

# Policing on American Indian Reservations

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**P**olicing in Indian Country is strikingly different from that of the municipal police department with which most of us are familiar.

Crime is increasing dramatically in Indian Country, but little is known about how the unique context of Indian Country —the culture, geography, and economy, for example —affects law enforcement policies and practices. This article summarizes the findings from the authors' exploratory report on policing on American Indian reservations.

The superficial description of Indian Country law enforcement shows a rural environment with rural-style policing. Imagine an area the size of Delaware, but with a population of only 10,000, that is patrolled by no more than three police officers and as few as one officer at any one time —a level of police coverage that is much lower than in other areas of the country.<sup>1</sup> Most departments are administered by tribes (through a contract between the tribe and the Bureau of Indian Affairs [BIA]), but many are administered directly by BIA.

An important distinction is that these communities have

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The authors' full report on policing on American Indian reservations, NIJ grant number 95-IJ-CX-0086, is forthcoming in spring 2001 from NIJ. To obtain a copy, see the "For More Information" section at the end of this article.

a "government-to-government" relationship with the United States.<sup>2</sup> Although tribes control a narrower scope of policy than do nations such as Germany and Brazil, they have significantly more scope for policy-making than do cities or even U.S. States. Indian nations adopt constitutions for their societies, write civil laws to regulate conduct and commerce within their territorial boundaries, and enforce those laws with their own judicial systems.

Another distinguishing feature of these communities is that they exhibit an exceptionally wide variety of social and economic characteristics. Also, while "American Indian" is a single race category on the U.S. Census, members of one tribe can be as different from those of

another tribe as citizens of Greece are from citizens of Vietnam. Even so, most Indian nations face severe social and economic problems. Despite new tribal opportunities, American Indians remain the poorest minority in the United States.<sup>3</sup>

## Problems and Challenges

The threat of increasing crime, particularly violent crime, is especially worrisome because we know far less than we would like about crime in Indian Country. This stems from the unique culture, geography, and economics on American Indian reservations; the limited administrative and technological resources available to tribal police departments; inadequate coordination between tribal and Federal agencies; and management problems common to both tribal and BIA police departments. Even when it is possible to obtain accurate tribal-level data, the prevalence and character of crime vary widely from reservation to reservation.

With this said, what do we know about the general prevalence, distribution, and character of crime on reservations?

- The intensity and range of problems that police departments in Indian Country must respond to are increasing significantly.

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## Methodology

This research project was conducted by the Program in Criminal Justice Policy and Management and the Harvard Project on American Indian Economic Development, two research programs affiliated with the Malcolm Wiener Center for Social Policy at Harvard University's John F. Kennedy School of Government.

The study began with a literature review and visits to several Indian police departments and the Indian

Police Academy in New Mexico. A two-part survey was distributed to Indian police departments, and intensive site visits were made to four reservations.

In selecting study sites, the authors chose Indian nations that varied on as many relevant dimensions as could be captured in a small sample. The four nations selected were the Tohono O'odham and the Gila River Indian Community (both in Arizona), the Confederated

Salish and Kootenai Tribes of the Flathead Indian Reservation (in Montana), and the Three Affiliated Tribes of the Fort Berthold Reservation (in North Dakota).

The authors studied these reservation departments and the tribal contexts in which they operate in order to gain a richer understanding of the diverse and complex ways in which Native communities cope with policing challenges.

- A growing number of reservation residents have settled in semi-urban communities, and much of the crime on reservations occurs in these fairly dense areas.
- Notwithstanding recent reports of dramatic increases in violent crime on reservations, especially among youth, the crimes that most occupy police in Indian Country are those that directly or indirectly relate to alcohol abuse.

Moreover, departments in Indian Country face these challenges with a limited resource base. Existing data suggest that tribes have between 55 and 75 percent of the resource base available to non-Indian communities. However, the terms used in this comparison may underestimate the resource needs of Indian Country departments. The appropriate police coverage (police officers per thousand residents) comparison may not be between Indian departments and departments serving communities of similar size, but between Indian departments and communities with similar crime problems.

Given that the violent crime rate in Indian Country is likely to be between double and triple the national average,<sup>4</sup> comparable communities would be large urban areas with high violent crime rates. For example, Baltimore (MD), Detroit (MI), New York (NY), and Washington (DC) feature high police-to-citizen ratios, from 3.9 to 6.6 officers per thousand residents.<sup>5</sup> Few, if any, departments in Indian Country have ratios of more than 2 officers per thousand residents.

