently address the needs of the victim (Peacock et al., 2002).

The impact of federal intervention in tribal affairs may have served to hinder the ability of tribal governments to effectively address violence against American Indian and Alaska Native women (BigFoot, 2000). 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 such as Peacock et al. suggest that the erosion of the tribal government's ability to address crime significantly harms American Indian and Alaska Native women in particular. They argue that policies such as the Indian Reorganization Act of 1934¹² removed power from American Indian families in addition to spiritual and community leaders in tribal justice systems. Moreover, through integrating American Indians into American law in the earlier twentieth century, Peacock et al. argue that American Indian women thus, "received the same protection that non-Indian women in non-Indian communities received"(Peacock et al., 2002, p. 324).

Federal Indian Law

Several notable federal laws regulate violence within sovereign borders of Indian Country. While federal restrictions may have intended to protect American Indian and Alaska Native women (Berger, 2004), some researchers contend that federal intervention actually inhibits the ability to effectively punish offenders by restricting maximum penalties under tribal

¹² Indian Reorganization Act of 1934, also known as the Wheeler-Howard Act, 25 U.S. C.A. §461 et seq.

law, prohibiting American Indians to prosecute non-Indians, and not following traditional tribal peacemaking (Berger, 2004; Christofferson, 1991; Deer, 2004a; Radon, 2004; Waheed, 2004). Moreover, the unique position of American Indian and Alaska Native tribes as both sovereign and dependent creates a problematic legal structure with jurisdictional barriers (Bubar & Thurman, 2004; Deer, 2005; Peacock et al., 2002; O'Brien, 1991; Tatum, 2002; Valencia-Weber & Zuni, 1995).

As we have seen, violence against American Indian and Alaska Native women is not entirely bound to incidents within Indian Country. As we noted at the beginning of this report, contrary to typical conceptions of American Indian and Alaska Natives residing solely on rural reservations, many live outside reservation boundaries in urban and suburban locations. American Indian and Alaska Native victims who are members of tribes living on reservations, however, face the greatest barriers to prosecution.

In the following sections, we will highlight the laws established by Congress that limit tribal government's power to prosecute offenders (a) if the offender or victim is Non-American Indian or Alaska Native, (b) if the victim is American Indian or Alaska Native but was assaulted outside Indian Country, and (c) if the offense is a particular violent crime noted in the Major Crimes Act (1885).

Major Crimes Act¹³

The federal government asserted jurisdiction over certain crimes committed in Indian Country under the Major Crimes Act (1885). Responding to demands from the Non-American

¹³ Major Crimes Act (18 U.S.C. § 1153)

Indian and Alaska Native population after *Ex Parte Crow Dog* (1883),¹⁴ Congress declared authority over “major crimes,” even if the offense was between two American Indian and Alaska Natives within Indian Territory (Deer, 2004a, p. 20). Major crimes under the U.S. Code include murder, manslaughter, kidnapping, maiming, incest, assault with intent to commit murder, assault with a dangerous weapon, assault against an individual under sixteen including felony child abuse and neglect, arson, burglary, robbery, any felony under section 661 of the title within Indian Country, and felonies under chapter 109A.¹⁵ Violent crimes against women in non-PL-280 states (discussed on page 75) such as aggravated assault, rape and homicide are also prosecuted at the federal level.

The passing of the Major Crimes Act restricts the power of tribal governments to address serious crimes within Indian Country. Crimes against women such as murder, rape and aggravated assault must be prosecuted by the federal government. Tribes are not, however, prohibited from engaging in simultaneous prosecution of such cases if only American Indian and Alaska Native parties are involved.¹⁶ Nonetheless, other legal barriers restrict the power of tribal courts in matters involving serious crimes to enact adequate punishment for violent offenders, which we highlight next.

Indian Civil Rights Act (ICRA)¹⁷

The Indian Civil Rights Act (ICRA) of 1968 generally sought to limit abusive power of tribal governments and was intended to mimic provisions listed under the United States Bill of Rights

¹⁴ *Ex Parte Crow Dog* (109 U.S. 556, 3 S.Ct. 396, 27 L.Ed. 1030 (1883)). In *Ex Parte Crow Dog*, the Supreme Court recognized the sovereignty of the Lakota Indian tribe and placing jurisdiction to address the murder of one Lakota tribe member by another Lakota tribe member.

¹⁵ 18 U.S.C. § 1153 (a); section 661 deals with embezzlement and theft; chapter 9 involves sexual assault as well as child abuse and neglect (18 U.S.C. § 1162-2246)

¹⁶ *United States v. Lara*, 541 U.S. 193 (2004); The Supreme Court found that the Double Jeopardy clause does not apply prosecution in the United States and Indian Country.

¹⁷ Indian Civil Rights Act (25 U.S.C. §§ 1301-1303)

(Deer, 2004a). However, while the IRCA was intended to “protect” American Indian and Alaska Natives from themselves, in reality it degraded the ability of tribal courts to provide adequate punishment for serious offenders (Christofferson, 1991, note 109). According to William Canby (1988), American Indian and Alaska Natives saw this effort as an intrusion on their sovereignty. Although the federal government intended to improve individual rights and protections, they removed the collective right of American Indian and Alaska Natives to regulate their own people.

For the first twenty years, tribal courts were not permitted to punish offenders with more than \$500 in fines, six months in jail, or both (Deer, 2004a, p. 21). This increased to \$5000, one year in jail, or both in 1986, and these remain the limits today (ICRA 25 U.S.C. § 1302 (7)). These enhanced penalties arose primarily from efforts to deter drug use on reservations (Deer, 2005). While Indian Nations did not traditionally punish offenders with incarceration, scholars suggest that federal limitations on tribal sentencing fueled the belief that tribes were unable to prosecute serious crimes (Deer, 2004a; Waheed, 2004). Clearly, these punitive restrictions are inadequate to fit the severity of major crimes committed by offenders within Indian Country. Thus, even though tribes are allowed dual jurisdiction for major crimes (see *United States v. Lara* for example), in reality they are unable to enact punishments that fit the severity of these crimes.

Prosecuting Non-American Indian and Alaska Native Offenders in Tribal Courts

Another jurisdictional issue concerns a tribe’s ability to prosecute based on the identity of the offender and the victim. As Waheed (2004) notes, “the distinction between reservation and non-reservation dwelling Indians is important because tribal sovereignty exists only in Indian country” (Waheed, 2004, p. 289). However, according to *Oliphant v. Suquamish Indian Tribe*

(1978),¹⁸ American Indian and Alaska Natives do not have jurisdiction over Non-American Indian and Alaska Natives, even in tribal territory. Sarah Deer argues that tribal government's inability to prosecute non-American Indian and Alaska Natives attracts offenders of various crimes to Indian Country (Deer, 2004a; 2005). *Oliphant* does not, however, limit tribal governments ability to impose *civil* sanctions on non-American Indian and Alaska Natives (Stetson, 1981 cited in Deer 2003/2004).

Shortly after *Oliphant*, the Court took a different stance on sovereignty. In *Santa Clara Pueblo v. Martinez* (1978),¹⁹ Martinez, a female member of the Santa Clara Pueblo tribe, claimed that her relationship with the tribe had changed as a result of marriage to a non-member. According to Santa Clara laws, males could retain membership with the tribe, but the status of females changed through marriage outside the tribe. The Supreme Court affirmed that the Court did not have jurisdiction to regulate rules of membership based on tribal rules, thus affirming sovereignty, but denied equality to American Indian and Alaska Native women who sought equal protection (Valencia-Weber & Zuni, 1995).

In *Duro v. Reina* (1990),²⁰ the Supreme Court declared that tribal governments could not prosecute *non-member* American Indian and Alaska Natives in *criminal* courts. However, this decision was overturned by Congress who amended the Indian Civil Rights Act (ICRA) to grant tribal courts jurisdiction over all American Indian and Alaska Natives who have any federally recognized tribal affiliation²¹ (Burelson, 2007). Today, tribal justice systems have criminal jurisdiction in cases that involve American Indian and Alaska Natives as both the victim and offender. Again, however, while tribal courts may prosecute serious offenses under the Major

¹⁸ *Oliphant v. Suquamish Tribe*, 435 U.S. (1978)

¹⁹ *Santa Clara Pueblo v. Martinez*, 436 US 49 (1978).

²⁰ *Duro v. Reina*, 495 U.S. 676 (1990)

²¹ The "Duro Fix," was enacted through congress in the Criminal Jurisdiction Over Indians Act of 1991, Public Law No 102-137, amended to the Indian Civil Rights Act, 25 U.S.C. §1301(2) (2000).

Crimes Act, the limitations under the ICRA strictly curtail the punishment of violent offenders, and only if both parties are American Indian and Alaska Natives.

As we discussed in the introduction, another legal issue is how “American Indian” is defined. U.S. code defines American Indians as those who are members of politically affiliated tribes,²² however, research often uses self-reported data on census information, crime reports, or victimization surveys.²³ For example, virtually all surveys described in this report have relied on respondents’ self-reporting of their racial status. The difference between racial identity and political identity adds extra complexity for research involving legal issues and victimization.

For many American Indian and Alaska Natives who do reside in Indian country, the complex jurisdictional maze is further complicated by the initiation of Public Law 280 (PL-280).

Public Law 280²⁴

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. Six “mandatory” states were required to adopt PL-280, including Alaska, California, Minnesota,

²² 25 U.S.C § 1603 (c) “Indians” or “Indian”, unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) of this section, except that, for the purpose of sections 1612 and 1613 of this title, such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary. For criminal justice, American Indians are defined through political status, not as a racial or ethnic group (Burelson, 2007). Also see *United States v. Antelope*, 430 U.S. 641 (1977) (stating that while many individuals may be racially classified as ‘Indians,’ it is proof of membership that differentiates Indians from non-Indians under criminal law).

²³ US Census 2000 information asks respondents what they identify as their tribal membership or primary tribal membership, but does not distinguish between state and federally recognized tribes. Of those who reported themselves as American Indian, approximately 21 percent did not report a specific tribal membership (Perry, 2004). The National Crime Victimization Survey and the National Violence Against Women Survey ask respondents their racial identity, but does not ask about tribal membership or Indian Country residency.

²⁴ Public Law 83-280 (18 U.S.C. § 1162, 28 U.S.C. § 1360)

Nebraska, Oregon and Wisconsin.²⁵ PL-280 also applies to “optional” states that could choose to assume part or total jurisdictional authority over American Indian and Alaska Native affairs within their state.²⁶ Importantly, creation and implementation of PL-280 did not include permission or input from any American Indian and Alaska Native tribe (Goldberg & Singleton, 2005).

In 1968, the law was amended to allow states to return jurisdictional duties to the federal government. Again, tribes were not given voice in the retrocession process. However, the revision required the consent of American Indian tribes in any additional states that wished to adopt PL-280. Since this amendment, no tribe has consented. In addition, several states consequently retroceded authority to specific tribes within PL-280 jurisdiction (Goldberg & Singleton, 2005).²⁷

In addition to bolstering jurisdictional confusion, PL-280 created problems for American Indian and Alaska Native tribal justice systems through the withdrawal of federal funding. While many tribes can receive assistance by the Bureau of Indian Affairs (BIA), a division of the federal government, tribes in PL-280 states often remain unfunded. Furthermore, PL-280 itself is an unfunded mandate (Goldberg & Singleton, 2005). Clearly, funding deficiencies impact the ability of laws to be carried out through law enforcement and prosecution. Several studies indicate that funding issues, particularly in PL-280 states, have a significant negative impact on

²⁵ *State Jurisdiction Over Offenses Committed by or Against Indians in the Indian Country*, 18 U.S.C. § 1162; *State Civil Jurisdiction in Actions to Which Indians Are Parties*, 20 U.S.C. § 1360. The Red Lake Reservation in Minnesota and the Warm Springs Reservation in Oregon are not included.

²⁶ Optional states included; Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah, and Washington.

²⁷ Sole jurisdiction was allocated to several tribes in some mandatory (Nebraska, Wisconsin, Oregon and Minnesota), and some optional (Washington, Nevada and Montana) PL 280 states.

the efficacy of law enforcement (Luna-Firebaugh et al., 2002; Peacock et al., 2002; Wakeling et al., 2001).²⁸

In sum, not only did PL-280 bestow some states jurisdiction in American Indian and Alaska Native affairs, but it also damaged the trust relationship between the federal government and “sovereign” Indian Nations (Deer, 2003/2004). Although concurrent jurisdiction still existed, the practical reality added even greater barriers for tribal ability to criminally sanction offenders. Critics contend that PL-280 further weakens tribes’ ability to respond to criminal behavior in general, and violence against women in particular (Deer, 2004a).

The Violence Against Women Act (VAWA)

Congress implemented the Violence Against Women Act (VAWA) as part of the Violent Crime Control and Law Enforcement Act of 1994.²⁹ It was amended and reauthorized under the Trafficking and Violence Protection Act of 2000,³⁰ and most recently as the Violence Against Women and Department of Justice Reauthorization Act of 2005.³¹ VAWA criminalizes interstate violence against women, provides funding for education, training and shelters, and requires courts to give full faith and credit to enforce foreign state or tribal laws.³² This Act demonstrates a government interest to address not only violence against women, but violence against specific vulnerable populations (e.g. immigrant and minority women, and those with limited resources).

²⁸ The effects of PL-280 and other legal barriers will be discussed later in further detail.

²⁹ H.R.3355.

³⁰ Public Law 106-386.

³¹ H.R. 3452.

³² Violence Against Women Act, Title IV of the Violent Crime Control Enforcement Act of 1994. Provision include, but are not limited to: Gender bias (42 U.S.C. 104002 (2000)); Provides funding for education, training and shelters (42 U.S.C. 10402(a)(1)); Criminalizes interstate domestic violence (18 U.S.C. 2262 (2000)); Excludes victims sexual history (Federal Rules of Evidence 412); Requires courts to give full faith (18 U.S.C. 2265); Civil remedy to sue based on gendered-violence (42 U.S.C. 13981) [May 2000 civil remedy turned down in the interstate commerce clause]

Nonetheless, VAWA faces significant challenges for victims in Indian Country because the legal constraints³³ described earlier limit tribal authority to prosecute offenders.

VAWA (1994) included provisions for safe streets for women, safe homes for women, civil rights for women, equal justice for women in the courts, improvements to previous strategies that address violence against women, reducing stalking and domestic violence, and enhancing protections for battered immigrant women and children. VAWA increased penalties for domestic violence and other forms of intimate partner abuse through federalization (Raeder, 2006). The Violence Against Women Act was the first national legislation for domestic violence, which addressed gender-based crimes, created new penalties for offenders, and provided a “civil rights” cause of action (Crais, 2005, p. 407). However, the civil rights remedy was found unconstitutional in *United States v. Morrison* (2000) because congress exceeded their power under the Commerce Clause of the Fourteenth Amendment to the Constitution.³⁴

Subsequent renewals of VAWA included more funds for educational programs to combat violence against women and for both criminal and non-criminal justice response services (see VAWA 2000, 2005). Other federal initiatives³⁵ increased penalties for offenses involving weapons in misdemeanor domestic violence offenses, including law enforcement officers, from buying, owning or possessing firearms (Crais, 2005). These actions impact American Indian women in the same manner as the protection of women in interstate travel. Because American Indian women living in Indian Country do not reside in specific states, these laws enhance protection beyond state law, which generally holds jurisdiction in misdemeanor offenses.

VAWA’s reauthorization in 2005 specifically addresses violence against American Indian and Alaska Native women in Title IX of the Act. Under Title IX, provisions include

³³ See Major Crimes Act; Indian Civil Rights Act, *Oliphant v. Suquamish Tribe* (1978); Public Law 280 (1953)

³⁴ *United States v. Morrison*, 529 U.S. 598 (2000)

³⁵ 18 U.S.C. § 922(g)(9).

annual consultations between the United States and tribal governments about the distribution of funds and program evaluations among others. The Act also grants tribal access to national criminal databases, creates a national tribal sex offender registry, and mandates national studies to examine violence against American Indian and Alaska Native women and the effectiveness of federal, state and tribal responses to this violence. VAWA grants such as STOP (Services-Training-Officers-Prosecutors) VAIW (Violence Against Indian Women) provide grant funding to improve law enforcement, establish victim services, and enhance coordination between jurisdictions and various agencies (Luna-Firebaugh et al., 2002). VAWA focuses on four central types of violence against women, including domestic violence, dating violence, sexual assault, and stalking. We will discuss each in greater detail next as they pertain to particular areas of the criminal justice response and grant evaluations.

The following sections will outline issues in law enforcement, courts and corrections. The subsequent section will focus on protection orders and “full faith and credit” and addresses issues in the judicial process and law enforcement. Next, a brief overview outlines alternative tribal justice programs. Finally, the last sections will cover laws as they relate to intimate partner violence (including domestic violence, stalking, and non-domestic intimate partner violence; both misdemeanors and felonies), and sexual assault and rape (both misdemeanor and felony charges).

LAW ENFORCEMENT

Because of the legal statutes outlined above, fundamental law enforcement problems arise because of jurisdictional complexities, insufficient funding, inadequate training, and victims’ perceptions of law enforcement. To reiterate, jurisdiction over law enforcement varies

by the location of the offense (on or off reservation land), 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. As such, officers who have jurisdiction on reservations include Federal Bureau of Investigation officers, Bureau of Indian Affairs officers, tribal government police, and in PL-280 states, state police officers. While the recent Amnesty International report (2007) brought media attention to the problems with law enforcement on some reservations, others have illuminated these problems as well (Dupree, 2000; International Association of Chiefs of Police, 2001; Luna-Firebaugh et al., 2002; Luna-Firebaugh, 2006; National Sexual Violence Resource Center, n.d.; Peacock et al., 2002; Reina, 2000; Wakeling et al., 2001).

