

Chapter 3. Rural and Tribal Law Enforcement

Introduction

Popular culture often suggests that crime is mostly a feature of urban life; however, crime is not endemic to urban jurisdictions. Rural and tribal agencies face the same challenges as urban agencies while also working against issues that are truly their own. Rural America is no longer that depicted of *The Andy Griffith Show*, the 1960's sitcom about a small-town sheriff. As *The Economist* points out, "It would be difficult to reboot today. The loyal deputy position would have a high turnover rate and the sheriff would consider resigning for a job with family health insurance. The town council, meanwhile, would debate disbanding the police department altogether."¹

It's no surprise that law enforcement agencies in rural jurisdictions have smaller operating budgets due, in part, to their size and the demands being made on those agencies. Nevertheless, it is paramount that these agencies are funded at appropriate levels to ensure they have the resources, training, and equipment needed to safely and effectively do their jobs and protect the communities they serve. Yet, this is too often not the case.

[Quote: Small rural law enforcement agencies generally have many of the exact same issues and challenges that the larger agencies have – drugs, dealing with mental health issues, recruitment and retention, technology, training, etc. etc. – but the one significant constant difference is that the small rural agencies generally do not have the funding and resources available like the larger agencies have to deal with these challenges.² – Chief Michael Keller testimony]

Funding is not the only support that rural and tribal jurisdictions could use. Many of the recommendations in this chapter look to innovative solutions and new ways of thinking. Some simply involve planning and policy changes that can help bridge the resource gap.

Policing is only part of the picture. The criminal justice system holds almost 2.3 million people among the various types of correctional facilities nationwide.³ About 40 percent of these facilities are in rural jurisdictions that house 50 detainees or fewer.⁴ Local jails currently hold around 750,000 arrestees across the country on any given day, many of whom spend up to several months in detention.⁵ As a result, these local jails are charged with an enormous responsibility similar to prisons that house the convicted.

Rural and tribal jurisdictions face different challenges when it comes to ensuring that their detention facilities have the capacity to properly serve their populations, particularly regarding the health and safety of their inmates and staff. Federal agencies can play a supportive role in helping these smaller jurisdictions create the necessary capabilities to meet the needs of local jails.

Rural and tribal law enforcement are grouped in this chapter because the challenges they both face are significant, are often similar (i.e. the challenges associated with smaller, resource-constrained agencies) and, at times, intersect. Recommendations that address both are labeled as such and considered in order. All of the recommendations in this chapter are designed to strengthen law enforcement agencies and close the public safety gap found in rural and tribal communities. Through proposed policy and funding support, these recommendations lay the groundwork to implement promising practices that will create long-term improvements to the structure of law enforcement agencies.

3.1 Rural Law Enforcement

¹ <https://www.economist.com/united-states/2020/03/12/small-towns-and-rural-parts-of-america-have-a-policing-problem>

² *President's Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 19, 2020) (written statement of Chief Michael Keller, Andover Kansas Police Department).

³ <https://www.vera.org/downloads/publications/out-of-sight-growth-of-jails-rural-america.pdf>

⁴ https://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1479/RAND_RR1479.pdf

⁵ https://www.bjs.gov/content/pub/pdf/ji18_sum.pdf

Background

Federal agencies use more than two dozen definitions for “rural,” and these vary based on the purpose of the word. For the purpose of this chapter, the commission defines rural as an area fewer than 50,000 persons. Looking more broadly, rural areas make up 97 percent of the United States’ land area and are home to 60 million people.⁶ Urban areas make up only 3 percent of the entire land area of the country but are home to more than 80 percent of the population.

