

Issue Brief: Native Americans and Criminal Justice

Key Words:

Criminal Justice, Structural Inequality, Hate Crime, Violent Crime, Incarceration Rate, Racial Profiling

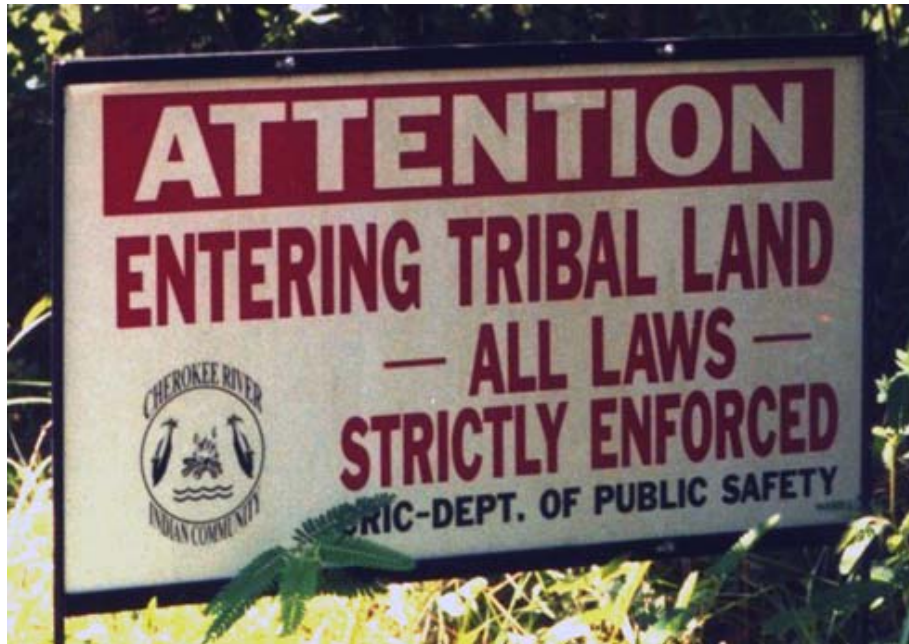
Description

This brief will examine inconsistencies in the criminal justice system with regards to Native Americans. In particular, it will explore violent and hate crimes perpetuated against Native Americans and the overrepresentation of Native Americans in correctional facilities, highlighting seeming structural inequalities.

Key Points

- A disproportionate amount of violent and hate crimes are perpetuated against Native Americans compared to their population size
- Hate Crime and Violent Crime legislation inadequately protects Native Americans
 - Negative experiences with the police contribute to low reporting rates
 - Prosecution rates under hate crime and violent crime legislation remain low
- A disproportionate amount of Native Americans are currently incarcerated

Images



This sign is perhaps best taken ironically, as hate and violent crimes legislation is not often taken seriously on tribal lands, despite threats to the contrary.



A long history of separation between Native American justice enforcement and US Federal law enforcement has left state and federal enforcement agencies reticent to enforce policy on Native American lands.

Brief

Much study of the criminal justice system in the United States has focused around inconsistencies and unfairness within the system in dealing with ethnoracial minority groups. Of the ethnoracial minorities and their interactions with the criminal justice system, Native Americans have a less-examined relationship. A survey of treatment of Native Americans within the criminal justice system reveals a number of these inconsistencies. Native Americans are disproportionate victims of hate and violent crimes, are poorly covered by violent and hate crime legislative protection, and they are overrepresented in the prison populations of the states in which they inhabit, suggesting structural inequalities throughout the criminal justice system on either a state or federal basis.

The most striking analysis of Native Americans and the criminal justice system is that Native Americans continue to be disproportionately affected by violent and hate crimes, for which they are desperately under protected by hate crime legislation. While Native Americans comprise less than 1% of the population, they suffer 2% of hate crimes in the United States.

According to a 2004 U.S. Department of Justice study on “American Indians and Crime,” rates of violent and hate crime perpetrated against Native Americans painted a “disturbing picture of the victimization of American Indians and Alaska Natives.” The overall violent crime rate among American Indians and Alaska Natives stood 100 per 1,000 persons, twice that of African Americans and four and a half times that of Asian Americans. This number was up from a 2000 study by the Department of Justice that found the violent crime rate stood at 52.4 per 1,000 persons, where violent crime against Native Americans represented 1% of all violent crimes.

Despite the passage of the Violent Crime Control and Law Enforcement Act in 1994, Native Americans are still poorly protected against acts of violence. A University of Ontario study found that only 10% of hate crimes against Native Americans are reported to law authorities. Citing “historical and contemporary experience with the police, and the perception they do not take Native American victimization seriously,” the study mused that structural inefficiencies will likely cause hate crimes reported—and thus prosecuted—rates will remain low. The result of these inefficiencies is that “American Indians are more likely than people of other races to experience violence at the hands of someone of a different race,” with up to 70% of reported attacks being perpetuated against Native Americans by other the ethnoracial groups.

There are also a disproportionate number of Native Americans behind bars. A 2000 study by the Department of Justice estimated that 62,600 American Indians were under correctional supervision, accounting for over 4% of the Native American population. By comparison, an estimated 2% of whites and 10% of African Americans are currently incarcerated—meaning Native Americans are incarcerated at a rate 38% higher than the national rate. The U.S. Commission on Civil Rights associates this higher rate of incarceration with structural failures in the system, mainly regarding racial profiling of Native Americans and inadequate access to legal

counsel. Because of these inequalities, Native Americans, on average, serve longer sentences for the same crimes than any of the other races, and they also serve more time for the same offenses before being released.

The structural inequalities in the criminal justice system have resulted in two major issues for the Native American ethnoracial group in this country: first, they suffer a disproportionate number of violent and hate crimes than any other ethnoracial group in the country; second, a larger percentage of Native Americans are currently incarcerated than any other ethnoracial group. Finally, once in jail, Native Americans tend to spend longer under correctional supervision than any other ethnoracial group.

General References and Works Cited

Bureau of Justice Statistics Bulletin: Prisoners and Jail Inmates at Midyear, 1999.

Native American justice overview. www.allacademic.com/meta/p156023_index.html.

Northeastern State University Criminal Justice and Legal Studies Department.
<http://arapaho.nsuok.edu/~dreveskr/nacjr.html-ssi>

Ross, Jeffrey Ian. Native Americans and the Criminal Justice System. Boulder, Colorado: Paradigm Publishers, 2006.

Websites

American Indians and Crime. <http://www.justice.gov/otj/crime.htm>

Bureau of Indian Affairs (BIA). <http://www.bia.gov/>.

Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/abstract/anhpivc.htm>

US Department of Justice. <http://www.justice.gov/>