In addition to the jurisdictional confusion and lack of funding, other issues plaguing the efficacy of law enforcement to combat violence against American Indian and Alaska Native women include inadequate training, limited specialized officers for particular types of victimization including rape and intimate partner violence, high turnover and low morale among officers, geographic and natural barriers, social, cultural and economic conditions, and underreporting of victimization (see Luna-Firebaugh et al., 2002; Wakeling et al., 2001 for example). Research on law enforcement in Indian Country ranges from jurisdictional analyses (Radon, 2004; Ritcheske, 2005; Tatum, 2002; 2003a; 2003b), demographics of law enforcement (Hickman, 2003; Perry, 2005; Wakeling et al., 2001), victim experiences (Amnesty International, 2007; Peacock et al., 2002; Shepherd, 2001; Thurman et al., 2003), or grant and policy evaluations (Luna-Firebaugh et al., 2002; Luna-Firebaugh, 2006). Many scholars have focused on the impacts of various law enforcement provisions of the Violence Against Women Acts (Crais, 2005; King-Reis, 2005; Lininger, 2003; Luna-Firebaugh et al., 2002; Luna-Firebaugh,

2006; McKinley, 1996; Stevenson, 1997), with particular focus on the role of law enforcement with protection orders and “full faith and credit” (Fine, 1998; Schmieder, 2003; Tatum, 2002; 2003b). Others have focused on tribal law enforcement and tribal justice systems (Coker, 1999; Valencia-Weber & Zuni, 1995). These studies suggest that significant improvements are needed to protect American Indian and Alaska Native women.

Police Department Characteristics and Problems

There are over 170 law enforcement agencies operated by tribal law enforcement, and 37 operated by the Bureau of Indian Affairs (Hickman, 2003). Like many rural law enforcement agencies, these officials suffer from departmental and administrative problems in addition to geographical, social and economic barriers to connect with victims. Although these issues are not unique to American Indian and Alaska Native women, scholars frequently argue that problems are intensified on tribal lands due to cultural insensitivity, jurisdictional confusion and the extreme isolation of many reservations. Jurisdictional confusion and funding deficiencies in turn lead to other problems in inadequate training, absence of specialized officers, archaic or nonexistent data collection, understaffing and general dissatisfaction among officers.

In addition to these issues, there is also variation between each tribe’s relationship to state and federal governments through contracts or agreements. For example, some tribes are supported solely by tribal funds, while others receive assistance through grants and contracts with federal and state authorities. As part of the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638), tribes can agree to oversight by the Bureau of Indian Affairs in exchange for funding (Luna, 1998). Public Law 93-638 is the most common administrative arrangement of police departments (Wakeling et al., 2001). Other tribes are

funded solely by tribal means, which allows them to control and develop their own model of law enforcement (Luna, 1998; Wakeling et al, 2001).

Federal law enforcement officers are rarely the first to respond to a violent crime in Indian Country. Their role is to enforce the Major Crimes Act,³⁶ and respond to situations that require federal intervention. The Bureau of Indian Affairs (BIA), under the department of the Interior also represents law enforcement in Indian Country. The role of BIA officers is to enforce federal and tribal laws. Depending on the relationship to the tribe and availability, BIA officers may respond before local tribal police (Tatum, 2003a).

Except in PL-280 states, state officers generally do not have jurisdiction in Indian Country. In PL-280 states, tribal and state officers generally work concurrently in law enforcement (Luna, 1998). Tribal and state governments can also enforce laws through cross-deputization (Tatum, 2003a). While some tribes receive financial assistance from the BIA, PL-280 tribes are not eligible for these benefits (Goldberg-Ambrose, 1997). The Supreme Court recently affirmed³⁷ that state officers (regardless of PL-280 status) are allowed to investigate crimes that were committed off tribal lands (Tatum, 2003a). This creates a significant barrier for tribes to realistically enforce laws where they are legally permitted, but are unable in terms of resources. Moreover, tribal police are not permitted the same authority to investigate offenses against tribal members that occurred off tribal lands.

These jurisdictional issues may sometimes lead to slow responses or no response at all by law enforcement (Amnesty International, 2007; Wakeling et al., 2001). Studies have found that officers may hesitate because they believe the crime should be addressed by a different agency (Amnesty International, 2007; Luna-Firebaugh, 2002; Wakeling et al., 2001) which sometimes

³⁶ Major Crimes Act (18 U.S.C. § 1153).

³⁷ *Nevada v. Hicks* (121 S. Ct. 2304 2001).

results in cases “fall[ing] through the cracks” (Amnesty International, 2007, p. 62). The process of law enforcement is illuminated in the anecdote described in the Final Report of the Ninth Circuit Gender Bias Task Force:

The first enforcement officials called to the scene may be tribal police or BIA [Bureau of Indian Affairs] officers, and these officers may initiate investigation and/or detain a suspect. Then a decision has to be made whether the crime is of the type warranting federal intervention, and then federal law enforcement officials (usually the FBI) needs to be notified. These officers then decide if they will refer the case to the U.S. Attorney’s office. After referral, the U.S. Attorney may call for further investigation, pursue prosecution, or dismiss the case (O’Connor, 1994).

Clearly, criminal cases in Indian Country must follow many steps before proper jurisdiction is decided.

Tracking cases through the adjudication process and creating sustainable data collection efforts is also hindered by jurisdictional issues (Amnesty International, 2007; Wakeling et al., 2001). As of 2001, 75% of tribes recorded crimes within reservations manually and/or electronically, but fewer than 12% were electronically linked to share data with other agencies. A slight majority of tribes had access to the National Criminal Information Center (NCIC) (Perry, 2005).

According to Goldberg and Valdez Singleton (2005), most tribes in PL-280 states do not report crime to the Bureau of Indian Affairs. In a study by Mending the Sacred Hoop that surveyed 131 STOP VAIW programs, it was found that over a dozen different agencies were in charge of collecting data for their tribe (National Sexual Violence Research Center, n.d.).

Statistical analysis is problematic even when data is collected because of missing or underreported cases.

Efforts to improve police administration as well as police responses include increased funding through grant projects, and cross-deputization agreements between tribes, states, and federal authorities. Of the 314 responding tribes in the 2002 census of tribal justice agencies, almost all (99%) had cross deputization with other tribal or public agencies. Fifty three percent of the tribes employing one or more full-time sworn officers were recognized by states with arrest authority (Perry, 2005). While these agreements between agencies have shown to be effective to overcome some jurisdictional barriers, the process to organize cross-deputization is highly complex.

Funding is also a central concern for law enforcement. Limited resources affect salaries and how many officers can be hired. Inadequate funding also contributes to poor training, absence of specialized training, inability to collect and share data, and overall dissatisfaction. There are often relatively few officers who cover a wide region, particularly on large isolated reservations. Clearly, a limited number of available responding law enforcement agents create delays in response to victimization (Wakeling et al., 2001). Aside from a deficiency in number of officers, law enforcement agents have also been found to have high turnovers and low employee morale (Wakeling et al., 2001). Turnover may be less apparent for BIA officers compared to local tribal officers because under a division of the US government, the BIA provides “job security, livable salaries, competitive retirement packages, and protection from undue political pressure in the uncertain political environment typical of many tribes” (Wakeling et al., 2001, p. 43).

Other issues related to turnover have been found in extremely remote regions. For example, a study of Alaskan Village Public Safety Officers (VPSOs)³⁸ found that employee turnover was not always the result of low pay or job related stress, but because of a lack of support from other officers, or because they held jurisdiction in unfamiliar communities (Wood, 2001).

Understaffed federal, state, and tribal police forces often do not receive adequate training for cultural sensitivity (Luna Firebaugh et al., 2002; Wakeling et al., 2001). Moreover, tribal police are typically trained through state police academies, which place little focus on specific cultural, social, economic and geographic features of Indian Country (Wakeling et al., 2001). When cultural sensitivity training is available, it is often not mandatory (Wakeling et al., 2001). Most tribal police departments do not have enough officers to specialize in intimate partner violence or rape/sexual assault, and are thus unable to provide the best assistance for these victimizations (Reina, 2000). In sum, funding not only affects the number of responding officers, but the quality of policing and the ability to upkeep efficient data collection and sharing.

Cultural and Social Barriers to Effective Law Enforcement

Geographic, social, cultural and economic barriers limit an officer's ability to help victims. Geographic distance is problematic for victims in need of immediate assistance, and for officers with limited staff, which often results in a delay time before the victim can be reached. According to Wakeling et al., some tribal police departments are significantly hampered by the huge area they must cover. For example, some police departments cover a landmass of 500,000 acres and serve several thousand individuals with only a handful of officers. This would equal

³⁸ VPSO's are local foot police who enforce a wide range of public safety services in Alaskan Native villages, including law enforcement.

an area the size of Delaware, with 10,000 residents covered by three or fewer patrolling officers (Wakeling et al., 2001).

Additional factors such as poverty, language barriers, cultural insensitivity and alcohol abuse also affect law enforcement's capacity to respond. For example, those who are poor are less likely to have telephone access, be educated about legal remedies, or be able to afford and develop their own criminal justice system (Wakeling et al., 2001). Peacock et al. (2002) also found that some tribal officers may marginalize the needs of indigenous women who recently experienced physical or sexual assault by threatening women to extract information or coerce them into pressing criminal charges – even against the victim's desire. Some American Indian and Alaska Native women believe non-native officers hold racial prejudices or stereotypes of American Indian and Alaska Native people (Ewing & Guadalupe, 2001; Reina, 2000). These beliefs may also encourage officers to charge offenders with more serious crimes (Erwin & Vidales, 2001).

Finally, several studies suggest that law enforcement officers can be abusers themselves (Deer, 2004a). In Luna-Firebaugh et al.'s (2002) STOP VAIW evaluation, many tribes noted the issue of “cops who batter,” meaning police officers who are themselves, known instigators of domestic violence. While this is an issue for non-American Indian and Alaska Native communities as well, it is particularly difficult to combat in small, integrated tribal communities (Luna-Firebaugh et al., 2002).

In sum, administrative problems and poor relations with victims can obviously lead to ineffective responses to violence against American Indian and Alaska Native women, as they can with all women regardless of their race or ethnicity. For victims, law enforcement may be slow or unable to respond, or incapable of addressing their needs through assisting and informing

them about access to other resources such as shelters and medical facilities. American Indian and Alaska Native women who do not respect or trust law enforcement are less likely to report their victimization. Promising legislation such as VAWA, which has provided funding to many tribal governments and other VAWA funded-grant projects can successfully improve law enforcement through training, and creating task forces to alleviate jurisdictional issues (Luna-Firebaugh et al., 2002). Some researchers contend that more authority to administer, police and prosecute cases must be granted to tribes (Wakeling et al., 2001) while others acknowledge that any consolidation of services would improve coordination of the criminal justice systems involved (Reina, 2000).

COURTS & PROSECUTION

Tribal Judicial Systems

As with law enforcement, prosecution also varies by type of crime, the race/ethnicity of the victim and offender, and the location of the offense. Of the 314 reporting tribes in the 2002 census, approximately 59% had some type of tribal judicial system (Perry, 2005)³⁹. These systems varied greatly in how much influence Western ideals had on resolution and punishment (Amnesty International, 2007; Jones, 2000; Perry, 2005). The Court of Indian Offenses was established after *Ex Parte Crow Dog*⁴⁰ to address criminal matters and disputes among American Indian and Alaska Natives on reservations. The intent was to assimilate American Indian and Alaska Natives into American society (Jones, 2000). The Indian Reorganization Act of 1934⁴¹ was the first time that tribes could establish and run their own tribal governments under U.S. policy (Jones, 2000). This helped tribal nations in the short run to regain land and financial

³⁹ According to the report, the majority of the 314 responding tribes were in PL-280 states (123 in mandatory states; 81 in optional states). The remaining tribes were located in non-PL-280 regions. Only those tribes in the lower 48 states were included for this analysis.

⁴⁰ *Ex Parte Crow Dog*, 109 U.S. 566 (1883)

⁴¹ Indian Reorganization Act of 1934, also known as the Wheeler-Howard Act, 25 U.S. C.A. § 461 et seq.

responsibilities, but also imposed Western frameworks of government in tribal practices as most tribal courts were restructured according to Western standards (Peacock et al., 2002). The reorganization of Indian Country and tribal courts contributed to dissolving traditional tribal roles in families and the community for many tribes (Peacock et al., 2002).

Some tribal courts are managed by the Bureau of Indian Affairs (BIA), while others are operated solely by tribes themselves. Courts operated by the BIA adhere by the Code of Indian Offenses in the Code of Federal Regulations (CFR). These courts offer features that tribal governments lack. The benefit is that the system is run entirely on BIA funds, which also provide public defenders. The downside is that tribes who use CFR courts cannot establish their own laws and policies (Jones, 2000).

As noted earlier, all tribal courts can run concurrent prosecution on major crimes,⁴² but the Indian Civil Rights Act (ICRA) restricts their ability to carry out strict penalties. Tribal courts cannot prosecute non-American Indian and Alaska Natives in criminal cases,⁴³ but have some leeway in civil cases (Jones, 2000). Legal actors in tribal courts are not always attorneys or judges, but “lay advocates” who are knowledgeable about tribal law (Jones, 2000). Additionally, tribal courts are not required to provide defense attorneys (Jones, 2000).

State Judicial Systems

In PL-280 states, state courts have the authority to prosecute both American Indian and Alaska Natives and non-American Indian and Alaska Native offenders. Although they are legally entitled to have dual jurisdiction, tribes may not operate their own judicial system (Goldberg-Ambrose, 1997; Jones, 2000) and hear limited types of cases (Jones, 2000). The degree of activity by tribal judicial systems varies across each PL-280 state. Important factors in

⁴² *States v. Wheeler*, 435 US 313 (1978)

⁴³ See *Oliphant v. Suquamish Tribe*, 435 U.S. (1978)

this variation include the state's willingness to support tribal governments, federal assistance, and each tribe's ability to work alongside the state's system (Goldberg & Valdez Singleton, 2005). Although preliminary qualitative studies have shown dissatisfaction with the relationship between state and tribal governments, according to Goldberg and Valdez Singleton (2005), researchers have yet to examine the "practical operation of concurrent jurisdiction in order to determine its effectiveness" (p. 17).

Federal Judicial Systems

When intimate partner violence falls under the Major Crimes Act⁴⁴ or an offender is non-American Indian and Alaska Native, the federal government has jurisdiction to arrest and prosecute offenders. In contrast to PL-280 states that address misdemeanor crimes involving American Indians, cases involving Indians in non PL-280 are prosecuted in the federal courts. Due to heavy workloads and limited resources at the federal level, violence by an intimate partner may be plead to a lesser penalty, or not prosecuted at all (Radon, 2004). As with all prosecutors, after investigating a crime, the U.S. attorney may decline prosecution. For non-American Indian and Alaska Native crimes, criminal charges are addressed at lower courts, or state jurisdictions (Perry, 2004). However, as decided in *Oliphant v. Suquamish Indian Tribe*, tribal governments cannot prosecute crimes involving non-American Indian and Alaska Natives.⁴⁵

Radon (2004) argues that an American Indian and Alaska Native woman abused by a Non-American Indian and Alaska Native man has less protection against intimate partner violence than women in the general population. Compared to major crimes, intimate partner

⁴⁴ Major Crimes Act (18 U.S.C. § 1153).

⁴⁵ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978), (stating that Congress allocated jurisdiction for Federal courts to prosecute Indian offenders who commit serious offenses under the Major Crimes Act of 1885)

violence may not be considered a priority for federal prosecutors. Therefore, misdemeanor cases involving non-American Indian and Alaska Native offenders may not receive sufficient attention (Radon, 2004). At the time of Radon's (2004) legal critique, there were no data available to accurately determine the number of prosecutions for violence against American Indian and Alaska Native women specifically. However, between 2000 and 2001 federal authorities declined to prosecute 42.9% of assault cases in total (Radon, 2004).⁴⁶ Radon infers that through the disproportionate cases involving American Indian and Alaska Natives coupled by the number of declined prosecutions, American Indian and Alaska Native victims of intimate partner violence may likely find their cases declined.

Another problem with prosecution at the federal level is that resources to prosecute cases of domestic violence are often limited (Radon, 2004). For example, according to a study supported by Mending the Sacred Hoop, prosecutors lacked the resources to handle cases through hearings, even in cases where intimate partner violence was severe (Peacock et al., 2002).

Peacock and his colleagues (2002) also found that as victims moved through federal and state justice systems, "[their] voices are increasingly muffled, their experiences are increasingly fragmented and their agency is steadily diminished by institutional protocols and legal processes" (p. 306). The American Indian and Alaska Native women in their study reported that courts, lawyers and other legal actors failed to respect and trust victims; these women felt uncomfortable with others who did not understand tribal culture. As a result, their needs were not satisfied through the impersonal nature of the legal system (Peacock et al., 2002). While this is

⁴⁶ Violent offenses were defined as threatening, attempting, or actually using physical force against a person, including murder, negligent manslaughter, assault robbery, sexual abuse, kidnapping, and threats against the President; assault was defined as intentionally inflicting or attempting or threatening to inflict bodily injury to another person.

often a problem for victims of intimate partner violence in the general population, Erwin and Vidales (2001) similarly report that minority women find the prosecution process complex, lengthy and unclear.

