

# The Unique Circumstances of Native American Juveniles Under Federal Supervision

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## *The Myth and the Reality*

**T**HE ROMANTICIZED view of Indian reservations is that of a closely-knit family dealing with day-to-day problems in a rural setting. While this notion may be true to a degree, reservation life has been greatly idealized by Hollywood. The typical individual living on an Indian reservation in the United States faces poverty, alcoholism, unemployment, and violence on a near daily basis. Broken homes, as well as lack of access to education and health care, are also major impediments in reservation areas. Contrary to popular belief, the majority of Native Americans do not reside on or near a reservation. As of 1990, 22 percent of Native Americans lived on an Indian reservation, while 15 percent resided near a reservation (Aguirre and Turner, 1995). Thus, the remaining 60 percent made their homes in non-reservation areas.

Most felony and some misdemeanor offenses committed by Native Americans on reservation land fall under the jurisdiction of the federal court. Native Americans constitute less than one percent of the total population in the United States; however, Indian offenses amount to nearly ten percent of the overall federal cases (Sands, 1998). In some states, such as South Dakota, Indian offenses constitute a major part of the court docket. The Native American population in South Dakota in 1995 was approximately 7 percent (Dvorak, 1995); however, as of October 1999, the percentage of Native Americans on federal supervision in the state was 67 percent (U.S. Probation Office, 1999). Nationally, Indian offenses constitute over 20 percent of murders and assaults in federal court and nearly 75 percent of all manslaughter and sexual abuse cases (Sands, 1998). The number of Native Americans per capita confined in state and federal prisons is approximately 38 percent above the national average. The rate of confinement in local jails is estimated to be nearly four times the national average (Bureau of Justice, 1999).

According to Bureau of Justice statistics for 1995, United States attorneys filed cases against 240 individuals for alleged acts of juvenile delinquency. Out of the 240 cases, 122 were adjudicated in the federal court system, accounting for 0.2 percent of the total amount of cases federally adjudicated during 1995 (Cohn, 1997). Over half (61 percent) of the juveniles adjudicated in federal court are Native Americans. Bureau of Justice statistics for 1995 also revealed that 37 percent of the juveniles adjudicated delinquent were committed to a correctional facility, with the

average length of commitment being 34 months (Cohn, 1997). As of October 1999, the U.S. Probation Office for the District of South Dakota was supervising 107 Native American juvenile offenders (U.S. Probation Office, 1999). The statistics illustrate that Native American youths are disproportionately represented in the federal court system. The purpose of this article is to illustrate the uniqueness of Native American juveniles: specifically, the Sioux Indians of South Dakota, who fall under the jurisdiction of the federal court system.

## *Indian and non-Indian Views on Crime and Delinquency*

There is a vast difference between Indian and non-Indian perceptions of wrongdoing and the most effective means of dealing with crime. In the non-Indian community, a person who commits a crime is deemed a bad person who must be punished. Indian communities, however, view offenses as misbehavior which calls for teaching or illness which requires healing (Sandven, 1999). Non-Indian communities tend to favor a punishment modality, whereas Indian communities traditionally put their faith in education, treatment, and medicine. Obviously, these differing views lead to clashes between the cultures. When dealing with delinquent Native American youth, non-Indians may feel the best course of action is juvenile detention, whereas Indian communities may favor probation, participation in traditional cultural ceremonies, or mentoring by a tribal elder.

## *Alcohol Abuse*

Alcoholism is a major problem on Indian reservations in the United States. According to Bureau of Justice statistics (1999), 70 percent of jailed Native Americans convicted of violence reported that they had been drinking at the time of the offense. With regard to American Indians, the arrest rate for alcohol-related offenses such as drunken driving, public drunkenness, and liquor law violations was more than double that for the total population during 1996. Finally, the Bureau of Justice reported that almost 4 in 10 Native Americans held in local jails had been charged with a public order offense, most notably driving while intoxicated.

