

Violence Against American Indian and Alaska Native (AIAN) Women and the Criminal Justice Response: What is Known

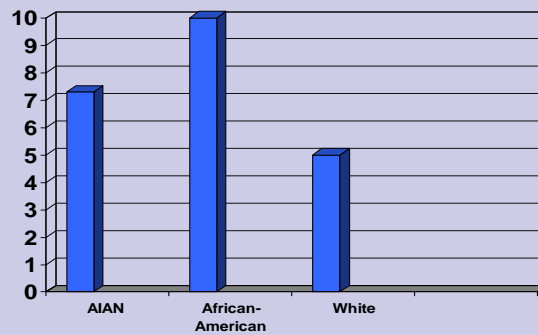
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* Opinions or points of view expressed are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.



Average Annual Homicide Rate per 100K, SHR 1976-2004



Like all women, AIAN women are more likely to be killed by known offenders compared to strangers; the greatest likelihood is to be killed by an intimate partner.

**County Level Data Show Greater Variation,
With Some Having Significantly Higher Rates
Compared to National Averages**

Mean (\bar{x}) = 27.5
Median = 13.5
Standard Deviation = 59.0

5 Lowest Rates

San Bernardino County, CA	2.06
Sandoval County, NM	2.61
Sacramento County, CA	2.79
Fresno County, CA	3.10
Bethel Census Area, ALAS	3.18

5 Highest Rates

Bristol Bay Borough, ALAS	78.13
Latimer County, OK	80.97
Harnett County, NC	89.69
Dakota County, NB	92.17
BonHomm County, SD	555.56

Counties with at least 1% AIAN population, Indian Health Service 1994-1998.

What do we know about *nonfatal violence* against AIAN women?

■ Reports to Police

- Uniform Crime Reports
- National Incident Based Reporting System

We Know that less than half of assaults against women is ever reported to police and even fewer rapes!

Does Prosecution Data Reveal The True Picture of Victimization?

NCVS Data:

159 Assaults Against AIAN Women



80 (50% reported)



28 (17% of Total) Resulted in Arrest



Even Fewer Result in a Conviction

Surveys

■ Sample Selection?

- Random Versus Convenience Samples?
 - There is no way to make generalizations from results using convenience samples

 - Two National Studies Have Used Random Samples
 - National Crime Victimization Survey (**NCVS**)
 - National Violence Against Women Survey (**NVAWS**)
 - *Includes Stalking Victimization*

 - Two Local Studies Have Used Random Samples
 - **Harwell et al. (2003)** – Individuals living on or near reservations in Montana ($n=1,006$), random telephone survey
 - **Yuan et al. (2006)** – Individuals living within tribal lands of six tribes ($n=1,368$), selected from tribal lists, voter and health registries

Measuring Violence

- Differences in Definitions of Violence?
 - Including Verbal as well as Physical Violence?

- Even When Intending to Measure the Same Acts of Violence, Question Wording Across Surveys is Often Extremely Different

“Have you been raped in last 6 months?”

Or

“Have you been sexually attacked?”

Or

“Have you been forced or coerced to engage in sexual intercourse (vaginally, anally, or orally) by someone, even someone you know?”

NCVS Rape Screening Questions

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?*

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.

NVAWS Rape Screening Questions

- ◆ (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?

Other Measurement Issues

■ Differences in Time Reference?

- In Lifetime?
- Since you were 18?
- In last 12 months?

■ Differences in Cut-off Age of Sample?

- Adults 18 years or older?
- Age 12 and older?
- Age 16 and older?

■ Differences Survey Context?

- As Crime Survey?
- As Health Survey?
- As Safety Survey?

■ Other Methodological Differences?

- Telephone versus In Person Surveys
- Cultural Sensitivity of Interviewers
- Anonymity and Confidentiality?
- Bounding (NCVS)

Measurement Recommendations:

- It is important that victimization of AIAN women continue to be monitored by already existing national surveys.
- The NCVS is only ongoing survey conducted annually. This survey DOES measure AIAN violence both on and off tribal lands: **36% of AIAN respondents in current NCVS survey reside in rural locations - Census data shows about 39% of AIAN residing in rural locations.**

Measurement Recommendations Cont.

- 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 AIAN women.
- Over-samples of the AIAN population in the NCVS should be conducted at least biannually.

Measurement Recommendations Cont.

- The NVAWS currently includes an over-sample of AIAN women, **BUT** (1) no way to monitor violence over time, (2) the sample is not large enough to estimate annual incidence rates.
- NVAWS enables us to understand the cycle of violence in the lives of women as it measures violence over the lifecourse, not just victimizations that occurred within the last year.
- Future survey research efforts should be focused on understanding the causes of violence against AIAN women. To do this, collection efforts must be theoretically guided.

Measurement Recommendations Cont.

- Surveys conducted at the local level should utilize existing measures to make comparisons across locales meaningful as done by Yuan et al. (2006).
- We contend that new resources directed at counting “how many” AIAN women are victims is misguided.
- The limited resources that are available would be better invested in developing interventions and prevention programs, scientifically evaluating their efficacy for protecting AIAN women, and making sure all female victims of violence have safe havens in the meantime.

Criminal Justice Issues

- Victimization against AIAN women living off tribal lands, who comprise nearly 60% of all AIAN women (US Census), have access to the same adjudication mechanisms as other women.
- However, AIAN women victimized on tribal lands often face a complex web of jurisdictional issues that do not affect those who are victimized off tribal lands.

Laws Affecting Victimization on Tribal Land

- **Major Crimes Act (1885)**
 - The federal government asserted jurisdiction over certain crimes committed in Indian Country under the *Major Crimes Act* (1885).
- **Indian Civil Rights Act (ICRA) of 1968**
 - The current limits imposed by the ICRA mandate that Tribal governments are not allowed to sentence offenders to more than \$5000 in fines, and/or one year in jail, or both (ICRA 25 U.S.C. § 1302 (7) Constitutional Rights).
- **Public Law 280**
 - Gave State governments jurisdiction over offenses committed in Indian Country in mandated and some volunteer PL280 states – some states and tribes have since retroceded authority back to the federal level.

Other Factors That Plague Adjudication

- Insufficient Funding, particularly on PL280 lands, where federal funds are not received
- Inadequate training
- Victims' lack of trust for outside authority and unwillingness to report victimizations, particularly those perpetrated by non-AIANS.

Other Barriers

- Social isolation of many tribal lands that precludes some AIAN women from obtaining adequate medical care.
- Cultural barriers also prevent some AIAN women from seeking assistance from those *outside* the community.

A Few CJ Recommendations

- Evaluate the efficacy of “cross-deputization” mechanisms currently in place between several tribal and state law enforcement authorities.
- Improve efforts at collecting and maintaining official police report data at the local level – National Incident Based Reporting System (NIBRS) is best format for such endeavors.
- Improve cultural understanding of outside law enforcement officials (e.g. state and federal) in addition to increasing the understanding of all officers to issues regarding violence against women, which is often cyclical.

CJ Recommendations Cont.

- Examine and ameliorate the problems associated with maintaining “Full Faith and Credit” for Personal Protection Orders (PPOs).
- Tribal governments should amend their tribal codes to include all forms of violence.
- Even though Tribal Nations are limited by the ICRA, resources should still be provided to ensure offenders are held accountable at the tribal level as well.

The criminal justice system should operate in tandem with culturally sensitive interventions, when desired by victims.

Preventing Violence Against AIAN Women?

- Research intended to evaluate the efficacy of programs and policies created to protect AIAN women must employ scientifically rigorous standards 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.
- 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 often do more harm than good.