Peacemaking and Tribal Justice

Tribal courts often resemble federal and state models, but they may also represent more traditional systems of tribal adjudication (Coker, 1999; Luna-Firebaugh et al., 2002; O'Connor, 1997; Ritcheske, 2005; Valencia-Weber & Zuni, 1995). Most Westernized courts represent government models from the 1934 Indian Reorganization Act (O'Connor, 1997; Peacock et al., 2002). Tribal courts can also act more quickly than their federal and state counterparts, provide informal solutions, and reflect unique values of individual tribal beliefs (O'Connor, 1997). According to the former U.S. Supreme Court Justice Sandra Day O'Connor, "the role of tribal courts continues to expand, and these courts have an increasingly important role to play in the administration of the laws [in America]" (p. 5).

Some scholars suggest that tribal responses are more effective to combat intimate partner violence against American Indian and Alaska Native women than Western forms of justice (Coker, 1999; Radon, 2004; Valencia-Weber & Zuni, 1995). After comparing laws, procedures and punishments among several American Indian and Alaska Native tribes, Valencia-Weber and Zuni (1995, p.112) concluded, "The majority of the tribal codes reviewed provide greater or equal protection to victims of domestic violence when compared to the states in which these tribes are located." They explain that tribes often include more expansive definitions of violence, and a variety of means to resolve domestic disputes including formal and informal intervention (Valencia-Weber & Zuni, 1995).

The Navajo Peacekeeping method of justice is an example of a hybrid model that combines methods of peacekeeping with formal justice systems. Peacemakers are community leaders who work with Navajo nation courts to help resolve domestic abuse by “talking things out” (Valencia-Weber & Zuni 1995, p. 113). Unlike Western mediation and arbitration, peacemaking involves not only the immediate parties involved, but their family and other members of the community (Valencia-Weber & Zuni, 1995). Similarly, the Pueblo Indians give plaintiffs the option of using traditional methods of healing or going to court to intervene in cases of domestic assault.

Donna Coker (1999) reviewed the Navajo Peacemaking system of justice and suggests that peacemaking addresses the needs of the victim and the community by acknowledging the crime and providing material assistance for the victim. Coker argues that, “Peacemaking, unlike Anglo adjudication, allows parties to reach the underlying problems, diminishes the ability of the offender to deny and minimize his abuse or his responsibility for the abuse, and provides support for the victim” (Coker 1999, p. 8). Victims and offenders are able to share their stories under watch of the peacemaker, whose role is to mediate the conversation, and not to make judgments of guilt. As such, the offender cannot escape guilt because they are forced to have direct contact with their victim, and in turn, the victim is given voice. Coker believes that federal and state systems, based on Westernized concepts of justice could benefit from the restorative qualities found in Navajo Peacemaking. We will return to these and other alternatives later.

It is important to note that other studies have shown that, in addition to traditional methods, Westernized law enforcement and judicial systems are also widely supported by victims (Magen & Wood, 2006). According to Magen and Wood (2006), as long as law enforcement effectively detains offenders and respects victims, both tribal and non-tribal officers

can be legitimate response mechanisms. Of course, issues of procedural justice are important for all victims of crime. If American Indian and Alaska Native women view law enforcement positively, they will be more likely to report victimization and seek help from outsiders (Magen & Wood, 2006).

Prosecution under tribal judicial systems, similar to tribal law enforcement, also suffers from a range of jurisdictional and financial complications. First, tribes often suffer from insufficient resources to sustain sophisticated judicial systems. As mentioned earlier, tribes have traditionally supported peacemaking and informal resolutions, rather than formal processes and sentencing. Radon (2004) argues that although not all tribes can afford to develop and maintain judiciary systems, it does not mean that they will not want or be able to do so in the future. Moreover, some tribes, such as the Navajo nation, have developed highly advanced judiciary systems comparable, and in some cases superior, to the American judicial system (Valencia-Weber & Zuni, 1995). Other tribes such as the Pueblo Indians have also successfully integrated peacemaking alongside formal judicial systems (Radon, 2004; Valencia-Weber & Zuni, 1995).

Although some tribal laws may interpret intimate partner violence more expansively than state law, and provide a variety of methods to address the needs of victims, not all tribes include specific codes that address violence against women (Valencia-Weber & Zuni, 1995). Sanctions also vary between tribes. For tribes that prosecute criminal offenses, the process is often similar to Western judicial systems. Once guilt has been determined, tribal codes generally prescribe incarceration, fines, probation or counseling (Valencia-Weber & Zuni 1995). Tribes also provide civil remedies, and for many, these may be the only means to address misdemeanor

violence against women (Valencia-Weber & Zuni, 1995). Civil codes often include protection orders⁴⁷ and sometimes include counseling.

Second, tribal prosecution is limited by federal law that restricts who can be prosecuted, and to what extent they can be punished. As noted earlier, due to limitations placed on sentencing in the Indian Civil Rights Act,⁴⁸ tribes cannot exceed punishments beyond \$5000 fine, one year in jail, or both. Tribes are also prohibited from prosecuting non-Indians in criminal cases.⁴⁹ Therefore, even if tribes had sufficient resources to develop formal justice systems, their ability to prosecute offenders is still limited to minimum penalties and restricted to American Indian offenders.

In sum, tribal concepts of justice are sometimes more effective in addressing the needs of American Indian and Alaska Native women through informal justice, where victims and offenders confront one another through a peacekeeping process. However, tribes are typically limited by federal laws and lack sufficient resources and may therefore be unable to address violence against American Indian and Alaska Native women. Scholars suggest that tribes must be granted more authority to govern their own people through either formal or informal justice to ensure American Indian women the best protection from violence (Deer, 2004a; Radon, 2004; Valencia-Weber & Zuni, 1995).

⁴⁷ See the section on Protection Orders and Full Faith and Credit below.

⁴⁸ Indian Civil Rights Act (25 U.S.C. §§ 1301-1303)

⁴⁹ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978).

PROTECTION ORDERS & FULL FAITH & CREDIT

Obtaining Protection Orders

While tribal governments do not have jurisdiction to prosecute non-American Indian and Alaska Natives in *criminal* courts, they do have some authority to enact *civil* orders against non-American Indian and Alaska Native offenders (Ritcheske, 2005). Although civil remedies do not have the same deterrent effect or extensive penalties as criminal orders, civil protection orders are better than no remedy at all (Ritcheske, 2005).

Personal protection orders (PPOs) provide injunctive relief for petitioners who seek to use legal remedies to end threatening behavior, cease contact with another individual, or to alter custody arrangements. Protection orders vary in duration (temporary or permanent) and are issued through a variety of means; in either civil or criminal courts, as part of release or bond, or in conjunction with criminal parole conditions (Tatum, 2002). While PPOs are generally civil remedies, the violation of a PPO may lead to criminal sanctions (DeJong & Burgess-Proctor, 2006).

Protection orders generally fall under state or tribal legal jurisdiction. However, federal laws also address protection orders under the Violence Against Women Act of 1994⁵⁰, which established federal criminal penalties for PPO violations or *interstate* domestic violence crimes (DeJong & Burgess-Proctor, 2006). VAWA contains several provisions including “Full Faith and Credit” and provides for the invalidation of mutual protection orders where sufficient evidence shows violence has been committed by both parties.

⁵⁰ Domestic violence crimes (U.S.C 18 § 2261); PPO violations (U.S.C 18 § 2262).

Under full faith and credit, states and tribal governments must enforce the protection orders of other state and tribal jurisdictions.⁵¹ While the interstate enforcement addresses interstate enforcement of protection orders, several barriers affect the actual employment of VAWA's full faith and credit provision. For example, VAWA does not require its language be translated in state and tribal codes (DeJong & Burgess-Proctor, 2006; Tatum, 2002). Significant variation also exists across state and tribal laws and increases the complexity in enforcing the laws of other regions. Differences exist in who is eligible to petition for a PPO, the process of filing PPOs and the penalties attached for PPO violations, and law enforcement and legal actors may be unfamiliar with the differences in the PPO laws in other jurisdictions (DeJong & Burgess-Proctor, 2006). Importantly, tribal courts have full civil jurisdiction to enforce protection orders.⁵²

Unfortunately, victims often find that the process to obtain protection orders at federal, state and tribal levels does not help, and in some cases, makes situations worse. Although VAWA (2000) attempts to make the process of obtaining protection orders easier, research indicates that American Indian and Alaska Native women experience significant problems including delays and excessive paperwork (Peacock et al., 2002). In addition, before VAWA 2002, victims would also frequently have to pay the costs associated with applying for a PPO.

⁵¹ U.S.C 18 § 2265, mandates that protection orders under “one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State, Indian tribe, or territory” (§ 2261a, italics added). The law further defines *protection order* as fulfilling two criteria; first, “such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory;” and second, “reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.” (U.S.C 18 § 2265(b)(1)(2), emphasis added).

⁵² Under U.S.C 18 § 2265(e), “For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.” Subsection (e) was added as an amendment in 2000.

However, VAWA 2002 mandated that for state, tribal or local governments to receive federal funding, its laws, policies, and practices must not “require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order,” that victims of violence bear the cost of associated with processing their case.⁵³

Enforcing Protection Orders

VAWA (1994) requires that PPOs within the United States and Indian Country “shall be afforded full faith and credit by the court of another state or Indian tribe” (18 U.S.C. § 2265). Protection order violations should be punished according to the laws of the state or tribe where the violation occurred (DeJong & Burgess-Proctor, 2006). However, the Act did not provide details of *how* law enforcement should enforce this provision.

While VAWA requires “full faith and credit,” tribal court orders and judgments do not uniformly embrace this terminology (Luna-Firebaugh et al., 2002). Some scholars, such as Schmieder (2003), argue that American Indian and Alaska Native tribes refuse to create statutes supporting full faith and credit. Schmieder (2003) goes so far as to argue that Congress should force tribes to adopt the Violence Against Women Act. Tribal refusal to adopt VAWA arises from the belief that any outside law infringes tribal sovereignty (Schmeider, 2003). In contrast, other scholars explain that it is not refusal to comply, but complications arising from funding and the way legal initiatives are imposed on tribal governments that create the problems (Deer & Tatum, 2003).⁵⁴

In reality, the types of orders, legal punishments and understanding of the intent of the order vary by each state and tribal government. Scholars suggest that legal barriers of the law,

⁵³ 42 U.S.C § 3796gg-5(a)(1)

⁵⁴ For further discussion of Protection Orders, see Tatum 2002.

and status of Indian lands as similar to “states” or “territories” contribute to this variance (Deer & Tatum, 2003; Luna-Firebaugh et al., 2002; Tatum, 2002; 2003b). Deer and Tatum (2003) suggest that while tribes may wish to enforce protection orders with “full faith and credit,” their ability to prosecute non-American Indian and Alaska Natives restricts their ability to do so.

The confusion over tribal jurisdiction under full faith and credit was clarified under VAWA 2000. In the revised statute, tribal governments are allowed to enforce *civil* protection orders, not criminal, when the case involves non-American Indian and Alaska Natives (Tatum, 2002). As mentioned earlier, the U.S. code § 2265(e) grants tribes “full *civil* jurisdiction to enforce protection orders.” The code allows tribes to “enforce any orders through *civil* contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.”⁵⁵

Other problems with implementing full faith and credit still persist. For example, some state courts have found that tribes are ‘territories’ of the U.S. government. This suggests that tribal law may be enforced through “comity,”⁵⁶ which is not mandatory (Luna-Firebaugh et al., 2002, p. 80). Little recourse exists for tribal victims of domestic violence when an off-reservation law enforcement agency fails to recognize and enforce a tribal court order. Comity, unlike full faith and credit, cannot be claimed as a right, but only as a favor or courtesy. (Luna-Firebaugh et al., 2002). Amnesty International (2007) received many anecdotal reports that state law enforcement agencies refused to act on protection orders issued by tribal courts. There is often no system to alert other jurisdictions of a protection order, particularly in many tribal courts where computer systems are not available. In addition, there is no uniform law across states and

⁵⁵ U.S.C. § 2265(e), italics added.

⁵⁶ Comity refers to “the cordial recognition given by the courts of one state or jurisdiction of the laws and judicial decisions of another” (Luna-Firebaugh et al., 2002, p. 80). Some states have used this notion similar to enforcing laws in other countries, in that law enforcement is not required, but instead is discretionary.

tribal governments defining protection order features and penalties. Because of this discontinuity other jurisdictions may find the protection order unclear (Luna-Firebaugh et al., 2002).

INCARCERATION & CORRECTIONS

Federal Prisons

Because a large percentage of major crimes against American Indian and Alaska Natives are prosecuted by federal courts, American Indian and Alaska Natives are disproportionately represented in federal prisons. According to the federal Bureau of Prisons (BOP), in 2001 American Indian and Alaska Natives represented 16% of all violent crime offenders entering Federal prisons (Perry, 2004). While statistics provide information about how many American Indian and Alaska Natives are incarcerated in the federal system, it is unclear how many individuals are in federal prisons for violent crimes against American Indian and Alaska Native women, regardless of the race of the offender.

Tribal Correctional Systems

Incarceration is not typically a traditional means to punish offenders in American Indian and Alaska Native justice systems. This feature was integrated through Western ideals of justice and punishment (Luna-Firebaugh, 2003). Communities that follow traditional interventions of violent offenders, such as the Navajo Peacekeeping program, (Valencia-Weber & Zuni, 1995; Coker, 1999; Ritcheske, 2005) often do not use formal incarceration as punishment, but instead aim to resolve disputes through alternative programs or sentencing circles (Luna-Firebaugh, 2003). Other alternate programs include electronic monitoring, home detention, community

service, or daily check-ins with authorities (Luna-Firebaugh, 2003). Luna-Firebaugh et al.'s (2002) evaluation of STOP VAIW, found that of the 123 tribes in the study, 68% had non-jail options available to the court judge; 79% percent of courts utilized sanctions for non-compliance with court orders or probation, and 60% had tracking systems to increase accountability.

Similar to law enforcement and courts, funding and jurisdiction issues affect tribal corrections. Luna-Firebaugh (2003) explained that tribal prisons suffer from similar problems throughout tribal justice responses, such as requirements to comply with federal laws and guidelines, high costs to run jail facilities, and staffing shortages. Tribal jails are often overcrowded, especially in smaller facilities (Luna-Firebaugh, 2003). These problems are echoed in a report by the U.S. Department of the Interior (2004) that concluded, "The BIA has failed to provide safe and secure detention facilities throughout Indian Country" (p. 3). Some specific problems the report cites include inadequate reporting and accountability of BIA offices, understaffing of facilities, mismanaging financial resources, inconsistent training, and failure to keep the facilities consistent with health and safety requirements (US Department of the Interior, 2004). In response to this report, the BIA will receive aid through the Safe Indian Communities Initiative, including \$5 million of additional funding for FY 2008. This funding will be distributed based on financial need to increase and train staff, and for improving the operation and maintenance of the detention centers (US Department of the Interior, 2007).

Despite these problems, tribal jails may offer benefits to American Indian and Alaska Natives such as locations closer to tribes and families, cultural sensitivity, and affirming tribal power to hold offenders accountable (Luna-Firebaugh, 2003). Tribal jails may have greater emphasis on religious and cultural activities, as well as race and gender sensitive informal intervention services (Luna-Firebaugh, 2003).

As of 2002, tribal governments and the Bureau of Indian Affairs operated 70 jails in Indian Country. Of those imprisoned, the most common crimes were misdemeanors (86%), followed by non-domestic violent offenses (20%) and drug & alcohol convictions (11%) (Perry, 2004). Because the Indian Civil Rights Act mandates that tribal courts can only hold offenders for up to one year, sentences in tribal courts are relatively short compared to state and federal prison stays.

LEGAL ISSUES REGARDING PHYSICAL ASSAULT AGAINST AMERICAN INDIAN AND ALAKSA NATIVE WOMEN

The original 1994 Violence Against Women Act addressed physical assault through provisions regarding domestic violence,⁵⁷ stalking,⁵⁸ and protection order violations⁵⁹ across jurisdictional boundaries. An addition, VAWA (2000) mandated that dating partners⁶⁰ may also seek remedies through VAWA. Specifically, VAWA (2000) addresses offenses in which an offender who travels “in interstate or foreign commerce or enters or leaves Indian country or within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that

⁵⁷ 18 USC § 2261. Offenders may be either spouses or intimate partners. More specifically, under 18 USC § 2266(7), this includes, “(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or (II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship; and (ii) section 2261A, a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; and (B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.”

⁵⁸ 18 USC § 2261(A)

⁵⁹ § 2262. (see also p. 87 of this report, “Protection Orders and Full Faith and Credit”)

⁶⁰ “Dating partner” is defined as “a person who is or has been in a social relationship of a romantic or intimate nature with the abuser and the existence of such a relationship based on a consideration of— (A) the length of the relationship; and (B) the type of relationship; and (C) the frequency of interaction between the persons involved in the relationship. (18 USC § 2266 (a)(10))

spouse, intimate partner, or dating partner.”⁶¹ The law also applies to offenders who cause their victim to travel interstate or to enter or leave Indian Country “by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence.”⁶²

Tribal codes vary in how they define physical assault in intimate relationships. According to Valencia-Weber and Zuni (1995), some tribes describe victims and offenders in narrow terms that limit abuse to spousal relationships, while others uphold more extensive codes, which include extended family members or use gender-neutral language. Some codes, such as that of the Navajo nation, extend victim protection to other intimate partners, past or present (Valencia-Weber & Zuni, 1995).