There is no doubt that alcohol abuse and alcoholism play a volatile role in the lives of people of all cultures. Native American populations, however, seem to be more suscepti-

ble to the disease of alcoholism. Some studies have suggested that there is a physiological component to Native Americans' increased propensity toward alcoholism, while others have found that a variety of socio-economic factors such as poverty and lack of opportunities play the largest role in this issue.

When a juvenile or adult offender is a substance abuser, probation officers typically deal with this issue through inpatient or outpatient treatment, aftercare services, and Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings. While these services may be of benefit to both Indian and non-Indian populations, Native Americans tend to rely on cultural methods to deal with their sobriety. Specifically, a sweat lodge ceremony, or a "sweat" as it is sometimes called, is used as a means of obtaining spiritual purification through prayer. Individuals enter the sweat lodge and engage in traditional prayers as a ceremonial process of cleansing their souls. In addition to getting in touch with their spirituality, participants in the sweat lodge ceremonies seek clarification and guidance concerning problems dealing with family, substance abuse, violence, and other pertinent issues.

The Sun Dance is a ceremony in which participation requires total abstinence from alcohol and drugs. In this sacred ceremony, Sun Dancers (who must be male) pierce their chests with sharp skewers which are attached to ropes connected to a center pole. The Dancers move around the center pole in a circle while pulling against the skewers piercing their muscles. During the Sun Dance, participants gaze at the sun and pray. The Sun Dance may last several days, during which the Dancers traditionally are not allowed food, water, or rest. Interestingly, the Sun Dance was prohibited by federal law from 1904 to 1935 (Brown, 1993). Although this sacred ceremony was proclaimed illegal, it continued in secrecy. By 1959, the right to hold and participate in Sun Dance ceremonies was reinstated.

Instead of insisting on only AA or NA attendance for Native American juvenile offenders, probation officers should consider balancing the traditional sobriety requirements with those of the Native American culture. Specifically, voluntarily attending a sweat or Sun Dance could take the place of mandatory attendance at a weekly AA meeting. Participation in sweats could be alternated with weekly AA meetings or used to supplement AA attendance. Another viable option is inpatient/outpatient treatment facilities operated by the Indian tribes. These types of facilities are typically located on Indian reservations. They offer a traditional chemical dependency treatment program which incorporates aspects of the Indian culture.

By including Native American culture and ceremonies in the traditional treatment regime, the probation officer approaches sobriety from a dual standpoint. It is now widely accepted that in order to be effective, treatment must be matched to client characteristics. It logically follows that Native American juveniles interested in their culture should be allowed to tap into it for help and support in achieving sobriety.

### *The Concept of Family*

Another difference between the Indian and non-Indian communities is the concept of family, or "*tiwaha*," as it is called by the Sioux Indians of South Dakota. In the typical non-Indian household we would expect to find one or more parents and children. Indian homes, however, are generally characterized by the presence of extended family. The Sioux Indians call this "*tiospaye*." Grandparents, aunts, uncles, cousins, and unrelated individuals may reside in the same home with the Native American family. The multi-generational nature of the Indian family lends itself to an additional support structure for the juvenile. With people in the same home spanning several generations, the juvenile can benefit from the teachings and guidance of more than just his or her parent(s).

Native Americans frequently refer to unrelated individuals as aunts (or "aunties"), uncles, cousins, grandmas, or grandpas. This demonstrates the wide span of the definition of family in Indian communities. Probation officers need to be sensitive to the complex infrastructure of Indian families when dealing with Native American juvenile offenders. In the non-Indian communities, the death of a great aunt, second cousin, or unrelated individual may not be deemed as a great loss to the juvenile due to the distance of the relationship. Indian youth, however, may experience as great a loss at the death of an unrelated individual whom they considered a cousin as they would at the death of a biological cousin. Thus, for Native American juveniles who are in placement or treatment, requests to attend funerals in the juvenile's home area should not be automatically denied if the relationship between the juvenile and the deceased does not appear to be close. Again, the issue of family and closeness is a difference in perception between Indian and non-Indian communities.