A report published by the Community Orientated Policing Services (COPS) Office details the results of five “listening sessions” with the leadership of rural law enforcement agencies in five states.⁷ These sessions explored the challenges that rural law enforcement departments face, and to identified and assessed their most pressing needs within those communities. The report acknowledges that “rural law enforcement agencies share many of the same topic issues and challenges that the larger agencies and communities have. However, often they do not have the funding or resources to address these issues.”⁸

Larger, metropolitan law enforcement agencies often get the most attention, but the smaller agencies make up the bulk of law enforcement agencies in the United States. According to the U.S. Department of Justice, Bureau of Justice Statistics (BJS),⁹ nearly half of all law enforcement agencies in the U.S. have fewer than 10 sworn officers on staff, 73 percent have fewer than 25, and 86 percent have less than 50.

PULL QUOTE: “Rural Law Enforcement is one of the oldest and most versatile forms of real policing in our great Nation. Without the funds, equipment, technology, manpower and assistance from our bigger brother and sister agencies, we are not able to provide the services nor meet the expectations of what our citizens want, and expect from their public safety providers”.¹⁰ William C. Brueggemann, Cass County Sheriff, Plattsmouth, Nebraska

While the larger urban law enforcement agencies boast thousands of officers, detectives, forensic specialists, and SWAT teams, a 2015 report from the Bureau of Justice Statistics found that 70 percent of the 18,000 police departments nationwide serve populations of 10,000 or less, and about 50 percent employ ten officers or fewer.¹¹

These rural agencies have important jobs that protect large swaths of the country, and they must be recognized as significant players in the protection of our national public safety. The most serious challenge for these smaller jurisdictions is overcoming the lack of funding that impedes them in the fulfillment their duties. However, far more must be considered beyond simply throwing money at the issues to make them go away.

Current State of the Issue

Budget challenges and geographic isolation contribute to problems with staff recruitment, retention, and training for small, rural, and tribal law enforcement. Constrained budgets leave little money available for hiring or training, and salaries at these agencies are often not competitive with those at larger agencies or address increases in the cost of living.

[CROSS REFERENCE RECRUITMENT AND TRAINING]

This also has an impact on retention at many smaller agencies, as salary is the most frequently cited reason why

⁶ The Census Bureau identifies two types of urban areas—“urbanized areas” with populations of 50,000 or more and “urban clusters” with populations of between 2,500 and 50,000 persons—and defines as rural “all population, housing, and territory not included” within such areas. The Office of Management and Budget (OMB) categorizes entire counties as either rural or as part of a Metropolitan Statistical Area containing “at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

⁷ <https://cops.usdoj.gov/RIC/Publications/cops-w0892-pub.pdf>

⁸ <https://cops.usdoj.gov/>

⁹ <https://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>

¹⁰ Verbal Statement from the Co-Chair of the Rural and Tribal Law Enforcement Working Group, William C. Brueggemann, Cass County Sheriff, Plattsmouth, Nebraska.

¹¹ <https://www.bjs.gov/content/pub/pdf/nsleed.pdf>

officers leave an agency, regardless of location.¹² In many cases, the level of salary, benefits, and working conditions that rural governments offer trail those found in larger nearby agencies or departments that can offer more competitive salaries and benefits.

Most police officers do not join the force solely for the money; instead, they express the desire to serve and enforce the law.¹³ However, like other professions, as officers' progress in their careers, their income increases in importance and becomes a key factor in life decisions. Therefore, appropriate pay is essential to keeping staff morale and job interest high. Law enforcement agencies will have an easier time maintaining a quality force if they eliminate salary issues and reduce the salary gap between departments.

Training can also have an impact on retention and similarly exposes a gap between agencies. This is not always a problem of resources, but is sometimes a problem of access to training opportunities. These facilities and equipment are often not available in areas with smaller populations, and they often require travel to training centers, which limits the ability of these smaller agencies to take advantage of them.

Federal grant funding needs to be made more readily available and accessible to and more proportionally distributed to the smaller rural agencies. That way, smaller agencies can provide quality law enforcement services to their communities commensurate with their larger counterparts. Without federal assistance, agencies often do not have available funding to invest in new technology and purchases, such as in-car cameras, body cameras, drones, license plate readers, or training.

While not all of the following challenges are faced by all agencies, these are common themes when providing services in rural communities.