Stalking

In 1996, VAWA extended interstate violence to include stalking (Fine, 1998). The Act prohibits offenders from traveling across state lines or entering or leaving Indian Country, “with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person, a member of the immediate family... of that person, or the spouse or intimate partner of that person.”⁶³ The statute also prohibits stalking in the form of mail, or any facility of interstate or foreign commerce under the same course of conduct.⁶⁴ Offenders who violate this statute can be punished by fine, imprisonment, or both.⁶⁵

In 2005, VAWA improved stalking intervention by adopting surveillance technology (such as Global Positioning Systems [GPS]), or other computer services to increase

⁶¹ 18 USC § 2261 (a)(1)

⁶² 18 USC § 2261(a)(2)

⁶³ 18 USC § 2261(A)

⁶⁴ 18 USC § 2261(a)(2)(B)

⁶⁵ 18 USC § 2261(b)

accountability. Minimum stalking penalties *double* when the offender has committed prior violations.⁶⁶ While VAWA stresses stricter penalties for stalking crimes, many tribes still do not have codes prohibiting stalking. In some cases, however, stalking behavior may be seen in other types of violation such as harassment (Luna-Firebaugh, 2002).

Dating Violence

The definition of intimate partner violence has expanded tremendously in recent years. This is evident with the addition of dating violence to domestic violence crimes under VAWA 2000. Under Section 2261(a) of Title 18, provisions listing “intimate partner” were changed to include “intimate partner, or dating partner.” “Dating partner” could be a person who is, or has been in a social relationship of a romantic or intimate nature with the abuser and the existence of such a relationship based on the consideration of (A) the length of relationship, and (B) the type of relationship, and (C) the frequency of interactions between the persons in the relationship.⁶⁷ This includes individuals in dating relationships that have sought protection orders under 18 USC § 2261(a).

Law Enforcement & Intimate Partner Violence

While many tribal laws address intimate partner violence, Federal laws and insufficient funding limit their power to enforce legal codes and arrest offenders. As described earlier, tribal law enforcement is only allowed to detain non-American Indian and Alaska Natives for a limited time⁶⁸ before they are transferred to federal authorities (or state officers in PL-280 regions) (Radon, 2004). Jurisdictional issues may limit the ability of law enforcement to protect victims and prosecute offenders (Goldberg-Ambrose, 1997; Tatum, 2002). These factors may contribute

⁶⁶ 18 U.S.C. § 2265A(a)

⁶⁷ 18 U.S.C. § 2266(10)

⁶⁸ See *Oliphant v. Suquamish Tribe*, 435 U.S. (1978).

to an environment in which tribal police and prosecutors cannot effectively address violence against American Indian and Alaska Native women (Goldberg-Ambrose, 1997). This is especially critical with interracial domestic situations (Tatum, 2002).

In a recent evaluation of the STOP VAIW grant program, Luna-Firebaugh and her colleagues (2002) found that of the 123 programs studied, 25% of Tribal Police Departments had sole responsibility to respond to domestic violence, while the remaining 75% had multiple law enforcement responses, which included a combination of tribal, local, state or federal officers. For example, responses in Alaska may include Village Public Safety Officers (VPOs), Village Police, and State Troopers. Despite many scholars' suggestions that jurisdictional problems have harmed criminal justice responses, a significant number of interviewees found that multiple agencies had a positive influence, in that they could "back each other up" until jurisdictional matters were resolved (Luna-Firebaugh et al., 2002, p. 63). Fifty percent of programs had cross-deputization agreements with other law enforcement agencies, with an additional 8% in process of development (Luna-Firebaugh et al., 2002).

Because of jurisdictional problems with the arrest and prosecution of non-American Indian and Alaska Native offenders, tribes reported that cross-deputization "really helped [the tribal police] because of the inter-racial marriages on the reservations" (Luna-Firebaugh et al., 2002, p. 66). Even when tribes did not have jurisdiction they pursued cases anyway, especially where American Indian and Alaska Native women were involved (Luna-Firebaugh et al., 2002). Funding from the STOP VAIW grant program has significantly improved law enforcement responses to domestic violence calls. Such funds have been used to improve the documentation of evidence and report writing through training officers about domestic violence, as well as

increasing communication between responding jurisdictions. As a result, the number of offender arrests also has increased (Luna-Firebaugh et al., 2002).

Reporting to Police

As presented earlier, the NCVS estimates that a similar percent of women who are assaulted report their victimization to police regardless of race. American Indian and Alaska Native women may not report victimization for many of the same reasons given by other women. Research indicates that women may distrust police (Thurman et al., 2003; Wakeling et al., 2001), believe they will take too long to respond (Wakeling et al., 2001), or overall do not feel the law will be enforced (Radon, 2004). They may also fail to report incidents because of shame or humiliation (Magen & Wood, 2006; Wakeling et al., 2001), fear of retaliation from the offender (Wakeling et al., 2001), or view the offense as a one-time minor occurrence (Magen & Wood, 2006). Perry (2002) suggests that victimization is not reported because victims feel they are targets of verbal and physical abuse by police, do not want outside interference in personal problems, or feel “powerless” to address their victimization (p. 242). Moreover, rural women in particular may suffer from geographic barriers, such as distance from police stations or lack of phone access⁶⁹ (Wakeling et al., 2001). American Indian and Alaska Native women may also be hesitant to report to federal powers because they believe that it infringes their sovereignty (Reina, 2000). In more general terms, American Indian and Alaska Natives may simply reject any outsider’s help (Thurman et al., 2003).⁷⁰

⁶⁹ Wakeling and his colleagues noted that compared to the majority of Americans, American Indian and Alaska Natives living on reservations were far more likely to be without phones.

⁷⁰ Thurman et al (2003) used quantitative and qualitative data, including in-depth interviews and focus groups. Fifty-four respondents were surveyed among 15 communities. Three were chosen for semi-structured interviews. The goal was to establish the level of “community readiness” through asking about awareness, VAIW programs and resource use.

In the STOP VAIW assessment (Luna-Firebaugh et al., 2002), the most prominent reasons why women did not report to police were because they feared retaliation (31%), loss of spousal income (30%), and shame or embarrassment (29%). Other reasons included fear of losing custody of children (25%), didn't want law enforcement to become involved (22%), lack of faith in courts (19%) and pressure from family (19%). Using NCVS data, Rennison (2001) also found that reasons why victims did not report intimate partner violence to authorities were similar across racial/ ethnic groups. The most common reasons included that the offense was a "private or personal matter," they "feared reprisal," or the victim wished to "protect the offender" (Rennison 2001, p. 9).

Thus, although researchers often assume that American Indian and Alaska Native women have greater barriers to report intimate partner violence than other racial/ethnic groups for example historical victimization (Reina, 2000; Smith, 2003), or barriers caused by location or lack of economic resources (Wakeling et al., 2001), their reasons for not reporting victimization reflect the same beliefs held by the vast majority of female victims. Intimate partner victims often do not report because they fear their offender, because they feel shame or embarrassment, or they do not want the criminal justice system involved.

Criminal Justice Response to Dating Violence

Intimate partner violence scholars began to look at "dating" or "courtship" violence in the 1980s (Johnson & Ferraro, 2000). While the law does not suggest that dating violence relates only to adolescent and young adult relationships,⁷¹ the majority of social research uses this term

⁷¹ Dating Violence means; violence committed by a "dating partner" who is (or has been) in a social relationship of a romantic or intimate nature with the victim. A relationship is defined by the type, length, and frequency of contact between dating partners (18 USC § 2266 (10)).

for violence among younger populations. Prior to the Violence Against Women Act of 2000, there was no specific federal law prohibiting dating violence.

Victims of dating violence may seek justice by obtaining protection orders, or filing charges based on specific types of dating violence (e.g. physical assault, sexual assault, stalking). As of 2005, thirty-three states and the District of Columbia permit victims of dating violence to obtain protection orders regardless of the nature of the dating relationship. All 50 states allow individuals access to protection orders where the parties involved have children together (Green & Mohlhenrich, 2005). Among mandatory PL-280 states, Alaska, California, Minnesota and Wisconsin have protection orders that cover dating violence. Of these states, California and Wisconsin allow petitioners to apply for protection without adult consent (Green & Mohlhenrich, 2005).

While the research on dating violence is growing, there has been little evaluation of the criminal justice response to this violence in general, and none that could be found on dating violence among American Indian and Alaska Native women.

LEGAL ISSUES REGARDING RAPE AND SEXUAL ASSAULT AGAINST AMERICAN INDIAN AND ALASKA NATIVE WOMEN

According to survivors of rape, sexual assault is much more than a physical attack. Women suffer from psychological and spiritual ramifications (Deer, 2004b), which in turn impacts the community as a whole. Deer (2004b) explains that “rape is conceived as a violation of a person’s humanity” (p. 137). Some scholars explain that sexual abuse of indigenous women has existed through colonization (Smith, 2003 for example). Historically, rape was a much more common crime against American Indian and Alaska Native women by European men than

indigenous men (Deer, 2004b). Sexual violence is also used as a weapon of war (Deer, 2004b). According to Deer (2004b), “Colonization and sexual violence... share a common history and a common language of dehumanization, power, dominance, and conquest... Although women of all races experience sexual violence, the high rate and elevated violence experienced by Native women (and other indigenous women) indicate that the history of conquest and seizure has a disparate impact on the indigenous populations” (p. 131). This contention has recently been supported by the United Nations Security Council, which unanimously voted in favor of a resolution classifying rape as a weapon of war (“UN Classifies rape a war tactic”, 2008).

Federal & State Response to Sexual Assault

Rape law reforms during the late 1970s and early 1980s varied in their comprehensiveness across jurisdictions, however, there were generally four common reform themes: 1) many states replaced the single crime of “rape” with a series of offenses graded by seriousness, which are typically gender- and relationship-neutral; 2) many laws have modified or eliminated the requirement that the victim resist the attacker; 3) most laws now eliminate the corroboration requirement because victimizations most often take place in a private place without a witness; and 4) most states have enacted rape shield laws that placed restrictions on the introduction of evidence of the victim’s prior sexual conduct. Unfortunately, research indicates that the efficacy of these reforms in increasing both reporting of rape cases and the adjudication of cases that are reported to police has been mixed at best (Bachman & Paternoster, 1993; Horney & Spohn, 1991). To address the inadequacies of the criminal justice system’s response to rape, VAWA (1994) created programs for victim services and training programs for law

enforcement in addition to funds for prevention and education. The Act also established that law enforcement was responsible to pay for, and hold forensic evidence in rape cases.⁷²

Of course, legislation does not always translate into action, and problems still persist in the adjudication of rape and sexual assault cases across all levels of government, particularly for American Indian and Alaska Native women. One of the primary concerns for VAWA was to address the improper handling of sexual assault cases in law enforcement and prosecution. VAWA allocated funding for training law enforcement and prosecutors to effectively identify and respond to sexual assault, for law enforcement departments to develop policies, protocols and services specifically dedicated to preventing sexual assault, and to develop and install more efficient and effective data collection and communication systems. In addition, VAWA increased penalties for sex offenders and sexual assault crimes, and created procedural reforms that would encourage victims to report victimization (Roe, 2004).

Law Enforcement of Rape and Sexual Assault

The same problems that plague the law enforcement response to intimate partner violence among American Indian and Alaska Native women also plague their responses to victims of rape and sexual assaults. Many federal sexual abuse cases involve children as victims, so it is difficult to measure the actual response of federal authorities in sexual assault cases in general (Deer, 2004b). For major crimes like rape, victims must often travel great distances to appear in federal or state courts, even if the state is under PL-280. Anecdotally, Amnesty International (2007) found frequent delays of federal law enforcement (FBI) to investigate sexual assaults against American Indian and Alaska Native women.

⁷² 42 USCS § 3796gg-4

Reporting Rape

The NCVS data presented above indicates that rape and sexual assault victimizations against American Indian and Alaska Native women were more likely to be reported to police than victimizations against women of other racial groups, but less than one in five were actually reported by the victim herself. Similar to intimate partner assaults, researchers find that reasons for not reporting sexual assault vary, but maintain central themes such as fear of the offender, shame or embarrassment, lack of faith in the criminal justice system (Clairmont, 1999; Luna-Firebaugh et al., 2002; National Sexual Violence Resource Center, n.d.; Tjaden & Thoennes, 2006). Others suggest pressure from family (Clairmont, 1999; Luna-Firebaugh et al., 2000), fear of past legal problems or that reporting will be generally counterproductive (Clairmont, 1999; Kerstetter, 1990). It is clear that while women choose not to report sexual assaults for a variety of reasons, the belief that formal justice is unhelpful presents significant problems. Drawing from Roe's (2004) critique, improvements in VAWA may be better suited to address sexual assault through awareness and prevention.

Courts & Prosecution

Amnesty International's recent report (2007) highlighted some of the problems in prosecuting rapes against American Indian and Alaska Native women in federal courts. For example, they found that federal prosecutors did not pursue 60% of rape and sexual assaults in a one-year period (October 1st 2002- September 30th 2003). While these data did not distinguish cases against American Indian and Alaska Native women, they discovered that the Bureau of Indian Affairs (BIA), which governs many tribal lands, typically had the highest percentage of cases declined at the federal level (Amnesty International, 2007). Amnesty International also investigated sexual violence cases from Indian Country through the Executive Office for US

Attorneys. Of the 84 cases provided, only 20 involved adult women. The majority of victims were children, eight were males, non-American Indian and Alaska Natives or did not have age included (Amnesty International 2007). The report concluded that there was little accountability for failure to investigate or prosecute, which could mean months or years living in “fear and insecurity” (Amnesty International 2007, p. 9).

There are many reasons that cases do not go forward in the adjudication process including lack of evidence, which may be the reason for a large percentage of these dropped cases. For example, prosecutors at all levels reported to Amnesty International (2007) that they frequently received inadequate cases reports, including missing information such as the name or address of the victim or witnesses. Peacock and his colleagues (2002) also found that for both misdemeanor and felony charges across different jurisdictions, police reports significantly impacted the prosecution of the victim’s case. They found that some reporting styles reconstructed incidents through very descriptive narratives, while others followed a “checklist” format that frequently overlooked details of the victimization (Peacock et al., 2002).

Importantly, analysis of the NCVS data reported earlier revealed that rape and sexual assault victimizations that were reported to police were extremely unlikely to result in an arrest, regardless of the race of the victim (6% for victimizations against American Indian and Alaska Native women, and 10%, 12%, and 10% for whites, African American, and Asian American victims respectively). This national data, however, masks the variation that exists across local jurisdictions. Moreover, it is important to remember that an arrest has a zero probability of occurring unless a report is made to police.

Protection Orders & Sexual Assault

While tribes may be restricted in their ability to prosecute criminal cases against non-American Indian and Alaska Natives, they may use civil sanctions, such as protection orders. Obtaining protection orders in tribal courts have increased in recent years for intimate partner violence, but these codes are often specific to domestic cases where a history of victimization exists. Therefore, victims of sexual assault without a pattern of previous violence may not be able to receive protection orders. Also important is the relationship between the victim and the offender. Under many tribal protection order codes, victims of sexual assault who are not intimately related to the offender may not be able to obtain protection orders (Deer, 2003/2004).

Deer (2003/2004) contends that to adequately address sexual assault of American Indian and Alaska Native women, it is important to recognize and restore the dignity of victims. This would best be carried out by American Indian and Alaska Native communities and tribal governments where restoring strength resides in the community. Because VAWA's full faith and credit section does not explicitly require protection orders for intimate partner assaults only, tribes are in a "unique position" to adopt these progressive remedies for rape victims (Deer, 2003/2004).

Tribal Response to Rape and Sexual Assault

As we have already discussed, tribes can prosecute all criminal cases, but only under restrictions of the Indian Civil Rights Act (ICRA). This is also true in PL-280 states, where both tribal and state governments may process rape cases (Deer, 2004b). To reiterate, while tribal justice systems may prosecute felonies, their ability to bestow adequate punishments is unlikely. When cases involve non-American Indian and Alaska Natives, tribal governments may only use alternate responses, such as civil remedies (Deer, 2004b). Tribal governments also lack adequate resources to revise their systems of justice (Deer, 2005). For example, tribes that have adopted

Western government styles do not necessarily reflect the rape law reforms that have been implemented in most states. For example, tribal laws often require physical proof of violence or force, in contrast to viewing rape as an issue of lack of consent (Deer, 2003/2004; Amnesty International, 2007). Tribes also may have laws with “marital rape” exceptions (Deer, 2004b), and some tribes do not address sex crimes at all (Amnesty International, 2007; Deer, 2003/2004).

In Luna-Firebaugh and her colleague’s (2002) evaluation of STOP VAIW, only 61% of tribes reviewed had codes to address sexual assault. This is problematic when federal and state authorities fail to successfully prosecute sexual assault cases (Burelson, 2007). Of the tribes evaluated in the STOP VAIW grant project, sexual assault, rape or attempted rape was classified at a variety of levels; as a misdemeanor (50%), a felony (25%), or both (23%). In four percent of tribal codes, sexual violence was not addressed (Luna-Firebaugh, 2002).

With VAWA 2005, tribes have opportunities to enhance data collection and coordination with other jurisdictions. Some tribes have adopted sex offender registries, or sex offender notification (Megan’s) laws (Deer, 2004b). The adoption of sex-offender registries for American Indian and Alaska Natives has, in part, been related to tribal frustration with the lack of prosecution at the state and federal levels (Deer, 2003/2004). Currently, the Adam Walsh Child Protection & Safety Act of 2006 (Title I), also known as the Sex Offender Registration and Notification Act (SORNA) required tribes to comply with its provisions for sexual offender registration by July 27, 2007 or cede authority to states for a new sex offender registration and notification system.

