

Prof. Raymond Smith
Race and Ethnicity in American Politics
Maximilian Bottinger
April 11, 2016

Native American Criminal (In)Justice

Keywords:

1. Native American
2. Incarceration
3. Native Youth
4. Recidivism
5. Criminal Justice System

Key Points:

- Incarceration rates in the Native American population are 38% higher than the national average
- Relative to the white majority population in the US, Native American men are incarcerated four times as frequently; Native American women are six times more likely to be incarcerated.
- Native American youth represent 70% of the youth committed to the Federal Bureau of prisons, in spite of being only 1% of the national youth population.
- Native Americans proportionally experience the most police killings of all the racial groups in the United States.
- 70% of convicted Native Americans claim they had been drinking at the time of the crime they were accused of committing.

Description

This issue brief will discuss the widely unrecognized victims of a legal system in the United States that does unfortunately not live up to the standards set forth for it by the Constitution, namely Native Americans. Combined with the greater economic plight and near pariah status of Native Americans, this data should reveal a compelling precedent for widespread change for Native populations.

Brief

The issue of Native American criminal justice in the United States is characterized by stark dichotomies. For instance, while Native Americans barely make up 1% of the US population, they are significantly overrepresented in crime sentences and subsequently in prisons. Another possible dichotomy arises when one looks at the significance of this issue compared to the extent of its discussion, or lack thereof, in media circles. The statistics on Native Americans' interactions with the criminal justice system both at the federal and state level will certainly be surprising to many, and should be alarming to all.

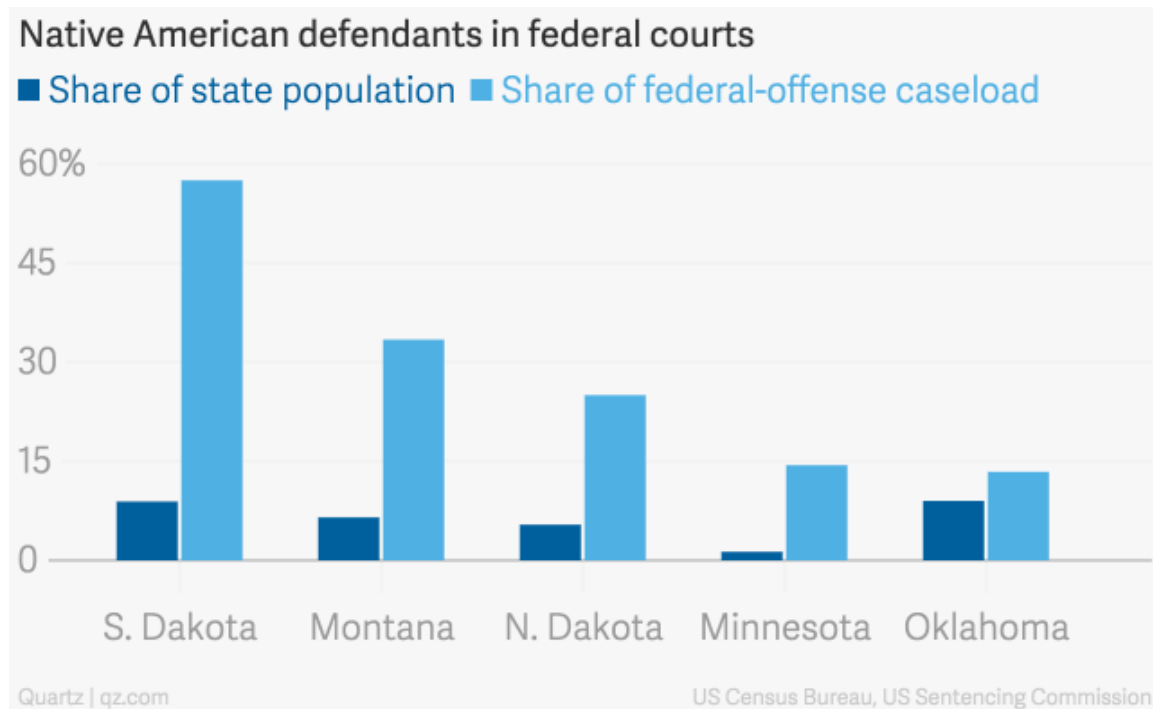


Figure 1: Native American defendants in federal courts

Looking at incarceration, we can see that incarceration rates in Native Country are significantly disproportionate to Native American population size, as well as to incarceration rates of other racial groups. While they comprise the smallest proportional racial group in the “Ethnoracial Pentagon”, Native Americans