3.1.1 Rural and tribal law enforcement agencies should provide competitive salaries and benefits that are close to market average relative to cost of living expenses to retain officers and compete with larger agencies.

Throughout the 2000s, law enforcement recruitment has concerned police executives and administrators from agencies of varying size and locale. According to a 2015 report from the Bureau of Justice Statistics, half of law enforcement agencies in the United States have fewer than 10 officers, and a significant number of law enforcement agencies—approximately 70 percent—are the smaller agencies that serve communities of fewer than 10,000 citizens. Identifying sources of the recruiting challenge remains problematic because symptoms might vary by jurisdiction. Nevertheless, departments can identify dimensions and categorize them as external to policing (e.g., economic and social conditions and work–life changes) or specific to the profession or specific departments (e.g., low pay or benefits).

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The Police Recruitment and Retention for the New Millennium report finds that police do not strongly consider pay and benefits when initially joining the force “but, by the end of the first year, [those who resign] reported greater dissatisfaction with these and less commitment to police work.”¹⁴

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Officer salaries vary wildly across the nation, which gives some measure of the scale of law enforcement salaries in rural areas. Given the variations in the cost of living in different markets, one cannot expect the salaries to be the same because they are not always comparable. Rather, salaries should be considered in light of regional market rates and should also consider that officers will compare their income to officers in neighboring districts.

One solution is that local departments should pay salaries that are within 5 percent of the top rates paid in the region after adjusting for any difference in the cost of living. This will provide consistency as officers consider what neighboring departments pay their employees.

¹² https://books.google.com/books/about/Management_and_Supervision_in_Law_Enforc.html?id=8G5GijO7tvsC

¹³ https://www.researchgate.net/publication/290810192_Why_do_people_become_police_officers_A_study_of_reasons_and_their_predictions_of_success

¹⁴ https://www.rand.org/content/dam/rand/pubs/monographs/2010/RAND_MG959.pdf

In addition, benefits also play a role. As officers progress in their careers, health and retirement plans become increasingly important. Providing quality forms of these benefits will help retain older, more experienced officers.

PULL QUOTE: “Small and rural agencies are finding it even more difficult to find and recruit officers into the profession. This is in large part due to the smaller agencies not being able to compete with the larger agencies in salaries, benefits, and advancement opportunities.”¹⁵ - Chief Michael Keller, Andover Kansas Police Department

3.1.2 States should establish a tuition scholarship program for both undergraduate and graduate coursework that is available to law enforcement officers who serve in rural and tribal areas.

Given the rising costs related to higher education, many degree and certificate holders—or those interested in pursuing a career that requires education beyond the secondary level—are highly conscious of the trade-offs of obtaining that education compared to the salary of a new job. Many states set college requirements for police officers, which is something localities have no control over. Additionally, sheriffs and police chiefs often demonstrate a preference for new officers with advanced education. As such, lower paying rural department positions will often appear unappealing in this cost–benefit analysis, which can be alleviated by providing some type of tuition coverage.

Offering scholarships or tuition reimbursement can serve as both an added bonus for potential applicants and a retention tool. States that provide this would take the responsibility off localities while also alleviating new applicants who are concerned about making up the cost of their higher education while on the job. In addition, officers will see the investment that is being made in their careers, which fosters commitment to the job.

Offering scholarships encourages further education, which adds value to the department through an increased knowledge base that extends beyond basic training and criminal justice studies. Many departments might find this variety of added knowledge useful, including education in computer programming, psychology, forensics, and foreign languages.

3.1.3 The Department of Justice should provide scholarships to law enforcement officers attending post-secondary education with scholarships, loans or debt forgiveness.

Rural and tribal agencies need college educated professional police officers just as much as urban agencies. Studies have shown that “law enforcement personnel, with some college education (typically two-year degrees), use force much less often than those with little to no higher education.” In the event that the educated officers do use force, it is more often in line with what is considered “reasonable.”¹⁶ Education enhances an individual’s perspective on complicated issues that increasingly transcend traditional law enforcement interventions. An educated law enforcement officer also engenders more community confidence and support. They are better able to communicate with a diverse population and have an increased understanding of social strains, racial inequities, and disparities in the criminal justice system that often underline the root of crime.