In fact, this does not capture the severity or complexity of the challenges to reservation policing. In the view of many researchers, policymakers, and police professionals, there is a crisis in reservation policing. This research supports such a conclusion. Among the problems that the authors and others have found are that:

- High turnover and poor employee morale result in a lack of well-qualified and experienced officers.

- Basic departmental management is flawed.
- Inadequate budgets, fiscal mismanagement, and even corruption create serious obstacles to the effective delivery of important police services and programs.
- Undue political interference in police operations inhibits the ability of the police to perform their duties in a fair and equitable manner and reduces the credibility of the police in the eyes of the community.

A number of special reports, commissions, conferences, and blue-ribbon committees have grappled with these problems and have responded with a wide variety of recommendations and proposals. These include increased funding, tightened management, clarification of ambiguous reporting relationships, and better technology. Many of these responses are necessary steps for improving policing in Indian Country, but they may treat the symptoms rather than the disease.

The historical record shows how Federal policy created a system that served the interests of the U.S. Government and nontribal citizens and failed to promote the ability of Indian nations to design and exert meaningful control over their own policing institutions. However, there is a substantial body of research that suggests a road map for understanding and beginning to remedy the problems with policing that are rooted in Federal policy.

### Lessons From the Research

The authors argue that many of these issues are linked in important ways to Federal policy. Certainly, there is strong evidence of long, cumulative, negative effects of Federal policy on the practice of policing in Indian Country.

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beginning to remedy the problems with policing that are rooted in Federal policy.

*Tribal Control of Institutions.* Beginning in the 1970's, a handful of Indian nations embarked on successful paths of social and economic development. Research by the Harvard Project on American Indian Economic Development (HPAIED) indicates that the common denominator among these successful tribes was an effective government —one that was capable of both determining and implementing the policy priorities of the community.

One indicator of a tribal government's ability to effectively make and implement decisions is whether it has adequate control over its

own institutions. Significantly, the research also indicates that an alignment between the form and powers of a government's contemporary institutions and the form and powers of its pre-reservation institutions is most likely to create this stability, respect, and legitimacy. Yet that match is not typical: The U.S. Government created the twentieth-century governments of most tribes, overriding indigenous institutions.

In cases where tribes were fortunate enough to avoid imposed constitutions or where, fortuitously, the imposed structure is well matched to pre-reservation forms, tribes are performing well; but where the match is poor, tribes are struggling.<sup>6</sup>

One important lesson from this research concerns the effect of increased tribal control over tribal institutions. Only those tribes that have acquired meaningful control over their governing institutions have experienced improvements in local economic and social conditions. The research has not found a single case of sustained economic development where the tribe is not in the driver's seat. Although tribal-BIA relationships in thriving Indian nations range from cooperative to contentious, they are all characterized by a demotion of the BIA (and of other Federal agencies) from decision maker to advisor and provider of technical assistance.

Federal policies that regulate Indian policing have the twin effects of reducing tribal control and diffusing accountability for institutional performance. Tribes regularly blame Federal agencies for the poor state of policing in Indian Country; not only are the resources provided by Federal agencies inadequate, but Federal policies are driven by a misreading of tribes' real needs

and priorities. On the other hand, representatives of Federal agencies express skepticism about the ability and intention of tribes to develop and manage effective police departments. In actuality, the very fact that power is shared between tribal and Federal authorities allows each to avoid its more appropriate role and, thus, to perpetuate poor policing.

**Cultural Match.** The second relevant lesson for Indian policing from the HPAIED research is the importance of cultural match. A consonance between present and pre-reservation institutional forms confers legitimacy on the methods and outcomes of government decision making and channels political energies in productive directions.

How do the dynamics of cultural match play out in practical terms? The police officer working for the Tohono O’odham in southern Arizona who aggressively confronts a suspect will have offended long-standing tribal norms and will have failed to draw on them in the service of obtaining the suspect’s compliance. By contrast, the police officer at Turtle Mountain in North Dakota who fails to confront a suspect is guilty of the same errors.

To the extent that the ethos of the organization in which these officers work perpetuates such conflicts, both public support for and the effectiveness of the organization are diminished. It is, however, important not to be naive about the possibilities. There are no guarantees that culturally legitimate institutions will be effective in a contemporary setting. If old forms cannot be adapted to modern problems, the challenge becomes to design a new one that both makes cultural sense and works.