### *Native Americans as Victims of Crime*

According to the latest Bureau of Justice statistics, Native Americans are the victims of violent crimes at more than twice the rate of all United States residents. From 1992 through 1996, the average annual rate of violent victimizations among Indians (including Alaska Natives and Aleuts) was 124 per 1,000 residents ages 12 years and older, compared to 61 violent victimizations per 1,000 blacks, 49 per 1,000 whites, and 29 per 1,000 Asians (Bureau of Justice, 1999). For all four types of non-fatal violent victimizations, Indians experienced higher than average annual rates of victimization per 1,000 U.S. inhabitants 12 years old and older during the period from 1992 through 1996 (Bureau of Justice, 1999). Each year approximately 150 Native Americans are murdered, which is nearly the per capita rate in the general population. (Bureau of Justice, 1999)

One cannot argue with the fact that Indian reservations are a potentially violent place to live. Therefore, probation officers need to take into consideration the fact that many of the juvenile Indian offenders under federal supervision may

have been victims of a violent crime. Even more likely is the chance that the juvenile offender witnessed or was negatively impacted by a violent crime against his or her extended family member(s). Realizing that Native American youth may have been victimized or witnessed a disproportionate share of violence is not an excuse or justification for the young offender's actions; rather it provides the probation officer with an understanding of the juvenile's experiences during childhood. A juvenile's minor reaction to a major event in his or her life may occur because the youth has put up a wall as a means of coping with the constant threat of violence. In other words, Native American juveniles may become desensitized to the violence around them, as it is something they may face on a daily basis. Someone who has not regularly experienced this level of violence may wrongly perceive the juvenile's desensitization as indifference.

Jan Chalken, the Director for the Bureau of Justice, stated the following: "The findings reveal a disturbing picture of American Indian involvement in crimes as victims and offenders. Both male and female American Indians experience violent crime at higher rates than people of other races and are more likely to experience interracial violence." (Bureau of Justice, 1999). See Table 1.

TABLE 1.  
RATES OF VICTIMIZATION FOR U.S. INHABITANTS 12 YEARS AND OLDER FOR 1992-1996

	Indians	Whites	Blacks	Asians
<i>Sexual Assaults</i>	7	2	3	1
<i>Robberies</i>	12	5	13	7
<i>Agg. Assaults</i>	35	10	16	6
<i>Simple Assaults</i>	70	32	30	15

### *Life Chances*

Compared with other ethnic populations in the United States, Native Americans have been severely constrained in their interaction with mainstream society (Aguirre and Turner, 1995). This isolation is largely the result of the numerous treaties between the U.S. government and the Native American tribes, which placed tribal members in subordinate positions. The subordination, in turn, had the effect of limiting their opportunities to secure life chances. Typically, life chances are defined as the access to satisfactory education, housing, employment, income, and medical care. In essence, life chances are valued resources.

President John F. Kennedy was quoted as saying, "For a subject worked and reworked so often in novels, motion pictures, and television, American Indians remain probably the least understood and most misunderstood Americans of us all" (Brown, 1993). In the 1970s, the United States government officially acknowledged that Native Americans were the most impoverished group in the United States and that this population lived in conditions rivaling those found in Third World countries (U.S. Department of Health, Education, and Welfare, 1976). As little as 20 years ago, 14

percent of Native Americans lived in overcrowded housing, 67 percent lived in houses without running water, 48 percent lived in houses without toilets, and 32 percent had no means of transportation (Aguirre and Turner, 1995). These factors paint a dismal picture for Native Americans, especially those living in isolated reservation communities. Although living conditions have generally improved for most Indian communities, a large proportion of the Native American population still lives below the poverty line. See Table 2.