These are substantive and compelling reasons to establish a federal program that assists police officers who are interested in pursuing higher education. In the past, every police officer in the United States was once eligible for free college.

The Law Enforcement Assistant Administration (LEEA) funded educational programs, which significantly increased the education and professionalism of the policing profession, upon its establishment as a federal agency pursuant to the Omnibus Crime Control and Safe Streets Act of 1968 under the Department of Justice. One way to accomplish the proposed recommendation would be to have the LEEA reimburse law enforcement personnel of state, local, and county agencies up to 75 percent of the cost of tuition for undergraduate or graduate coursework at any accredited institution of higher learning. Through a simple IRS rule change, the remaining 25 percent of tuition costs and the cost of books and supplies could be reported on the personnel’s tax return and subject to a “lifelong learning” tax credit, even if the individual did not itemize deductions. Therefore, the net costs of pursuing education would be at or near

¹⁵ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 19, 2020) (written statement of Chief Michael Keller, Andover Kansas Police Department).

¹⁶ Edwards, Bradley D., “Perceived Value of Higher Education Among Police Officers” (2017). *Electronic Theses and Dissertations*. Paper 3285. <https://dc.etsu.edu/etd/3285>

zero. Personnel would have to claim the reported reimbursement as income (1099-MISC), which would be subject to tax during that reporting year. This would have a nominal impact.

The program would be administered by the LEAA under the Law Enforcement Education Program (LEEP), meaning that requests for reimbursement would be made directly to the LEAA and then disbursed directly to the law enforcement personnel. This would eliminate the potential for interference or a lack of support by the personnel's agency or local governing body.

PULL QUOTE: "The LEEP provided support to more than 100,000 law enforcement officers obtaining a higher education degree. The LEAA is needed now even more than it was in 1967 to support recruitment, retention and the professionalism of law enforcement officers. Failure to include an LEAA with the current Commission's recommendations would be a lost opportunity."¹⁷ - Sheriff Mark D. Napier, Pima County Sheriff's Department

This program would also have a positive impact on retention. An officer who spends four years obtaining an undergraduate degree with a requirement to remain in the field for an additional three years would have at least seven years in this career field. At this point, compensation is generally competitive as it increases over time with tenure. With time, personnel also become eligible for promotion and special assignments outside patrol duties. These personnel are less likely to leave, and the nature of employment in law enforcement becomes more attractive.

PULL QUOTE "Higher education scholarships, made available to law enforcement officers, will have exponential benefits to officers and the communities they serve. Education increase critical thinking skills, better productivity, and will improve the quality of services to citizens." - Christian Dorton, Senior Police Officer, Houston Police Department and member of the Data and Reporting Working Group

3.1.4 Department of Justice should require training vendors to establish a process to ensure that rural and tribal law enforcement officers are provided equal opportunities for training registration.

Departments with established training directors and budgets can easily approve and make payments through their online employee training programs. These streamlined processes allow for employees to request training, receive approval, register, pay, and track employee participation quickly and efficiently.

Vendors often prefer automated registration processes to ensure that they have full capacity and prompt payment. Rural and tribal law enforcement offices are often challenged with more manual and time consuming processes for training requests, approvals, and payment. As a consequence, they may lose their registration space due to longer delays, slower payments, or possibly even nonpayment for training registration fees.

Vendors must develop a process that allows adequate time for smaller offices to process requests for training and payment. While vendors may provide priority registration for rural or tribal offices, they must also consider the approval processes in these smaller agencies to ensure that these offices are afforded the same learning opportunities.

3.1.5 States should develop a "pay the backfill" reimbursement program to assist small and rural agencies with schedule coverage to allow their law enforcement officers to attend job-critical training.