Tribal and State Courts & Prosecution

Although sexual assault is a major crime, and tribes are limited in their ability to prosecute felony offenses by legal barriers, some tribes do take action against sexual assault offenders. For

example, the Navajo nation Department of Public Safety investigated 99 cases of rape in 2002, which led to 58 charges (Amnesty International 2007). Tribes can also alternatively establish penalties such as terminate employment if the offender is an employee of the tribal nation (Amnesty International, 2007; Deer, 2003/2004).⁷³

NONCRIMINAL JUSTICE RESPONSES TO VIOLENCE AGAINST AMERICAN INDIAN AND ALAKSA NATIVE WOMEN

As this report has shown, violence against American Indian and Alaska Native women is a complex problem requiring a multifaceted approach in criminal justice responses. Although seeking relief through the criminal justice system has served as the main vehicle in a community's formal response to domestic violence for the general population, many communities, including many American Indian and Alaska Native communities, are trying to incorporate other interventions into their response services. Unfortunately, documentation and evaluation of such programs is limited (Norton & Manson, 1997; Wahab & Olson, 2004).

A report published by the National Institute of Justice (NIJ) investigating the tribal responses to violence against women (Thurman et al., 2003) revealed there are many tribal communities that doubt they possess satisfactory efforts or resources to address family violence, much less effective intervention programs. Those communities that reported they had an availability of services were generally referring to shelters in larger communities at some distance or services that are non-native focused.

⁷³ Banishment was recently approved through the Alaska Superior Court (Amnesty International, 2007).

Barriers to the Utilization of Services

We have already noted a number of legal barriers that may impede American Indian and Alaska Native females from obtaining justice, but there are several other barriers that we will briefly describe here. The social isolation of many American Indian and Alaska Native reservations provides a significant geographical barrier to American Indian and Alaska Native women residing on these reservations from obtaining many services that may be available to urban women. In some of these communities, transportation and telephone services are difficult to access. A recent study of remote American Indian communities in Arizona, Oklahoma, North Dakota, and South Dakota found only 43% to 72% of households had telephones (Stoddardt et al., 2000).

American Indian and Alaska Native women who reside on very rural and isolated reservations must often travel great distances to obtain medical care. This is extremely problematic for a rape victim who requires a rape kit be performed by a qualified nurse or practitioner in a timely manner. A final report evaluating the effectiveness of the STOP VAIW Discretionary Grant Program stated that in 63 communities interviewed through site visits and phone interviews, rides to medical care for victimized women were most often provided by an STOP program advocate (Luna-Firebaugh et al., 2002). The second most common means of transportation was by ambulance followed by tribal police, city and county police, and finally family and friends of the service recipient.

As we noted earlier, confidentiality remains a very serious and valid concern for women survivors of physical violence and sexual assault. Norton and Manson (1997) reported that some Alaskan Native women refused to participate in a domestic violence support group due to confidentiality concerns. Similar to confidentiality issues in all small communities, on

reservations, clients fear their problems will be broadcast along the “tribal telegraph” (Norton & Manson, 1997). These fears are also shared in the urban setting where a local urban American Indian and Alaska Native community may be similar in closeness to a rural village.

Qualitative data from interviews with health care providers also supports this notion. For example, one service provider mentioned that domestic violence survivors choose to go to a regional hospital some distance from their community in order to remain anonymous (Luna-Firebaugh et al., 2002). The mandatory reporting requirements in some jurisdictions also prohibit some women from seeking medical care. For example, some states have laws that mandate reporting to police any injuries that were caused through non-accidental means or through violence, and at least six states (New Hampshire, Rhode Island, Kentucky, California, Colorado, and New Mexico) explicitly address reporting of intimate partner violence, although they vary in their provisions (Hyman, 1997). Shepherd (2001) noted an Alaskan village health aid who said that many battered women do not come to the clinic because health aides have to report the inflicted injuries to the state troopers. Women are afraid that state troopers will arrest the perpetrator even if they [women] choose not to press charges. Unfortunately, this threat is very real. In his study of Indian Health Service facilities, Clark (2001) found that 31 different tribes mandated reporting of domestic violence.

American Indian and Alaska Native women may also be reluctant to leave their tribal lands to seek assistance, even if intimate relationships become dangerous (Shepherd, 2001). Traveling substantial distances to an urban area with a shelter may not only be overwhelming and expensive, but also unwanted. Moving away from family, friends and traditions may create additional stress.

Language barriers may also present problems. For example, Hamby (2004) maintains that some American Indian and Alaska Native women might not be easily fluent in English and the subtleties of languages spoken by the victim and the service providers might impede communication. Furthermore, recommendations made by the service providers who are not steeped in the realities of life of American Indian and Alaska Native women might not be compatible with their cultural values.

CULTURALLY SENSITIVE INTERVENTIONS

American Indian and Alaska Native women who have suffered violent or sexual victimization often rely on their own communities for help and support. For example, in Alaskan villages, Shepherd (2001) found that family members provided the primary source of strength and help for battered women. However, other research indicates that American Indian and Alaska Native women are reluctant to go to family members if they require help or assistance in abusive situations (Thurman et al., 2003). Some women believed that to do so would ostracize their spouse/partner from their families.

Many American Indian and Alaska Native communities have unique cultural ceremonies that can be important resources for women healing from victimization. Such traditional practices as talking circles, naming ceremonies, and sweat lodge ceremonies have been recognized for their therapeutic and curing potential for centuries. In contrast to law-enforcement strategies, some advocacy groups have developed holistic programs that use tradition to "heal" the impacts of intimate partner violence. For example, Pamela Risling, an advocate with *Niwongwh xw E:na:wh* (Stop the Violence Coalition) in Hoopa, California, said that her group's education

programs focus on "retraditionalization" – reestablishing the "old, traditional style of family, and protecting the family, and taking care of one another" (Chen, 2006).

American Indian and Alaska Native women can also turn to available native healers for help in dealing with violent victimization as well as other problems. Despite the fact that Western health and social service providers might espouse philosophies quite different from that of native healers, Kim and Kwok (1998) report that American Indian and Alaska Natives are comfortable seeking both types of counsel. They found that 62% of Navajo patients had used native healers and 39% used native healers on a regular basis. They also found that the victim's age, education, income, and fluency in English had no effect on the likelihood to use native healers. However, Christian Pentecostal patients used native healers less than patients of other faiths. Patients were rarely cognizant of the potential conflict between native healers and conventional medicine. The most serious barrier for seeking help from a healer was the cost associated with the healer's services.

The STOP program Evaluation Report also cites the importance of traditional healers and natural helpers in physical and emotional healing. Respondents were specifically asked if they had sought help from traditional healers (Luna-Firebaugh et al., 2002). It was not uncommon for survivors to mention seeking help from native healers, even when service providers had not brought up the presence of this type of help. In one of the cases the healer also testified in the tribal court in support of the victim. Another survivor indicated that she was referred to a healer by an advocate for emotional counseling. In another community, the service providers and the survivors recognize the important work of the traditional healer in helping women through one on one interaction and in women's groups. Having a traditional healer on staff in a STOP victim

assistance program has permitted the use of cultural aspects, art, and culturally specific and appropriate counseling methods.

There are also alternative tribal justice forums in some American Indian and Alaska Native communities (Hamby, 2004). These family or community forums emphasize restorative and reparative approaches to justice rather than the adversarial system found in the US court system. As we briefly described earlier, one indigenous form of dispute resolution that has recently become an increasingly popular example of restorative justice, has transcended the US boundaries and received extensive international attention is *Navajo Peacemaking* (Grohowski, 1995; Zion, 1998). Peacemakers have been a part of traditional Navajo justice for centuries. In 1982 the first formal peacemakers courts were established, turning peacemaking into a formal part of the Navajo legal system, developed and overseen by the Navajo nation judiciary. Cases are either referred to peacemaking by the court or are initiated by the aggrieved party. In 2003, peacemakers were further directed by the Navajo Nation Council to offer traditional counseling, education and advice to judges, clients of the courts, and the general public.

In contrast with a “vertical” Anglo version of justice, which is adversarial, the Navajo concept of “horizontal” justice has a much wider “zone of dispute” and relies on healing (Coker, 1999). The Honorable Robert Yazzie, Chief Justice for the Supreme Court of the Navajo Nation has stated that the goal of the Navajo law is nourishment of the “ongoing relationships with the immediate and extended family, relatives, neighbors and community” (Coker 1999, p. 33).

As the name implies, in a peacemaking process, parties meet with a peacemaker. A peacemaker is a highly respected member of the community, a community leader whose leadership does not depend on a position of power and authority. He or she must be someone who possesses the power of persuasion, and knowledge of traditional Navajo stories. Other

individuals, who either have a special relationship to the parties (e.g., family and friends) or possess relevant expertise (e.g., alcohol treatment counselors and hospital social workers) may be present during the peacemaking session. All participants are treated as equals with the purpose of preserving ongoing relationships and restoring harmony among involved parties. In peacemaking there is no coercion, and no adversarial process. That is, the parties are not labeled as the offender or the victim, the plaintiff or the defendant (Zion, 1998). Peacemaking consists of a number of procedural steps. Each participant is given a chance to describe the problem that the petitioner has identified as the reason for the session. The peacemaker then guides the group in developing suggestions and agreements intended to ameliorate or resolve the problem.

Coker (1999) argues that peacemaking offers several potential benefits for battered women. First, peacemaking has the ability to attend to both systemic and personal aspects of battering and thus disrupt the familial and social supports for battering. Second, it has the potential to promote social and personal change through the use of traditional Navajo creation narratives based on gender-egalitarian perspectives on male and female relations. Finally, women's multiple loyalties, including their commitment to relationships with men who have been abusive, are not regarded as aberrant. Importantly, some scholars contend that restorative justice approaches, such as the Navajo Peacemaking program, ignore the fact in cases of intimate partner violence, the offender is often a major source of oppression and domination who will ultimately affect the choices, opportunities, and resources that are available to their victims (Hopkins & Koss, 2005). As such, unlike violence perpetrated by strangers, restorative justice approaches may not be appropriate for intimate partner violence. Hopkins and Koss (2005) argue, "The simple and real fear of future violence alone may cause a victim of ongoing violence to accede to terms to which she would not otherwise agree...these power dynamics can skew

bargaining power... and yield an agreement that does not adequately or accurately reflect the survivor's interests or wishes (Hopkins & Koss, 2005, p. 712).

Still, the importance of adopting culturally sensitive practices by various intervention programs dealing with victimized American Indian and Alaska Native women have been numerous stressed both by scholars and practitioners (E. Duran et al., 1998; Hamby, 2004; Thurman et al., 2003; Shepherd, 2001). While some scholars maintain that it would be wrong to automatically assume that American Indian and Alaska Native women will prefer traditional cultural services over mainstream interventions (Groginsky & Freeman, 1995), the general tendency has been to integrate culturally appropriate elements into intervention programs designed to mitigate the problem of violence against American Indian and Alaska Native women.

Other researchers argue that community-level interventions are the most appropriate strategies in American Indian and Alaska Native communities to respond to the problem of violence against women (B. Duran et al., 1998; McEachern et al., 1998, Oetzel & Duran, 2004). Community-level interventions may not only help the victims of violence, but prevent the violence from occurring in the first place. For example, McEachern and colleagues (1998) discuss how a "dialogue group" approach, which is consonant with American Indian and Alaska Native cultural values, could help American Indian and Alaska Native men understand how different forms of oppression have shaped their position in life and potentially contributed to the prevalence of violence in their household. Another illustration of a community level approach is the use of healing rituals to address historical trauma in general, which also helps to prevent violence in general and intimate partner violence in particular (B. Duran et al., 1998). The authors used a memorial ceremony for the massacre at Wounded Knee in the Lakota community

to illustrate. This Lakota ritual revolves around facilitating mourning, embracing the effects that accompany trauma, and validating and normalizing the traumatic response. According to the authors, all participants who participated in the ceremony felt better about themselves after the intervention with 75% expressing high agreement that the intervention helped them overcome feelings of cultural shame (B. Duran et al., 1998).

Durst (1991) presents a dichotomy of responses to intimate partner violence in Alaskan Native communities. He maintains that interventions to the problem can contain the elements of both a privatization and communitarian response. Privatization is a characteristic of most social work strategies, and includes such things as having a professional therapist privately and separately counsel the perpetrator and the victim. Communitarian responses involve the larger community. Durst found that social work interventions that focused on the community at large have a positive impact on changing attitudes about intimate partner violence and thus promote community-wide action against the problem.

Another community approach is the Kanuhkwene project (Hagen & House, 1995). This project was developed by Oneida women on their Wisconsin reservation to address certain critical social issues including domestic violence. The women consistently reported gaps in the delivery system of other interventions, such as the lack of transportation, lack of childcare, and lack of programs to serve pregnant women. Their meetings to discover causes of problems gradually evolved into circles of mutual assistance wherein women themselves took care of one another. They also returned to traditional methods of help: using herbs for medicine rather than pharmaceuticals, natural childbirth techniques, sweat lodge cleansings, and others. An organization of women based on Oneida values of community and connection with the social and natural world was born. "Kanuhkwene" means "women's dance" and refers to a ceremonial

dance in which women's feet massage the back of Mother Earth to relieve Her stress. Although the evidence is anecdotal, the Kanuhkwene project demonstrates the possibilities for women to create a network of support for themselves to deal with important social issues in a culturally appropriate manner. Programs such as this, of course, would be beneficial for all female victims of violence, regardless of race.

It is imperative to point out that while community-based approaches and culturally sensitive practices are important to incorporate into the non-criminal justice interventions of violence against American Indian and Alaska Native women, the efficacy of these approaches and strategies should not be generalized across all American Indian and Alaska Native populations (Hamby, 2004; Oetzel & Duran, 2004; Norton & Manson, 1997). Each approach might be appropriate and/or inappropriate for a particular American Indian and Alaska Native community. Thus, interventions have to be created for specific communities.

Health Care-Based Interventions

Interventions occurring in healthcare settings that address IPV and rape and sexual assault within American Indian and Alaska Native communities primarily revolve around screening and referral practices. Typically, healthcare interventions do not engage in remediation interventions like offering victims counseling services and advocacy (Wahab & Olson, 2004). Many of the healthcare interventions are designed to identify the occurrence of physical violence and sexual assault in the lives of their patients, as well to provide resources and referrals when appropriate. Access to medical care might be problematic for American Indian and Alaska Native women due to insurance coverage requirements (Zuckerman et al., 2004) and due to the relative isolation of many tribal communities (Katz, 2004). The STOP program evaluation report found that although there may be more than one service facility per area, most often the choice victims are given is

restricted to only Indian Health Service facilities or to a tribal health center (Luna-Firebaugh et al., 2002). Norton and Manson (1997) contend that the instability of programs in urban American Indian and Alaska Native health centers is a major barrier to the provision of services to American Indian and Alaska Native community.

Members of federally recognized American Indian and Alaska Native tribes are entitled to services at Indian Health Service (IHS) facilities or at tribal facilities that receive IHS funding. IHS services are administered through a system of 12 area offices and 163 IHS and tribally managed service units. In fact, 70% of IHS employees are American Indian and Alaska Native, but it is unclear what percent of these are professional medical staff and what percent are custodial and clerical (IHS, 2008). In IHS facilities, American Indian and Alaska Native women can get treatment for injuries, sexually transmitted diseases, pregnancy, and other consequences of sexual victimization with fewer financial concerns than many non-American Indian and Alaska Native women. They also have access to free psychotherapy, if they can locate an IHS therapist with expertise in dealing with victimization and trauma (Norton & Manson, 1997). However, as we have already noted, the lack of anonymity in these facilities sometimes prohibits American Indian and Alaska Native women from seeking care.

The efficacy of health services in Indian Country remains unknown. For example, a report by the US Commission on Civil Rights in 2003 found that federal spending on health services for American Indian and Alaska Natives via the IHS was far below spending on all other groups (US Commission on Civil Rights, 2003). The report also suggests that services for survivors of sexual violence – such as testing and prophylaxis for transmitted infections including HIV, pregnancy testing, emergency contraception and culturally appropriate support services were inadequate. Similar to most rural health centers, IHS facilities suffer from

problems of understaffing, high turnover rate and poor facility conditions (US Commission on Civil Rights, 2004). The average IHS facility is 40 years old. The STOP program evaluation report found that many of the IHS facilities were not equipped with emergency technology required to treat seriously injured survivors (Luna-Firebaugh et al., 2002). Most of the IHS facilities only offer services in the daytime. One service provider explained, “In some cases, they (survivors) may have to wait until Monday morning to receive direct medical care if the health clinic is closed on weekends.” In some areas, it is necessary to go to a regional hospital for evidence collection for sexual assault cases.

Many IHS facilities do not have standardized policies and protocols when it comes to dealing with domestic violence cases. Clark (2001) looked at screening rates of domestic violence cases in a sample of IHS facilities and found that screening for domestic violence is promoted by the presence of relevant policies. Where these policies and procedures for handling domestic violence exist, screening is more likely to occur. Sixty-four percent of sites had policies and procedures for domestic violence, however, less than half of these sites evaluated the use of these policies and procedures. Hospitals were more likely to have policies and procedures than clinics, as were sites administered by the IHS rather than those administered by a tribal contract. This lack of screening was also found in another study of hospital records; Martins et al. (1992) found that physicians’ files recorded only one percent of possible cases in a population with an intimate partner violence prevalence of 30% (including physical and emotional violence).