comprise the 2nd-highest number of incarcerated individuals in state and federal prisons, behind African-Americans. The key statistic here is that Native Americans are 38% more likely to be incarcerated than the national average. Relative to the majority white population in the United States, Native American men are 4 times as likely to be admitted to prison as are white men, as are Native American women 6 times more likely to be incarcerated than white women. Additionally, Native Americans are held in local jails four times as much as the national average. The example of South Dakota highlights this issue quite well: Native Americans compose 60% of the federal-offense caseload, but only 8.5% of the population.

This is certainly one reason for Native Americans experiencing harsher sentencing than other racial groups: federal court procedures generally produce longer sentences than state- and local-level procedures do. Yet this cannot suffice in explaining the immense racial disparities in the criminal justice system faced by Native Americans. Instead, we must additionally turn to socioeconomic factors, as these can determine the extent to which convicted Native Americans are able to proceed through the criminal justice process. With more than 25% of Native Americans living in poverty, it is difficult to imagine that many of those individuals convicted of violent crimes can afford representation other than public defenders. Such a lack of fiscal means can also discourage those convicted of launching expensive appeals processes, which further heightens incarceration rates.

Yet Native Americans are not only disproportionately convicted of crimes and imprisoned, they are also able to mark disproportionate victimization numbers. According to the U.S. Bureau of Justice Statistics, the rate of violent victimizations in

Native Americans 124 per 1,000 individuals aged 12 and older. This is more than double the rate of violent victimizations in African-Americans, the next-highest rate by ethnoracial group. It is notable here that 88% of violent crime carried out against Native American women is committed by non-Native perpetrators. Native Americans are also the ethnoracial group that is most likely to be killed by police officers



Figure 2: Standing Rock Reservation tribal court

When we look at Native American youth, we can see even more alarming statistics. The importance of viewing this data cannot be understated, seeing that 44% of the Native population in this country is under the age of 25. Furthermore, 70% of the youth committed to the Federal Bureau of Prisons are Native American, in spite of only comprising 1% of the national youth population. Yet these youth are not only being held in juvenile detention facilities; more so than any other

ethnoracial group, Native youth are transferred to the adult penitentiary system. The devastating effects of this treatment can be seen in the fact that youth who are transferred to the adult criminal justice system have a 39% higher recidivism rate to violent crime. Conviction rates are additionally significantly higher among tribal youth (92%) than among non-tribal youth (87%).

Although the above situation is undoubtedly bleak, there are actions that the federal government can take in order to prevent incarceration rates and crime statistics from increasing further. Such actions would contribute to what Jake Flanagan calls the “communitarian infrastructure”, which has been shown to mitigate crime. Seeing the devastating crime and incarceration rates among Native youth, one of the most effective strategies that both federal and state governments can adopt is to fund family and child services on reservations, as well as tribal juvenile facilities. This funding can also be directed towards the development of rehabilitation centers due to the rampant alcoholism in Native populations and the role that alcohol plays in crimes committed by Native Americans: 70% of those convicted of violent crimes claim to have been under the influence of alcohol at the time of the crime.

Works Cited

“American Indians and Crime”. U.S. Bureau of Justice Statistics.

<http://bjs.gov/content/pub/pdf/aic.pdf>

“Native Lives Matter”. Lakota People’s Law Project.

<http://www.docs.lakotalaw.org/reports/Native%20Lives%20Matter%20PDF.pdf>

“A Tangled Web of Justice: American Indian and Alaska Native Youth in Federal, State, and Tribal Justice Systems”

http://www.campaignforyouthjustice.org/documents/CFYJPB_TangledJustice.pdf

“Who Are Police Killing?”. Center on Juvenile and Criminal Justice.

<http://www.cjcj.org/news/8113>

“Native Americans are the unseen victims of a broken US justice system”. Flanagin, Jake. <http://qz.com/392342/native-americans-are-the-unseen-victims-of-a-broken-us-justice-system/>

“Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System”. Centers for Disease Control.

<http://www.cdc.gov/mmwr/pdf/rr/rr5609.pdf>