Community policing provides a framework that tribes might use to design and implement new, Native approaches to policing — approaches that should improve the quality of policing in Indian Country and, further, do so in the context of tribal nation building.

### The Possibilities for Community Policing

The growing body of experience and research on community policing is remarkably congruent with the findings on effective governing institutions in Indian Country. Community policing provides a framework that tribes might use to design and implement new, Native approaches to policing — approaches that should improve the quality of policing in Indian Country and, further, do so in the context of tribal nation building.

The broader definition of the police function also helps align police priorities and values with those of the community. For example, many tribal citizens rely increasingly on their police departments to settle disputes, conflicts, and problems that police themselves do not consistently treat as legitimate crime problems.

The overarching lesson of community policing is that if reservation police were to pay attention to these

problems, and if they utilized credible tribal approaches as remedies, they would become more effective problem-solvers, more respected by tribal citizens, and better able to prevent problems that might otherwise escalate.

For any given Indian nation, the systems that animate and guide policing — such as the organizational structures of the police department, tribal personnel and training systems, and local management information and control systems — can be linked to a vision of policing shaped by that nation’s beliefs, priorities, and resources. Changing departmental policies and procedures is one nuts-and-bolts way this linkage between policing systems and tribal priorities might occur.

Consider the dispatch function. Depending on a dispatcher’s assessment of a call, a local elder could accompany a responding officer; in many instances, the officer might be there only to support the elder’s authority (or vice versa). Such an effort would lend credibility to the

modern police function while showing respect for important tribal traditions.<sup>7</sup>

With the support of the Federal Government, tribes must reconsider the foundations of policing on American Indian reservations. The lessons drawn by tribes, academics, and policymakers from the research on and accumulating experience in community policing and the design of effective governing institutions in Indian Country can productively inform the development of Federal policy. This same evidence and experience provide the necessary starting points for tribes as they rethink policing.

Significantly, we do not recommend that Federal and tribal policymakers direct their full attention and resources to increased funding for reservation police departments, the development of new specialized crime-fighting task forces, or improved technology. Without the core investment we describe, these efforts will add little to the ability of Indian police departments and tribal communities to address the problems they face.

At the same time, we are not recommending that tribes reflexively resurrect dormant pre-reservation methods of social control and policing, nor are we giving a blanket endorsement to restorative justice. The challenge is to create workable, nation-specific policing institutions and approaches informed by traditional customs.

NCJ 186185

## For More Information

- Copies of the full report upon which this article is based will be available in spring 2001. Watch the NIJ Web page for an announcement of its availability.
- Visit the Harvard Project on American Indian Economic Development at <http://www.ksg.harvard.edu/hpaied>.

## Notes

1. In actuality, however, substantial numbers of reservation residents live in fairly dense communities that share attributes of suburban and urban areas.
2. Janet Reno, U.S. Attorney General, "Department of Justice Policy on Indian Sovereignty and Government-to-Government Relations With Indian Tribes," U.S. Department of Justice, Office of Tribal Justice, Washington, DC, June 1, 1995, published in *Federal Register* 61(112) (June 10, 1996): 29424.
3. Pace, David, "Most Indians Haven't Benefited From Casino Boom," Associated Press, September 1, 2000 (<http://wire.ap.org>); and Cornell, Stephen, Joseph P. Kalt, Matthew Krepps, and Jonathan Taylor, "American Indian Gaming Policy and It's Socio-Economic Effects," Report to the National Gaming Impact Study Commission, Cambridge, MA: The Economics Resource Group, July 1998 (<http://www.ncai.org/indianissues/TribalGaming/NGISCREpt.pdf>).
4. Greenfeld, Lawrence A., and Steven K. Smith, "American Indians and Crime," U.S. Department of Justice, Bureau of Justice Statistics, Washington, DC, February 1999, p. 2.
5. These rates were calculated from 1996 data found in Table 1.28 (p. 39) and Table 3.118 (pp. 276-281) in Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics—1997*, Washington, DC: U.S. Department of Justice, 1998.
6. This point is based on research by Stephen Cornell and Joseph P. Kalt, especially "Where Does Economic Development Really Come From? Constitutional Rule Among the Contemporary Sioux and Apache," *Economic Inquiry* 33(July 1995): 402-426.
7. We emphasize that community policing is not only a set of tactics (such as foot patrol) but also a process by which police partner with communities.