

CRIME AND THE NATIVE AMERICAN

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PREFACE

It is believed that Native Americans have a high frequency of criminal behavior and, in addition, are subjected to great discrimination by the criminal justice system, as are other minority groups. The present book explores the data and research that has been conducted on criminal behavior in Native Americans in order to see whether these beliefs are indeed valid.

Although a number of articles have appeared in scholarly journals on criminal behavior in Native Americans, only two books have appeared on the topic (both cited in the present book), and both of these were edited books. Edited books have the disadvantage of lacking both comprehensiveness and a coherent and coordinated presentation. This book is the first by a single author on the topic of criminal behavior in general in Native Americans.

To prepare this book, I searched out and read all published articles on criminal behavior in Native Americans. Some material on Native Canadians is included as well since Native North Americans do not necessarily divide into two distinct groups based on the division of the land by the United States and Canada. However, the two criminal justice systems are quite different, and so conclusions from research on the criminal justice system in one of the nations may not generalize to the other.

The literature review is not comprehensive for criminal behavior in Native Canadians. There was some difficulty in obtaining sound research studies on criminal behavior in Native Canadians because many of the publications were government documents. Government documents do not always meet the criteria for sound research and have not undergone peer review as have articles published in scholarly journals.

Although much has been written about criminal behavior in Native Americans, this survey found that many writers make little effort to support their opinions with research studies. Furthermore, some of the

research has been methodologically poor. For example, estimates of the incidence of criminal behavior in Native Americans have made no attempt to control for the age structure of Native Americans (the Native American population is younger than the general population) or their lower socioeconomic status.

In addition to reviewing what is known about criminal behavior in Native Americans, this book identifies issues and topics which have been neglected and errors in previous research which must be corrected in future studies. It is hoped, therefore, that this book will stimulate further studies on criminal behavior in Native Americans.

D.L.

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CRIME AND THE NATIVE AMERICAN

Part 1

INTRODUCTION

Chapter 1

INTRODUCTION

The problem of crime in Native Americans should be of concern to public policymakers for two reasons. The first is that it is claimed that criminal behavior is more common in Native Americans than in the rest of the population. If this were to be true, then effort should be expended to prevent crime in this group. To place this problem in a broader context, it is important to note that other nations have apparently experienced similarly high crime rates in their aboriginal groups, including Australia and Canada (Frideres and Robertson, 1994).

Secondly, the long history of oppression of the Native American by the dominant culture has led to concern among policymakers about the present welfare of Native Americans. The government has several agencies concerned with Native Americans (including the Indian Health Service and the Bureau of Indian Affairs), and the existence of these agencies reflects the concern of the society with the social and personal conditions of Native Americans. In this context, a high crime rate in Native Americans would be an area of special concern.

This book is designed to review what we know at the present time about crime in Native Americans, whether Native Americans are discriminated against by the criminal justice system, and how crime might be prevented in Native Americans. It focuses on the results of empirical research and suggests areas which need further empirical exploration.

Before beginning our review of crime in Native Americans, it will be useful to review briefly the history of Native Americans.

The Demographic History of Native Americans

Native Americans are genetically similar to Asian Mongoloids and arrived from Asia, probably crossing from Siberia to Alaska in sever-

al migratory waves from 10,000 to 40,000 years ago. Estimates of the aboriginal population of North America in 1492 A.D. range from 900,000 (Kroeber, 1939) to 18 million (Dobyns, 1983). Thornton (1987) suggests five million for the United States and two million for Canada (out of a world population of about 330 million to 540 million). Estimates of their life expectancy back then range from 19 to 43.

The Native American population decreased from 5 million to about 250,000 in 1900 for several reasons (Thornton, 1987; Snipp, 1992).

(1) An increased death rate due to diseases brought by European settlers, such as smallpox, measles, cholera, diphtheria, and pneumonia.

(2) Warfare and genocide, particularly for some tribes such as the Cherokee.

(3) Removal and relocation from one geographic area to another, especially after the Indian Removal Act of 1830, with high death rates in transit.

(4) Relocation which often split tribes, so that, for example, the Seminole are to be found in Florida and Oklahoma; and combination of tribes that were unrelated, such as the Shoshoni and Arapaho on the Wind River Reservation in Wyoming.

(5) European influences (particularly from missionaries) which destroyed Native American ways of life.

(6) The destruction of their environment, especially the buffalo (from 60 million in aboriginal times to less than 1,000 by 1900) which hastened the social and cultural collapse.

(7) A decrease in fertility as a result of the new diseases, forced migrations, and intermixture with European mates.

The Reservation System

The isolation and concentration of Native Americans began quite early but was legally justified by the Indian Removal Act of 1830. After passage of this act, many tribes located east of the Mississippi River were relocated to the west of the river. The Iroquois (Seneca), for example, were moved from New York to Oklahoma. Those tribes which did not move, such as the Ojibway in Wisconsin, had much of their territory confiscated (Snipp, 1992).

As the Anglo population migrated westwards, the tribes west of the Mississippi River were forced to give up much of the land that had

been granted to them, both those native to the region such as the Sioux, and those newly moved there such as the Cherokee. The reservations were often situated on the least desirable land, with few natural resources, and far removed from major urban areas.

The policy then changed toward forcing the Native Americans to assimilate, and the Dawes Act of 1887 permitted the land controlled by Native Americans to be split into small parcels and given to individual Native Americans, with the aim of turning them into ranchers and farmers. In 1953, legislation was passed to remove reservations from their status as independent political entities and to start employment and relocation programs to encourage Native Americans to leave reservations for other parts of the United States. This approach was soon abandoned. However, whereas in 1930 only 10 percent of Native Americans lived in urban areas, by 1970 this percentage had risen to 48 percent (Gundlach et al., 1977). Some 20 percent of Native Americans in 1970 claimed no tribal identity and more than a third of Native American men had married white wives as compared to only 2 percent of African American men.

After 1950, the proportion of Native Americans living on reservations declined from roughly 50 percent to about 25 percent by 1980. In 1980, 336,384 Native Americans lived on reservations and about 14 percent of all Native Americans lived on reservations with poverty rates of 40 percent or more (Sandefur, 1989). Sandefur identified ten reservations with poverty rates of 40 percent or higher and female headship rates of 30 percent or higher, and a further eight reservations with poverty rates of 40 percent or higher but female headship rates of less than 30 percent. Eighteen of the 36 largest reservations (that is, with populations over 2,000) met the criteria for being “underclass,” that segment of the poor whose situation seems relatively immune to economic conditions and social programs designed to help.

To counter this poverty, programs exist to educate the youth so that they can more easily move into the mainstream society, and efforts are being made to develop the economies on the reservation through the exploitation of natural resources or the establishment of businesses, such as casinos.

Although there is much to criticize about conditions on the reservations,¹ many Native Americans are content to remain there, for the

1. Indeed, Mikel (1980) calls the reservations “concentration camps,” and the Bureau of Indian Affairs has been rightfully labeled “The worst federal agency” (Satchell, 1994).