These problems filter down from the institutional level to the individual level as well. For example, in a qualitative study of patient perceptions of health care providers on one reservation, Fifer (1996) found that some patients had negative experiences with providers. Patients stated that providers showed superior attitudes, used confusing terminology, and avoided the

reservation outside of working hours. In one study of women and domestic violence in rural Alaska, Shepherd (2001) also reported comments on the existing dichotomy between Native residents and professional non-Native service providers that resided in the area. All the medical personnel at the regional center hospital and all but one counselor at the mental health center were non-Native and had moved to the area for employment.

A number of scholars and practitioners point out that healthcare interventions should also target clinicians (Wahab & Olson, 2004; Hamby, 2004; Oetzel & Duran, 2004; Bohn, 1993). The Amnesty International (2007) report on the response to sexual violence against American Indian and Alaska Native women stresses the importance of increasing the cultural sensitivity of medical staff. Oetzel and Duran (2004) argue that healthcare providers need training on how to screen and talk about intimate partner violence with patients to increase the honesty of disclosure. In addition, medical practitioners need to be aware of social and cultural norms, traditional healing practices and medicines, and economic and geographical conditions of the patients. Some rituals carried out by American Indian and Alaska Native patients (e.g. having an item that carries a special curative meaning on their bodies) or certain customs (e.g. being surrounded by many family members while one is sick) may be misunderstood by medical personnel and not taken seriously or treated with respect (Bohn, 1993; Primeaux, 1977). The extent of culturally sensitive training or training related to violence against women offered in IHS and non-IHS facilities remains largely unexplored.

Finally, while some of the more than 50% of American Indian and Alaska Natives who reside in urban and suburban areas have access to IHS facilities, many do not. According to a study by the Seattle Indian Health Board's Urban Indian Health Institute (2004), American Indian and Alaska Natives living in urban areas suffer from poorer health than the general United

States population. Most urban American Indian and Alaska Native women living far from reservations do not have access to IHS facilities and full provision of free services. The IHS does help to pay for selected health services provided at non-IHS facilities, however, state and local facilities are less likely to be culturally appropriate and familiar with traditional forms of care.

Victim Services Interventions

There are a number of community-based interventions that serve American Indian and Alaska Native individuals and groups at the tribal and regional (state) levels that are focused on remediation. Many of these initiatives are non-profit organizations and stem from grass roots efforts (Wahab & Olson, 2004). The types of services provided by these community based-interventions vary tremendously – from 24-hour crisis hotlines and crisis interventions to shelters and legal support and mental health therapy. Programs may also provide victim advocacy, individual and group counseling, help with victim relocation, in-patient drug/alcohol treatment, assisting women with filing restraining orders, providing court accompaniment and liaison services, and other services.

One the most widespread forms of victim-services organizations designed for female victims of physical violence and rape and sexual assault are shelters. The first shelter on an Indian reservation was open in 1977 by the White Buffalo Calf Women’s Society of the Rosebud Reservation (DeBruyn et al., 1990). Since then, a number of reservation and urban communities have started local programs in response to the problem of violence against American Indian and Alaska Native women. According to the STOP program Evaluation report, shelters may be of three types:

- 1) Tribally-affiliated non-profit shelters: These most often house American Indian and Alaska Native women on community premises and are chartered by American Indian and Alaska

Native community members. Grantees of the STOP program have reported 23 of these facilities.

- 2) Tribal collaborative shelters: These facilities may be located in mainstream areas, or on the reservation, but they are chartered by a non-profit or another agency that cultivates an effective working relationship with the tribe. Twenty-seven tribal-collaborative shelters were reported among the STOP grant recipients.
- 3) Mainstream shelters: These shelters are situated in off-reservation rural or urban areas, and are usually county or city affiliated. Grantees of the STOP program have reported utilizing 33 of these facilities.

One of the most serious problems currently facing victim services programs and shelters run by tribal communities is a lack of funding (Office for Victims of Crime, 2004; Amnesty International, 2007; Luna-Firebaugh et al., 2002). These programs usually operate with a mix of federal, state and tribal funds as well as private donations. But this funding is often limited. For example, one director of a STOP program commented, “There’s such a lack of resources. The available shelters are so full so she [the survivor] ends up going home” (Luna-Firebaugh et al., 2002, p. 138). These factors, of course, affect non-native shelter services for the general population as well.

Another serious concern revolves around the provision of culturally appropriate, supportive and non-discriminative environments in shelters servicing American Indian and Alaska Native women. Amnesty International (2007) reported that shelters sometimes fail to provide such an environment. One anecdotal report received by Amnesty International concerns a shelter located between several reservations that required a signed statement from the IHS that American Indian and Alaska Native women and their children had been checked for lice and

were “clean” upon arriving at the shelter; the shelter did not require this of non-American Indian and Alaska Native residents.

Shelters designed specifically for American Indian and Alaska Native victims are very few. For example, as of 2004 the Osage Nation Counseling Center in Pawhuska, OK was the only such domestic violence shelter (Office for Victims of Crime, 2004). Emmonak Women’s Shelter in Alaska is the only completely Native-operated and managed facility that serves Native and non-Native Alaskan victims. It is also the only shelter in the state that is in a village setting. Established in 1984, the shelter epitomizes a culturally appropriate victim services facility (Shepherd, 2001). The building, provided by the village government, is designed and decorated to look and feel like a Yup’ik home. Traditional foods are provided to the residents, and one employee’s job description includes subsistence hunting and fishing for the shelter. A fish camp is built for the residents to spend time at in the summer.

The Two Feathers Native American Family Services in McKinleyville, California represents another example of incorporating culturally appropriate practices into the victim services program curriculum. The program holds a Native Women’s Healing Group for adult women, which combines therapy and basketry. A therapist and a cultural expert are co-leaders of these activities (Office for Victims of Crime, 2004). Another program run by the Sault Ste. Marie Tribe Victim Services Program also maintains the teaching of Chippewa culture. Victimized women attend a women’s talking circle, and educational groups for victims of domestic violence, sexual assault, and stalking. Native teachings are incorporated into the group process. Other cultural activities include arts and crafts, sweat lodge ceremonies, and seasonal women’s ceremonies.

Literature on the provision of culturally sensitive counseling (Trimble & Fleming, 1989; Norton & Monson, 1997) reiterates the importance of flexibility and trust for the counselor-client relationship. Norton and Manson (1997) describe a domestic violence program located in an urban Indian Health Services center. The program was staffed by two American Indian and Alaska Native women, and provided a range of social service interventions such as housing, emergency clothing, and transportation to appointments. Most of the clients of the program were referred by the nurse practitioner in the medical clinic. Drop out in the program emerged as a problem; most clients would only attend a few individual sessions at the health center, and not return for scheduled appointments. Many clients also seemed distant and disconnected during the counseling sessions. Attempts to conduct an educational domestic violence group with the victim advocate were not successful due to minimal attendance. The program advocates began exploring alternatives to traditional office-based interventions with their American Indian and Alaska Native clients. Traveling to the clients' homes proved to be more successful in establishing an emotional connection with women. Another attempt was made at a domestic violence group, but this time over a potluck dinner, which created an informal atmosphere to share problems and concerns. Initially the women did not interact with one another directly, but slowly became more comfortable and responded with advice and support. The authors argue that this setting was more consonant with American Indian and Alaska Native traditions (such as the sharing of meals) and reminiscent of a traditional healing practice – the talking circle.

In addition to shelters, “safe houses” are also available in several American Indian and Alaska Native communities. Over 20 years ago, Shinkwin (1983) found that American Indian and Alaska Native women in her sample often fled to the homes of other women when being abused. This is consistent with the strong tradition of taking others in times of crisis. Perhaps

similar to women in the general population, American Indian and Alaska Native women often flee to a relative or a friend who will give them shelter. Safe houses are housing options volunteered by a private household, which may be mainstream affiliated or located in American Indian and Alaska Native homes. There were 14 safe house networks reported in use by the STOP grant recipients (Luna-Firebaugh et al., 2002). Similarly, hotels and motels used as safe houses may be on-reservation or off-reservation. In one STOP program community, the survivors preferred to use motels or off-reservation shelters rather than safe homes due to privacy concerns.

Offender-Oriented Interventions

A vital component of responding to the problem of violence against women is direct intervention with offenders. The NIJ VAIW report noted a concern among American Indian and Alaska Native women that there were virtually no batterer-treatment programs available in tribal communities (Thurman et al., 2003). Very little is known about individual counseling or general programs that exist for American Indian and Alaska Native men in the community. While some efforts have been made to help American Indian and Alaska Native men change their behavior, such as workshops for batterers to help them “unlearn” abusive behavior, and in some cases, come to terms with past trauma from their own abuse experiences, the efficacy of these programs remains unknown.

Shepherd (2001), noting the connection between family abuse and alcohol in rural Alaska, stated that lack of social services and treatment for abusers is a serious problem. In the regional center, a residential alcohol treatment program and an Alcoholics Anonymous (AA) group were available, but in the surrounding villages, these services were very limited. For example, mental health counselors visit villages for a few days a month or every two months,

and there were no AA support groups. An anger management class was periodically offered in the regional center that some abusers are court mandated to attend, but such services were not available in the villages.

As part of the Tribal Strategies against Violence (TSAV) initiative in Grand Traverse Band of Ottawa and Chippewa Indians, in 1999 the Tribe's Substance Abuse program assumed responsibility for establishing a men's anger management group (Nichols et al., 2002a). The purpose of forming this group was to assist abusers in better handling their stress and anger and to help them learn conflict resolution skills. Participation in this group occurs through Tribal Court referrals. Similarly, the Turtle Mountain Band of Chippewa Indians (North Dakota) also designed specific activities to address rehabilitation of perpetrators of domestic violence (Nichols et al., 2002b). The tribe has utilized TSAV funds for the formation of both teen and men's anger management groups. The tribe also has a local Fifth Generation Center – an outpatient referral and treatment center for substance abuse.

Zellerer (2003) examined the presence of programs for abusers in prison. She contacted the central departments of the Bureau of Prisons in Washington, DC, all regional offices, and state departments of corrections with a comparatively high proportion of American Indian and Alaska Natives among their inmate population. Zellerer (2003) could not locate any family violence programs for American Indian and Alaska Native inmates that were culturally specific. Contacted agencies suggested that specific issues concerning American Indian and Alaska Native offenders might be addressed within the framework of general programs (e.g. substance abuse or anger management) or in individual counseling. However, as we have seen with victim interventions, offender treatment programs may be more effective if traditional interventions such as spiritual teachings or ceremonies are used in combination with contemporary

approaches. Thus, service providers should strive to make treatment programs culturally specific. Shepherd (2001) similarly argued that it would be beneficial if intervention programs for men incorporated elements of basic belief systems concerning male-female relationships.

Education and Community Awareness

Public outreach and education are an important element in creating an environment in which survivors feel able to report victimizations. Community-wide awareness of violence against women in all populations empowers victims, informs them of their options, and helps secure potential resources to address the problem (e.g. people would volunteer at the local shelter). Some shelters are involved in bringing education and awareness to the community. Other communities utilize federal and state funds for special educational programs. For example, the Grand Traverse Band of Ottawa and Chippewa Indians used a portion of the TSAV grants to institute an annual Women's Wellness Conference to develop community-wide awareness of family violence and related issues (Nichols et al., 2002a). This conference also serves to familiarize local families with the range of potential tribal/local programs available for assisting victims of family violence.

The Tribal Law and Policy Institute is in the process of designing, developing, and implementing a violence against Indian women course for tribal colleges (Office for Victims of Crime, 2004). An accompanying textbook with instructor guides and student workbooks will be published and agreements will be established with tribal college partners to provide college credit for existing violence against Indian women trainings and conferences. The Institute also envisions development of a feasible distant learning component for this course.

Many domestic violence programs are receiving extensive community support in the form of volunteers who serve as shelter workers and victim advocates. It is common to find

specialized training for volunteers. The STOP program evaluation final report refers to one community where twenty village-based volunteers in twelve villages were trained through STOP grant funds (Luna-Firebaugh et al., 2002). During the first year of the STOP grant, this program presented four sub-regional training sessions for volunteers. Once the training was completed, these volunteers were certified as Crisis Intervention Advocates. Volunteers reported that they felt the training was effective and prepared them to better perform their duties in the villages.

Some programs interviewed during the STOP site visits have urged their tribal council members to attend domestic violence training sessions and guarantee that domestic violence educational information is made available to council members (Luna-Firebaugh et al., 2002). Other communities have created cultural competency training for local physicians and state police. Shepherd (2001) advocates for educational programs to be delivered through distance education and other innovative means that offer site-bound students in rural regions access to mental health training. Such programs could increase the number of culturally sensitive practitioners in rural regions.

FUNDING FOR PROGRAMS AND INITIATIVES

The Federal government and other national organizations play a vital role in creating and facilitating the provision of services that target the problem of violence against American Indian and Alaska Native women. Another function federal agencies and national organizations serve is to address macro-level issues that set the context for the problem of female victimization - including sexism and institutionalized oppression (Wahab & Olson, 2007).

As noted in the introduction, the Office of Violence Against Women (OVW), created in 1995, is the government branch of the Department of Justice (DOJ) that attends to the legal and

policy matters concerning violence against women. The office also manages the DOJ's formula and discretionary grant programs authorized by the Violence Against Women Act (VAWA) of 1994 and the Act's revisions. Currently there are 12 grant programs administered by OVW that are designed to help communities to decrease the incidence of domestic violence, dating violence, sexual assault and stalking. In 2007, DOJ announced that tribal communities received more than \$82.7 million in grant funds and assistance to improve their criminal justice systems (Department Of Justice Press Release, November 28, 2007).

One of the most significant and long-running initiatives administered specifically for American Indian and Alaska Native communities has been the Services-Training-Officers-Prosecutors (STOP) Violence Against Indian Women (VAIW) program, which was initiated in 1995. Authorized by VAWA 1994, the primary purpose of the STOP VAIW Discretionary Grants Program was to reduce violent crimes against American Indian and Alaska Native Women. Tribal governments were given federal financial assistance to reform the response of American Indian and Alaska Native justice systems to violent crimes against women. According to a review of 123 grantees that received STOP VAIW funding from 1996 to 2001, prior to this initiative a majority (56%) of the tribes did not have any domestic violence programs (Luna-Firebaugh et al., 2002). The evaluation report of the STOP discretionary grant program highlights a number of specific programs and services that were supported by STOP funds. Among the services that have received priority attention from the majority of grantees was victim advocacy (Luna-Firebaugh et al., 2002). Other emphasized services included public outreach, agency training and legal advocacy. Fewer participating sites have utilized the STOP funds to provide shelter services and other emergency services (e.g. food, clothing, childcare). In

2006 alone over \$ 6.7 million was awarded⁷⁴ to 35 American Indian and Alaska Native communities, but it is important to stress that most of the programs were not supported solely through STOP funds (Luna-Firebaugh et al., 2002). Additional funding has been obtained from many other sources including Alaska Native Corporations, tribal governments, or the Bureau of Indian Affairs, as well as various federal, state, county, and municipal grants, and individuals or private organizations.

Prior to the adoption of VAWA 2005, in addition to the STOP VAIW grant program, American Indian and Alaska Native tribes were eligible to apply to OVW for funding from other grant programs, four of which contained a special five-percent set-aside for tribal governments. The Grants to Encourage Arrest Policies and Enforcement of Protection Orders program (often referred to as the Arrest Program) is designed to promote a perspective that crimes of domestic violence, sexual assault and stalking deserve serious treatment and coordinated response of the whole criminal justice system.⁷⁵ In 2006 and 2007, over \$5 million was awarded to a number of American Indian and Alaska Native communities under this grant program to develop, implement and strengthen various pro-arrest policies, educational programs and training meant to reinforce services to victims and hold offenders accountable (OVW, 2006a).

American Indian and Alaska Native tribal governments and tribal associations may also apply for funding under the Legal Assistance for Victims Grant Program. This initiative is designed to improve civil and criminal legal assistance for victims of domestic and dating violence, as well as sexual assault and stalking.⁷⁶ In 2007 grants averaging \$400,000 were allocated to several tribes (Sitka Tribe of Alaska, the Hopi Tribe, Sault Ste. Marie Tribe of

⁷⁴ Unless specified otherwise, award amounts for the respective programs and initiatives were obtained from the OVW's State-by-State Grant Activities webpage located at <http://www.ovw.usdoj.gov/grantactivities.htm>. Data is available for years 2004-2007.

⁷⁵ Program Brief available at http://www.ovw.usdoj.gov/arrest_grant_desc.htm

⁷⁶ Program Brief available at http://www.ovw.usdoj.gov/lav_grant_desc.htm

Chippewa Indians, and several others) and American Indian and Alaska Native organizations (e.g. Cangleska, Inc in South Dakota and DOVES in Montana) for these purposes.

The third discretionary grant program is the Rural Domestic Violence, Dating Violence, Sexual Assault, and Stalking Assistance Grant Program. It is intended to promote community involvement in extending a coordinated response to crimes against women.⁷⁷ Almost \$15 million has been awarded in the past two years (2006/2007) under this initiative to a number of tribal governments and American Indian and Alaska Native non-profit organizations. This funding is utilized to establish new or support existing counseling, treatment and advocacy centers, develop various education programs and prevention strategies in the communities, as well as develop approaches to strengthen the cooperation between the criminal justice agencies, victim advocacy groups and the community in responding to these crimes (OVW 2006a).