Training shortfalls in small departments are typically due to lack of coverage or backfill when an officer's work schedule conflicts with their training schedule. This is particularly impactful to communities that only have one or two officers' on-duty at any one time. Law enforcement agencies require a backfill overtime officer when a permanent officer needs to be out of the office to participate in approved training courses that are of critical importance to warrant backfill overtime.

Colorado promotes a backfill course fulfills an agency's expense of paying for a police officer to temporarily fill a short-term vacancy left by another officer, usually at an overtime rate. This can include officers who must be away

¹⁷ *President's Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 19, 2020) (written statement of Sheriff Mark D. Napier, Pima County Sheriff's Department).

from a post for the purpose of receiving training.¹⁸

The backfill program is meant for agencies with 10 or fewer officers. Implementing this project would allow officers more flexibility to get the training they need while also ensuring that their departments are not short-handed during the training sessions.

3.1.6 The Department of Justice should sponsor regional training centers or partner with existing regional or state training centers while ensuring the specific needs of rural and tribal agencies are met in a local setting.

Providing transportation and related costs for out-of-state experts can strain local budgets, as does sending officers to training in other jurisdictions. Local trainers can reduce the overall cost of the training program by eliminating costs associated with travel, which also saves money for any federally or state-funded training programs.

Additionally, developing more local and regional training programs further increases the training opportunities made available to officers in rural counties. A local training center would allow for trainings to be held more often in the region, and officers would not have to spend as much time away from their departments to complete the requirements.

One solution to accomplish this is to reinstate the COPS Office's national network of Regional Community Policing Institutes (RCPIs), which were designed to build capacity for law enforcement agencies across the country to engage in community policing and focused on the needs of small and rural agencies.¹⁹

In the process, these regional agencies should make use of local expertise when possible, particularly when addressing tribal-related concerns. Visiting trainers may be unfamiliar with jurisdiction, culture, and focuses that are unique to their specific areas. Using a trainer from a nearby department can expand training possibilities, as each department has their own unique skill set. For example, a detective in a nearby county with known interrogating skills or a computer forensics examiner may be a more effective instructor than someone who is unfamiliar with the character or the needs of the locality. Therefore, the DOJ could focus on developing Train the Trainer programs that develop the expert's training skills.

An analysis of the strengths and weaknesses of the RCPI Institute program sponsored by the COPS Office may provide insight into best practices that could be replicated nationwide.

3.1.7 The Department of Justice should conduct a needs assessment to address training needs in rural and tribal law enforcement.

Training is essential to any effort to improve law enforcement activities nationwide. This is particularly key for rural departments, which do not have the same access to training as larger, urban jurisdictions.

However, not all training is equal to others, and jurisdictions have different requirements when it comes to policing their communities. Therefore, training should conform to fit those particular needs. This will help make certain that federal, state, local, and tribal governments get their money's worth for these training programs.

While local departments will likely engage in some level of evaluation when it comes to their own training programs, many rural departments do not have the extra staff or appropriate skill set for developing advanced systems. Additionally, the Department of Justice has considerable experience in measuring the outcomes of training programs, and it has the ability and resources to compare multiple jurisdictions.

By working with rural and tribal law enforcement agencies to evaluate their training needs and, therefore, maximize their training outcomes, the DOJ would help stretch valuable resources at the local level while both increasing the impact of federally funded training programs and strengthening the responsiveness of rural agencies.

Capacity Building of Jails and Detention Centers

¹⁸ <https://www.colorado.gov/pacific/post/very-small-agency-backfill-program>

¹⁹ <https://www.hsd.org/?view&did=461948>

The criminal justice system holds almost 2.3 million people among the various types of correctional facilities nationwide. About 40 percent of these facilities are in rural jurisdictions that house 50 detainees or fewer.²⁰

Local jails currently hold more than 700,000 arrestees across the country on any given day, many of whom spend up to several months in detention. As a result, these local jails are charged with an enormous responsibility similar to prisons that house the convicted.