TABLE 2.  
PERCENTAGE OF FAMILIES LIVING BELOW THE POVERTY LINE,  
1970-1990

Year	White Americans	Native Americans
1970	8.6	33.2
1980	7.0	23.7
1990	9.8	36.1

Educational attainment is another life chance in which Native Americans fall below the average level. With the exception of Hispanics, American Indians are the least likely of all minority groups to graduate from high school or college. According to Aguirre and Turner (1995), in 1992, 78 percent of Indians had earned a high school diploma, compared with 91 percent of non-Hispanic whites. When comparing college graduates, however, only 11 percent of Native Americans had earned a college degree, compared with 28 percent of non-Hispanic whites. At the high school level, there was a 13 percentage point difference between the two groups. When comparing the two groups for college graduates, non-Hispanic whites were nearly three times as likely as Indians to have achieved a college degree. These figures can be explained, in part, by a lack of access to satisfactory elementary education. The parents of all minority youths, as a whole, tend to have less formal education than their white counterparts. Because parental educational attainment is often linked to a student's academic performance, minority students may start school at a disadvantage (O'Hare, 1992). Finally, much of the focus of education utilizes the white culture as a basis from which to compare all other cultures. Using the white culture as a point of reference is not necessarily pertinent or interesting to students of other cultures, races, and ethnicities.

Two final life chances to be addressed are occupational attainment and income levels. In 1995, the unemployment rate for whites in South Dakota was 3.2 percent. Native Americans had a 32 percent unemployment rate during the same time period (Dvorak, 1995). Astonishingly, the unemployment rate for Indians was ten times higher than that for whites. As has already been discussed, Native Americans have lower levels of educational attainment. Low levels of education have an inverse relationship with high unemployment rates. The isolation of reservation communities also prevents access to well-paying jobs. Finally, reservations

have difficulty in attracting businesses and industry to their already economically-depressed areas.

In South Dakota, as well as the rest of the United States, there exists a major economic difference in the median household income of Indians and whites living in the same area. In 1995, the median income for whites living in South Dakota was \$27,000 per year, compared to less than \$10,000 annually earned by Native Americans (Dvorak, 1995). It is important to remember that these figures are based on household income. As was previously mentioned, several extended family members and non-relatives may all live under one roof in Indian homes. At non-Indian residences, however, there are typically just parents and children. Therefore, Native Americans are supporting larger households on less income.

Probation officers dealing with Native American juvenile offenders need to consider the harsh reality that these individuals may not have transportation to get to school, running water in which to bathe, or the immunizations and nutrition necessary to keep them healthy. Expecting these individuals to attend school on a daily basis may largely be out of their control if transportation is not available. Once at school, Native American youths may find little value in an education which does not address issues from an Indian perspective. Further, payments of restitution may be few and far between due to the high unemployment rates and lack of industry in reservation areas. While the typical teenager's most important dilemma may be deciding the most fashionable outfit to wear to school, a Native American youth may be shivering because the family does not have the money for a winter coat.

### **Conclusion**

"Man did not weave the web of life. He is merely a strand in it. Whatever he does to the web, he does to himself" (Dvorak, 1995). This quote by Chief Seattle warns of the negative consequences that the human race will inevitably face if we continue to mistreat our own people. When com-

paring the life chances of Indians to non-Indians in South Dakota, it is obvious that Native Americans do not have the same access to satisfactory housing, education, employment, and income as do whites. Further, there are cultural differences between the perception of crime, the treatment of alcohol abuse, the concept of family, and victimization. The purpose of this article was not necessarily to elicit sympathy for the plight of the American Indians. The primary objective was to enlighten probation officers as to the cultural and socio-economic differences that may exist between the Indian and non-Indian populations. When one begins to understand the experiences and culture of others, it tends to lessen conflict and miscommunication. Since a primary aim of probation officers is to reduce recidivism, it only makes sense that increased awareness and sensitivity would aid in the battle against juvenile re-offending.

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