Finally, American Indian and Alaska Native tribal governments can receive funding under the Supervised Visitation and Safe Exchange Grant Program (also known as Safe Havens). The purpose of this initiative is to help communities establish and maintain “supervised visitation and safe exchange of children ... in situations involving domestic violence, dating violence, child abuse, sexual assault, or stalking” (OVW, 2006, p. 1). In the last two years (2006/2007), four tribal governments and one non-profit organization (the Alaska Native Women’s Coalition) have received funding through this program, with grants ranging from \$200,000 to \$600,000. These sites have utilized the funds to establish or expand the services of supervised visitation and safe exchange services, increase staff and improve technical assistance of these centers, as well as develop training programs for the centers’ staff and volunteers.

Title IX of VAWA 2005 has introduced significant changes in the way OVW makes grant award funds available to American Indian and Alaska Native tribal governments and

⁷⁷ Program Brief available at http://www.ovw.usdoj.gov/rural_grant_desc.htm

organizations. In addition to previously existing set-asides, which have been increased to 10%, two new 10% set-asides were created within the Transitional Housing Assistance Program and the Court Training and Improvements Program (OVW, 2007). These set-asides have been consolidated⁷⁸ to create a new initiative - the Tribal Governments Program, which has replaced the STOP VAIW program in the fiscal year of 2007. There are a number of differences between the two programs, including the fact that the Tribal Government Program offers grantees a longer list of options on how funds can be utilized in a way that combines the purpose areas of respective grant programs with tribal set-asides (OVW 2007, p 4). In addition, American Indian and Alaska Native tribal governments can still apply for other OVW grant programs. As a result, there are no longer set-asides assumed within these general solicitations.

It is important to note that a significant role in the effort to reduce violence against American Indian and Alaska Native women is played by tribal coalitions. The Amnesty International (2007) report lists 16 coalitions that are working together to advance the goal of combating domestic and sexual violence across the country. In 2007 a little over \$3 million were allocated to eight American Indian and Alaska Native non-profit organizations under the OVW's Tribal Domestic Violence and Sexual Assault Coalitions Grant Program. Typically the resources are used to fund staff working for sexual and domestic violence coalitions (OVW, 2006a). The second most common activity is the provision of training to a broad spectrum of professionals: from law enforcement officials to victim advocates and health professionals (OVW, 2006a).

A recent DOJ project that focuses on violence against American Indian and Alaska Native women is the Safety for Indian Women from Sexual Assault Offenders Demonstration

⁷⁸ Seven percent of the Legal Assistance for Victim Program has been consolidated to fund the Tribal Governments Program, while the remaining three percent is reserved to be used to support Indian country projects (OW 2007).

Initiative. In 2006 four tribes⁷⁹ selected under this initiative have received over a million dollars to improve the manner in which federal and tribal agencies respond to the problem of sexual assault against American Indian and Alaska Native women (DOJ Press Release September 21, 2005). Among some of the reported objectives of this year-long initiative is the provision of sexual assault victims with an increased level of advocacy and services, as well as increase in coordination of efforts between the tribal and federal agencies that are involved in responding to crimes of sexual assault.

American Indian and Alaska Native tribes also can receive financial assistance directly from the Office for Victims of Crime (OVC). The Victim Assistance in Indian Country (VAIC) Discretionary Grant Program was established in 1988, and has focused on supporting remote tribal communities in launching victim assistance programs on the reservations where these types of services were either scant or non-existent. The VAIC program in 2003 was replaced by the Tribal Victim Assistance (TVA) discretionary grant program. The latter currently finances a number of direct services to the tribes ranging from emergency shelters and crisis intervention to court advocacy and bilingual counseling services. Recently, the amount of funding allocated through the TVA program has steadily increased – from \$1.3 million in 1999 to \$2.5 million in 2003 to \$3.5 million in 2006 (Office of the Inspector General, 2006). In addition to federal compensation grants, states also have victim’s compensation programs. The types of reparations victims can seek include health-related expenses (for medical, dental, and mental healthcare) and costs of funerals, lost wages, eyewear, and, in some states (e.g. New Mexico and Arizona), traditional Native healing ceremonies.

⁷⁹ Navajo Nation (Window Rock, Arizona); Rosebud Sioux Tribe (Rosebud, South Dakota); Red Lake Band of Chippewa Indians (Red Lake, Minnesota); and Hannahville Indian Community (Wilson, Michigan).

CONCLUSIONS AND FINAL THOUGHTS

The Violence Against Women Act and its reauthorizations have made some important advances in what we know about violence against American Indian and Alaska Native women and how we respond to this violence. Moreover, it has undoubtedly helped to bring awareness to the issue and helped to change antiquated ideals that tolerate violence against women in the population in general, and in the American Indian and Alaska Native population in particular. We have already highlighted the problems associated with measuring violence against American Indian and Alaska Native women and the problems associated with interventions designed to respond to and ameliorate the consequences of this violence, however, we provide a few additional recommendations below.

Measuring the Magnitude of Victimization

Valid and reliable statistical data on violence against American Indian and Alaska Native women are essential in formulating policies and procedures likely to prevent this violence and to respond effectively. Not only are valid estimates important for informing policy and allocating service resources, but without solid baseline rates of violence both nationally and locally, there is no way to assess the overall effectiveness of interventions. Using police data to determine the efficacy of new policies is problematic for several reasons. First, in addition to any new policy being evaluated, police reporting by female victims can be influenced by a number of factors including procedural changes in the department (e.g. taking violence against women more seriously in general), any event or news that draws attention to the issue of violence against women (e.g. the Amnesty International Report), or another initiative implemented at either the local or national level. Similar to the general population, obtaining rates of victimization against American Indian and Alaska Native women at the local level is more problematic than tracking

victimization at the national level. As noted earlier, surveys provide the most accurate estimates of victimization compared to estimates based on police reports only. Unfortunately, the very high cost of random sample surveys makes them extremely prohibitive for most large jurisdictions including states, and even more so for small rural American Indian and Alaska Native tribes. As such, official data from police will likely remain the principal means to monitor levels of violence against American Indian and Alaska Native women at the local level. As such, it is important that efforts be made to improve the official databases that exist at the local tribal levels.

The database system used to record characteristics of victimizations for the National Incident-Based Reporting System (NIBRS) is the best method available for police report data. Using the NIBRS template allows the collection of detailed information about incidents of violence against American Indian and Alaska Native women including the victim/offender relationship, the age of the victim and offender, race of the offender, etc. This system would also allow comparisons to be made across tribes and other jurisdictions. Of course, there would need to be a uniformity of definitions of crime (e.g. rape, sexual assault) across tribal jurisdictions to make such comparisons meaningful. It is important to note that the problems of jurisdiction when prosecuting offenders that were described earlier in this report should *not* prevent tribes from creating databases from initial victim reports.

At the national level, the only data available on an annual basis remains the National Crime Victimization Survey (NCVS). Unfortunately, the significant sample size reductions made to the NCVS in the past ten years makes it virtually impossible to reliably estimate incidence rates of violence against smaller populations including American Indian and Alaska Native women. For example, the annual unweighted number of American Indian and Alaska Native

victims of rape for the past two years has been less than two individuals. Even when a number of years are aggregated together, annual sample sizes this small make reliable estimation almost impossible. One cost-effective avenue available would be to over-sample American Indian and Alaska Native respondents in the NCVS in order to obtain more reliable estimates. At this time, this strategy is being used by the Second National Violence Against Women and Men Survey. Ultimately, however, the slashing of the NCVS sample that has occurred and its continued decrease will completely eviscerate our ability to measure victimization rates for all small populations such as racial/ethnic minorities and other groups such as the elderly as well as for less frequent crimes like rape and robbery.

Do we need more baseline data at the local tribal level? For tribes interested in assessing the effectiveness of new policies or programs, baseline information about victimization prior to program implementation is imperative. However, from a purely epidemiological standpoint, it is clear that results from all national surveys and the vast majority of local tribal surveys have shown that American Indian and Alaska Native women experience extremely high rates of violence. In addition, all surveys indicate that American Indian and Alaska Native women are more likely to be victimized by people they know and often love compared to strangers. Moreover, from a recent study utilizing random sampling from six tribes, we know that there is some variation in rates of victimization against American Indian and Alaska Native women across tribes, but even the lowest rates obtained were higher than national averages for the general population. Different research designs and samples will continue to produce disparate findings in the future. But resources directed at counting “how many” American Indian and Alaska Natives are victims, we contend, is misguided. Even the most conservative estimates indicate that it is an extremely serious problem. The limited funds available for protecting

American Indian and Alaska Native women from violence would be better invested in developing interventions and prevention programs, scientifically evaluating their efficacy for protecting American Indian and Alaska Native women, and making sure all female victims of violence have safe havens in the meantime. Future research should also combine efforts at enumeration with efforts aimed at explaining and understanding the causes of violence against American Indian and Alaska Native women. To do this, data collection efforts must be theoretically guided so researchers can begin to build a knowledge base for understanding the correlates of violence against American Indian and Alaska Native women.

Effectiveness of Interventions

Research examining the efficacy of programs and policies created to protect American Indian and Alaska Native women is still very much in its infancy. As the National Research Council Panel on Violence Against Women noted more than a decade ago, “significant gaps exist in understanding...the impact and effectiveness of preventive and treatment interventions” (Crowell & Burgess, 1996, p.2). Unfortunately, the term “impact” is somewhat ambiguous and is used in several different ways by practitioners, policy makers, and researchers. For example, law enforcement officials may perceive their mandatory arrest policies to be effective simply because they are implementing the policies as prescribed by VAWA (e.g. by making arrests). However, this evaluation does not begin to answer the extent to which the arrests are actually protecting women from future violence.

Some evaluations may, in fact, be conducted to assess whether programs and policies are being implemented as intended. Sometimes referred to as “process evaluations,” questions answered under this type of research include whether a program or policy is reaching the target

individuals, whether it is actually operating as expected, and what resources are being expended (Bachman & Schutt, 2007).

In contrast to process evaluations, “impact evaluations” from a research perspective are generally interested in whether the program or policy had the intended consequences or impacts. Did arrest decrease incidents of future offending? Do American Indian and Alaska Native women perceive programs that combine both traditional and mainstream interventions more effective compared to programs that use either approach alone? Many of the research studies conducted in Indian Country have generally been restricted to describing the process of implementation only, even though the term “impact” may be used to describe such studies. For example, Luna-Firebaugh et al. (2002) described their evaluation of STOP Grant Programs for reducing violence against women among Indian tribes as an “impact” evaluation because it examined the success of tribes in implementing promised justice interventions. Although this is a system impact and is a very important first step to evaluating the efficacy of such programs, research of this nature does not determine if such programs, in fact, had the intended consequence of protecting American Indian and Alaska Native women.

To determine the effectiveness of programs and policies aimed at preventing and ameliorating the consequences of violence against American Indian and Alaska Native women, future research must employ scientifically rigorous standards. The National Research Council Committee on the Assessment of Family Violence Interventions similarly identifies “improving the standards of evidence used in the evaluation of family violence” as “one of the most critical needs in this field” (Chalk & King, 1998, p. 59). After reviewing over 2,000 evaluation studies, these authors found only 33 designed and implemented with sufficient rigor “to provide insights on the effects of specific interventions” in the area of domestic violence. They described

“scientific rigor” as evaluations that “employed an experimental or quasi-experimental research design” using reliable instrumentation and including a control or comparison group (p. 68). Accordingly, future evaluation research of policies and programs directed toward American Indian and Alaska Native women should meet fundamental standards of scientific inquiry. Measurement tools should be clearly defined, should meet acceptable standards of reliability and validity, and be culturally sensitive to the population under study. Every attempt should be made to ensure samples are representative of the relevant population, and that sampling procedures are explicitly described.

Clearly, results evaluating the effectiveness of interventions for violence against American Indian and Alaska Native women are only as good as the methods on which they are based. To accept research findings uncritically is, at best, implementing ineffective policies, and at worst, “implementing policies that might do more harm than good in protecting women” (Ford et al., 2002). In sum, it is hoped that this report will be used to refine future research and that it will be a catalyst for other empirical investigations into ways to prevent violence against American Indian and Alaska Native women and policies designed to ameliorate this violence when it does occur.

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**APPENDIX A:
METHODOLOGICAL DETAILS OF STUDIES CONDUCTED AT THE LOCAL LEVEL.**

| Study | Data Collection Methods | Sample Demographics | Questions/ Definitions | Results |
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| National Crime Victimization Survey (NCVS) | Relies on a nationally representative sample of American households. For the 1992 through 2005 data the NCVS annually interviewed an average of 80,000 individuals 12 years of age and older, asking them about their victimization experiences during the 6 months prior to the interview. | Varies annually | <p>- <i>Rape</i>: rates of both completed and attempted rape are estimated as well as acts of other sexual assault. In addition to being directly asked if they have experienced “Any rape, attempted rape, or other type of sexual attack,” respondents are also asked: Incidents involving forced or unwanted sexual acts are often difficult to talk about. Have you been forced or coerced to engage in unwanted sexual activity by:</p> <ol style="list-style-type: none"> a. Someone you didn’t know before b. A casual acquaintance? c. Someone you know well? <p>If respondents reply yes to one of these questions, they are then asked, “Do you mean forced or coerced sexual intercourse?”</p> <p>- <i>Incidents of violence</i> are measured via following questions: Other than any incidents already mentioned, has anyone attacked or threatened you in any of these ways:</p> <ol style="list-style-type: none"> a. With any weapon, for instance, a gun or knife b. With anything like a baseball bat, frying pan, scissors, or a stick c. By something thrown, such as a rock or bottle d. Include any grabbing, punching, or choking | <p>- AIAN women are almost 3 times as likely to experience a rape or sexual assault compared to either White, African American or Asian American women</p> <p>- AIAN women were much more likely to be hit during the commission of their sexual victimization compared to all other women</p> <p>- AIAN women were more likely to be injured than either White or African American women. Moreover, injured AIAN women were more likely to require medical care compared to injured victims of all other races</p> <p>- Of the known offenders, a larger percent of rape and sexual assaults against AIAN women are committed by intimate partners</p> <p>- Compared to other women Sexual and physical victimizations against AIAN women were more likely to be inter-racial</p> <p>- A greater percent of sexual assaults against AIAN women were reported to police compared to other women, however, less than 1 in 5 (17%) of victims made the report herself.</p> |

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| <p>National Crime Victimization Survey (NCVS)</p> | | | <p>e. Any rape, attempted rape or other type of sexual attack f. Any face to face threats g. Any attack or threat or use of force by anyone at all? Please mention it even if you are not certain it was a crime. To further cue respondents about incidents of victimization not perpetrated by strangers, they are then asked: 1) People often don't think of incidents committed by someone they know. Did you have something stolen from you OR were you attacked or threatened by a. Someone at work or school b. A neighbor or friend c. A relative or family member d. Any other person you've met or known? 2) Did you call the police to report something that happened to you which you thought was a crime? 3) Did anything happen to you which you thought was a crime, but did NOT report to the police? - Stalking: a supplemental survey to examine the prevalence of stalking was conducted in 2006. "unwanted contacts or harassing behavior... that frightened, concerned, angered, or annoyed you" The behavioral-specific screening questions are almost identical to the ones used in NVAWS with the addition of "posting information or spreading rumors about you on the internet, in a public place, or by word of mouth."</p> | <p>- AIAN women have the highest rate of IPV victimization (18.2) compared to either African American (8.2), White (6.3), or Asian American (1.5) women - A higher proportion of AIANs were physically assaulted by other family members compared to other women and less likely to be assaulted by strangers. - The majority of physical and sexual assaults against AIAN women occurred in private, at or near a private residence (59%) compared to public locations. - Results from the 2006 Stalking Supplement are not yet available</p> |
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| <p>National Violence Against Women Survey (NVAWS)</p> | <p>Conducted in 1995 through 1996, the NVAWS relied on a nationally representative sample of 8,000 women drawn by random-digit dialing from households with a telephone in the 50 US states and DC. Respondents age 18 and older were interviewed using a computer-assisted telephone interviewing (CATI) system.</p> | <p>Female Demographics: - Age: 18-24 – 9.8% 25-29 – 9.6% 30-39 – 24.6% 40-49 – 22.5% 50-59 – 14.4% 60-69 – 9.9% 70-80+ - 9.3% - Racial Composition: 86.6% White 10.5% African-American 1.2% AIAN 1.8% Asian-Pacific Islander - Hispanic Origin 7.9% Hispanic 92.1% Nonhispanic - Education: 10.7% Less than high school 34.6% High school and equivalent 45.7% Any college 9.0% Advanced degree</p> | <p>- <i>Rape</i>: very behavior-specific questions that are intended to measure both completed and attempted rapes, but not other forms of sexual assault. Respondents were asked both about their victimization experiences in the “previous 12 months,” and those that occurred “during their lifetime.” 1) Has a man or boy ever made you have sex by using force or threatening to harm you or someone close to you? Just so there is no mistake by sex we mean putting a penis in your vagina. 2) Has anyone, male or female, ever made you have oral sex by using force or threat of force? Just so there is no mistake, by oral sex we mean that a man or boy put his penis in your mouth or someone, male or female, penetrated your vagina or anus with their mouth. 3) Has anyone ever made you have anal sex by using force or threat of harm? Just so there is no mistake, by anal sex we mean that a man or boy put his penis in your anus. 4) Has anyone, male or female, ever put fingers or objects in your vagina or anus against your will or by using force or threats? 5) Has anyone, male or female, ever attempted to make you have vaginal, oral, or anal sex against your will, but intercourse or penetration did not occur?</p> | <p>- Due to a small number of AIAN interviewed, published documents only report lifetime prevalence estimates of victimization by intimate partners. - Lifetime prevalence rates of both assaults in general and assaults perpetrated by intimate partners are both higher for AIAN women compared to women of other racial groups. Almost two-thirds (61.4%) of AIAN women have been assaulted in their lifetimes compared to 51.3% of White women, 52.1% of African American women, and 49.6% of Asian American women - 34% of AIAN women had experienced a completed or attempted rape in their lifetimes compared to 18% of White, 19% of African American, and 7% of Asian and Pacific Islander women - AIAN women were more likely to have experienced stalking in their lifetimes (17%) compared to women of other racial groups. White (8.2%), African American (6.5%); Asian American (4.5%).</p> |
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| <p>National Violence Against Women Survey (NVAWS)</p> | | | <p>- <i>Physical Assault</i>: measured by a modified version of the Conflict Tactics Scale. Respondents were asked about assaults which occurred as a child and as adults: “Not counting any incidents you have already mentioned, after you became an adult did any other adult, male or female ever...”</p> <ul style="list-style-type: none"> a) Throw something at you that could hurt? b) Push, grab or shove you? c) Pull your hair? d) Slap or hit you? e) Kick or bite you? f) Choke or attempt to drown you? g) Hit you with some object? h) Beat you up? i) Threaten you with a gun? j) Threaten you with a knife or other weapon? k) Use a gun on you? l) Use a knife or other weapon on you? <p>- <i>Stalking</i>: defined as “a course of conduct directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written or implied threats, or a combination thereof, that would cause a reasonable person fear,” with <i>repeated</i> meaning on two or more occasions. The survey asks several behaviorally-specific questions: Not including bill collectors, telephone solicitors, or other sales people, has anyone, male or female, ever...</p> | |
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| <p>National Violence Against Women Survey (NVAWS)</p> | | | <p>a. Followed or spied on you? b. Sent you unsolicited letters or written correspondence? c. Made unsolicited phone calls to you? d. Stood outside your home, school, or workplace? e. Showed up at places you were even though he or she had no business being there? f. Left unwanted items for you to find? g. Tried to communicate in other ways against you? h. Vandalized your property or destroyed something you loved?</p> <p>Respondents who answered “yes” to one or more of these questions were asked whether anyone had ever done any of these things to them on more than once occasion. Those who answered positively were then asked how frightened the victimizations made them feel and whether they feared the offender would seriously harm them or someone close to them.</p> | |
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| <p>Maxwell and Maxwell (1992)</p> | <p>IHS records, naturalistic observation and interviews with elders, families, community leaders and health providers were used to collect data about elder abuse on the Lone Mountain and Abundant Lands reservations.</p> | <p><i>-Lone Mountain:</i> Little workable land and no local industry led to high unemployment rates and poverty on the reservation. Elders are often more financially stable than younger generations because they own much of the land and receive government pensions. <i>-Abundant Land:</i> More industry and workable land on reservation provided jobs to members and made the tribe economically stable</p> | <p>-Questions were not focused on the rate or prevalence of elder abuse, but rather on the social significance and consequences of the problem <i>-Physical Elder Abuse:</i> occurs when customs involving physical relationships between generations are broken such that the actions of the younger generation are viewed as “inflicting personal harm” on members of the older generation</p> | <p>-The Lone Mountain (LM) Reservation had several reports of physical elder abuse; Abundant Lands (AL) members denied the presence of any physical abuse -Lower rates of abuse on AL were attributed to greater opportunities and financial independence of youth on the reservation. The most ambitious youth on LM moved off reservations for better jobs leaving the less motivated to care for elderly. Often youth left on the reservation were financially dependent on elders because of lack of industry surrounding the reservation.</p> |
| <p>Norton and Manson (1995)</p> | <p>Interviews were conducted with 16 American Indian women from nine different tribes during an initial intake for IPV counseling at an urban IHS in the Rocky Mountain Region.</p> | <p>-Mean Age: 28.1 years -69% were unemployed -50% had a annual household income of \$5,000 or less -69% had a high school degree or less</p> | <p>-Interviews used procedures adapted from the Second Family Violence Survey -The Conflict Tactics Scale (CTS) was used to evaluate violence in intimate relationships</p> | <p>-The CTS violence score was 25.2 for wives and 49.7 for husbands -The severe violence score was 12.0 for wives and 22.6 for husbands -38% of women reported marital rape in the last year -12% reported attempted marital rape in the previous year</p> |

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| <p>Robin, Chester and Rasmussen (1998)</p> | <p>A semi-structured psychiatric interview and a measure of IPV were administered to 104 tribal community members of a Southwestern tribe.</p> | <p>-53.9% female (n = 56) -Age Range: 21 – 88 years (mean = 37.5) -34.6% had an income between \$12,001 and \$20,000 -0% had a 4 year college degree</p> | <p>-Questions pertaining to IPV were developed using a modified version of the CTS -Tribal focus group suggestions led to the addition of questions about threats to children and other family members, battery while pregnant, destruction of property, forced sex and use of a weapon in self-defense -The initial CTS question was changed from “Are you living with someone now, or have you lived with someone in the past year?” to “Have you ever lived with someone [in an intimate relationship] for a year or longer?”</p> | <p>-78.6% of females participants reported physical violence -28.6% of women experienced forced sex by a partner -Women were 9.53 times more likely than men to require medical attention for injuries caused by partner-perpetrated violence -Although 30% of both male and female respondents reported perpetrating IPV in the past year, 76% of women reported that their violence was a reaction to abuse by their partners</p> |
| <p>Fairchild, Fairchild and Stoner (1998)</p> | <p>Surveyed 341 women who presented for care at the general medical clinic or the maternal-child clinic at an IHS facility located near a Navajo Reservation in Southwestern U.S.</p> | <p>-Age range: 18-80 years (mean = 39.3) -97.7% Navajo -55.4% had less than \$1,000 monthly household income -73% had 12 years of education or less</p> | <p>Physical violence included being: -Pushed, grabbed or slapped -Objects thrown at you -Punched or kicked -Choked or strangled -Hit with an object -Threatened with a knife or gun -Injured with a knife or gun</p> | <p>-41.9% experienced physical violence perpetrated by a male partner during their lifetime -31.7% experienced “severe” physical violence⁸⁰ -12.1% experienced sexual abuse during their lifetime</p> |

⁸⁰ Severe violence, as defined by Straus and Gelles, includes being punched or kicked, choked or strangled, hit with an object, threatened with a knife or gun, or injured by a knife or gun

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| <p>Zahnd, et al. 2002</p> | <p>Interviews with 110 American Indian women who were clients or visitors at 5 (2 urban and 3 rural) American Indian service agencies in California.</p> | <p>Age range: 18-44 years, majority receiving TANF assistance (70%), 60% employed, and 76% had children. 71% had a reservation and 42% had lived on a reservation in their lifetimes. 43% were married.</p> | <p>Questions from the NVAWS were used to measure physical assault. Sexual Assaults were measured with the question, “have you ever been forced to have sex by any adult, including anyone who was a member of your family, or anyone outside your family.”</p> | <p>- 80% of respondents had experienced physical assault in their lifetimes - 26% had experienced forced sex in their lifetimes - 32% of the women had experienced either a physical and/or sexual victimization within the past 12 months.</p> |
| <p>Bohn (2003)</p> | <p>Thirty pregnant American Indian women were recruited during routine prenatal visits at an urban, Midwestern Indian clinic. Data collection included a review of prenatal medical record, an interview and a postpartum hospital record review</p> | <p>-Age range: 14-37 years (mean = 24.3) -80% were from the Woodland and Northern Plains nations -70% were poor and single -70% had not completed high school</p> | <p>-The Index of Spousal Abuse (ISA)⁸¹, The Danger Assessment⁸² and the Abuse Assessment Screen (ASA)⁸³ were used to garner abuse information during the interview -<i>Adult sexual abuse</i>: physically or verbally forced or unwanted physical contact of a sexual nature (e.g. fondling, penetration) -<i>Current partner abuse</i>: any acts of physical violence included in the ISA or other acts of physical aggression (e.g. pushed, choked, hit, kicked, beat up) -<i>Previous partner abuse</i>: Acts of physical aggression</p> | <p>-83% experienced partner perpetrated physical abuse during their lifetime -40% experienced partner perpetrated sexual abuse as an adult -54% experienced both sexual and physical abuse during their lifetime</p> |
| <p>Dugan and Apel (2003)</p> | <p>Aggregated over eight years (1992 – 2000) of NCVS data resulting in 709,235 cases. The sample was restricted to only cases involving female respondents. The larger sample size allowed the victimization of smaller racial and ethnic groups to be compared.</p> | <p>Racial and Ethnic Composition: -75.9% White -11.3% Black -9.0% Hispanic -3.3% Asian -0.5% Native American</p> | <p>-All interviews were conducted using NCVS questions and format</p> | <p>-The prevalence of violence victimization was highest among Native Americans at 3.88%, a rate that almost twice the rate of black women -Native American females are most likely to be victimized by an acquaintance and least likely by a stranger</p> |

⁸¹ Hudson & McIntosh (1981)

⁸² Campbell (1986)

⁸³ Soeken, Parker, McFarlane & Lominak (1998)

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| <p>Harwell, Moore and Spence (2003)</p> | <p>The Montana Department of Health and Human Services conducted a random sample telephone survey of 1,006 adult American Indians living on or near Montana's seven reservations.</p> | <p><i>Female Demographics:</i> -n = 588 (58%) -Mean Age: 46 years -55% were employed at the time of the study -51% had a household income of \$20,000 or greater -81% had 12 years of education or greater</p> | <p>-An adapted Behavioral Risk Factor Surveillance System (BRFSS) Survey was used -To assess recent personal violence participants were asked, "In the past 12 months, have you been hit, slapped, kicked, forced to have sex, or otherwise physically hurt by someone?"</p> | <p>-5% of women reported personal violence (PV) in the past year -3% of women reported IPV in the past year -Men reported more PV than women (9%), but there was no difference in prevalence of IPV in the past year -The prevalence of IPV among American Indian women was similar to the prevalence among Montana women overall in 1998 (2%)</p> |
| <p>Malcoe and Duran (2004)</p> | <p>Cross-sectional interviews were conducted with 431 American Indian women. Participants were recruited from both a tribally-operated WIC clinic in Western Oklahoma and by fliers describing the study which were placed in tribal facilities and at the local vocational school</p> | <p>-Age range: 14 – 45 years (mean = 28.8) -76.5% had at least a high school degree, but only 6.2% had earned an Associates of Bachelor's degree -53.9% lived below the federal poverty line -58.3% were clients of WIC; 41.7% were part of a non-WIC convenience sample</p> | <p>-A modified 16-item revised CTS was used to measure lifetime IPV - Physical and sexual assault items were divided into minor or severe as defined by Straus - 'Being dragged or thrown across the room' was added to the physical assault scale items -The sexual coercion scale was reduced to a three-item scale that asked if a partner EVER 'Insisted on any type of sex with you, when you did not want to, but did not use physical force', 'Used verbal threats to make you have sex with him' or 'Used force, like hitting you, holding you down, or using a weapon, to make you have any type of sex with him' -Used 3 items from the sexual coercion scale from the CTS 2</p> | <p>-81.3% experienced physical IPV, with 66.6% experiencing severe physical IPV -49.1% experienced sexual IPV, with 25.1% experiencing severe sexual IPV -A strong association was found between lifetime experiences of severe physical and severe sexual IPV -Women who received TANF benefits during the year prior to the interview had significantly higher rates of lifetime severe physical and sexual IPV than those who did not receive TANF</p> |

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| <p>Malcoe, Duran and Montgomery (2004)</p> | <p>Surveyed 312 American Indian women who visited a tribally-operated WIC clinic in southwest Oklahoma to pick up food vouchers</p> | <p>Age range: 14 – 48 years (mean = 26.2) -62% of respondents were members of one of two local tribes -73.4% of women lived at or below the federal poverty line and 30.1% lived in severe poverty</p> | <p>-A modified 18-item version of the CTS was used to measure IPV. The most critical change was the addition of a question on forced sex -Aggression items asked whether a partner ‘insulted or swore at her’, ‘did or said something to hurt her’, ‘threatened to hit or throw something at her’, or ‘threw, smashed, hit, or kicked something’ -Physical assault items were divided into minor or severe as defined by Straus -Sexual assault asked whether a partner had ‘forced her into sexual activity’</p> | <p>-Lifetime prevalence of severe partner-perpetrated violence was 39.1% -12.2% of women experienced forced sexual activity by a partner during their lifetime -88% of women who reported a spouse or boyfriend during the prior year reported experiencing physical or sexual IPV during the past 12 months</p> |
| <p>Simoni, Sehgal and Walters (2004)</p> | <p>Anonymous surveys were mailed to all members of an American Indian community center in New York. A sample of 155 female respondents was included in the analysis.</p> | <p>-Age range: 18 – 87 years (median = 44.0) -41% had at least a bachelor’s degree -53% had a monthly income of \$1,500 or less -11% lived on a reservation or tribal lands within the past year</p> | <p>To ascertain prevalence of abuse respondents were asked to specify whether or not they had even in their lifetime been: -Sexually abused by a spouse or sexual partner -Sexually abused by someone other than a spouse or sexual partner -Physically abused by a spouse or sexual partner -Physically abused by someone other than a spouse or sexual partner</p> | <p>-52% of all participants reported they had been physically or sexually abused by someone during their lifetime -20% were sexually victimized by a sexual partner during their lifetime, 34% by a non-partner, 15% by both and 39% by either -31% were physically abused by a sexual partner during their lifetime, 20% by a non-partner, 14% by both and 37% by either</p> |
| <p>Rivers (2005)</p> | <p>Seven Navajo women from the Four Corners area of the Navajo Nation in New Mexico were interviewed by a researcher who spent 7 months living on the reservation.</p> | <p>-Age range: 20 – 60 years -4 of the 7 participants were students at Dine College; the other three were employees of the college -All were born and currently living on the reservation</p> | <p>-Interviews centered on childhood, adult and Navajo experiences -All participants were asked the same questions, but were allowed leeway in depth of answers -Violence against Native women was never directly asked about, yet it came frequently in the answers and life stories of participants</p> | <p>-6 of the women told stories involving physical and sexual violence during their lifetime -Stories involved first and second hand abuse -Perpetrators of violence included intimate partners, parents and other family members</p> |

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| <p>Saylor and Daliparthi (2006)</p> | <p>Case managers interviewed 283 American Indian women in residential and outpatient substance abuse treatment at the Native American Health Center (NAHC) in Oakland and San Francisco, CA. Follow-up data was taken at 6 and 12 months after intake.</p> | <p>No demographical information provided.</p> | <p>-Participants were interviewed using the Government Performance Results Act (GPRA) data collection instrument developed by the Center for Substance Abuse Treatment (CSAT), along with a supplemental HIV risk assessment and Native supplement which examined potentially relevant sociocultural factors</p> | <p>-84% experienced physical abuse during their lifetime -75% had been hit or beaten up as adults. Of those who experienced physical violence, 67% said that it was perpetrated by a partner -67% experienced sexual abuse in their lifetime -A strong relationship between physical and sexual abuse was found; 96.7% who were sexually abused were also physically abused</p> |
| <p>Magen and Wood (2006)</p> | <p>Face-to-face interviews and telephone surveys were administered to 91 Ahtna women in the Copper River basin of Alaska. Subjects were identified using a list of Ahtna shareholders and snowball sampling.</p> | <p>-Age Range: 18 – 90 years (mean = 38.7) -7.7% identified as Indian only, 30.8% as mainly Indian, 36.3% as equally Indian and “white” and 25.3% as mostly white -66.2% had less than a \$30,000 household income -78.4% had a least a high school degree</p> | <p>-Screening and follow-up questions were taken from the NVAW survey -It was considered physical assault if someone: ‘threw something that could hurt you, pushed’, ‘grabbed or shoved’, ‘pulled hair’, ‘slapped or hit’, ‘kicked or bit’, ‘choked or tried to drown’, ‘hit with an object’, ‘beat up’, ‘threatened with a gun’, ‘threatened with a knife’, ‘used a gun’ or ‘used a knife’</p> | <p>-63.7% had been physically assaulted during their lifetime -18% had been physically assaulted during the previous year -Of those physically assaulted in the past year 18% were perpetrated by an intimate partner -Of those physically assaulted in their lifetime 64% were perpetrated by an intimate partner</p> |
| <p>Yuan, Koss, Polacca and Goldman (2006)</p> | <p>Data used was from the Ten Tribes Study. A total of 1,368 male and female respondents from six tribes were interviewed. Participants were randomly selected from tribal enrollment lists, voter registers or health service registries.</p> | <p>-58% female -Female age range: 20 – 88 years (mean = 40) -42% of respondents had a household income of less than \$15,000 -76% of respondents graduated high school -Tribes 1, 5 and 6 were from the Southwest; Tribes 3, 4 and 7 were from the Northwest, Northern Plains and Northeast</p> | <p>-Interview questions were modeled after NVAW Survey questions -<i>Physical Assault</i>: behaviors that occurred since age 18 years, including being threatened and attempted or actually inflicted physical harm during adulthood -<i>Rape</i>: experienced that occurred without the victim’s consent since age 18 years, involving actual or threatened physical force to penetrate the victim’s vagina or anus by penis, tongue, fingers, or object, or the victim’s mouth by penis, including attempts</p> | <p>-45% of women experienced at least one incident of physical assault since age 18 -80% of adult female physical assault victims identified a romantic partner as the perpetrator of their abuse -14% of women reported being raped since the age of 18 -55% of females who had been sexually assaulted during their life identified a male relative as the perpetrator -There were significant tribal differences in rates of physical and sexual assault for women</p> |

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