Rural areas face different challenges when it comes to ensuring that their detention facilities have the capacity to properly serve their populations, particularly with regard to the health and safety of their inmates and staff. These challenges require adequate resources and training that may be cost-prohibitive for less-funded agencies. Federal agencies can play a significant role in helping these smaller jurisdictions create the necessary capabilities to meet the needs of local jails.

3.1.8 Congress should provide funding to the Department of Justice to help rural communities provide equipment and training that meets the public safety standards of detention facilities.

The costs associated with jails and prisons are not limited to construction, maintenance, and staff salaries. Other costs include related necessities, such as medical facilities, medications, security equipment, monitoring technology, and training for staff. These line items are often the most likely to suffer in lower-funded jurisdictions. Many become the responsibility of the locality. When faced with a lack of funds, these localities may be forced to do without services that are deemed important but not essential to daily operations.

Differences in spending between high-density and lower-density regions can be significant. New York State boasts the highest population density in the country and also boasts the highest amount spent per inmate at \$70,000. In comparison, Alabama—which has a quarter of the population density of New York—spends the least at \$14,000 per inmate.²¹ That is a difference of 500 percent, which well exceeds the difference in cost of living (less than 200 percent).²²

PULL QUOTE: “No law enforcement officer should ever be required to provide or supplement protective gear or firearms out of their own pockets. . . . In most rural areas, law enforcement can only afford to upgrade vehicles, safety equipment, firearms, non-lethal weapons, and technology when grant funds are available. The result is under equipped officers who are at a significant safety disadvantage when out in the field.”²³ Ziebach and Corson County State’s Attorney Cheryl Laurenz-Bogue

Federal assistance could significantly alleviate these funding gaps in fundamental ways, which include providing much-needed relief to rural jurisdictions, enabling prisons to provide their populations with proper health care, employing modern technology for monitoring inmates or detecting contraband, or training corrections staff to respond to an inmate’s mental health issue or another crisis.

3.1.9 The Department of Health and Human Services should examine the feasibility and effectiveness of regional mental health assessment centers and how to transport clients to them in rural areas.

The lack of funding and abdication of responsibility by mental health and substance abuse providers nationwide has left local law enforcement and jails with the responsibility to serve the most difficult clients. Correctional institutions provide more behavioral health services than any other provider in the country, as jails in New York, Los Angeles, and Chicago account for the three largest institutions that provide psychiatric care in the United States.²⁴ As many as half

²⁰ https://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1479/RAND_RR1479.pdf

²¹ <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending>

²² <https://www.nerdwallet.com/cost-of-living-calculator>

²³ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 19, 2020) (written statement of Ziebach and Corson County State’s Attorney Cheryl Laurenz-Bogue)

²⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4232131/>

of all inmates suffer from some sort of psychiatric disorder.²⁵ This fact demonstrates the need for a boost in behavioral health services in rural local jails and detention centers. Even more consequentially, it also points to the role that mental illness plays in crime and its prevalence among offenders.

[CROSS REFERENCE SOCIAL PROBLEMS]

First responders must often makes difficult decisions when encountering someone who may suffer from mental illness. Sometimes it's a question of life and death. Of the approximately 1,000 killed by police officers in the United States in 2018, 25 percent suffered from mental illness.²⁶

Some jurisdictions around the country have developed successful programs to target the problem directly, which often involve identifying the issue upon contact and providing behavioral health treatment resources as an alternative to incarceration. A few years after California's Substance Abuse and Crime Prevention Act was enacted in 2001, nearly 44,000 offenders entered treatment rather than incarceration.²⁷ About 70 percent of the participants were employed upon completion of the program.²⁸

These efforts can reduce community violence, incarceration rates, the risk of violence between officers and citizens, and the need to provide the level of such services within jails and prisons.²⁹ However, rural jurisdictions face particular challenges with implementing such programs, notably regarding how to fund and implement them over large geographical and sparsely-populated areas while reducing the burden on local law enforcement.

PULL QUOTE: "Many times, if an officer has to take an individual into protective custody because they are a danger to themselves or others, that officer is tied up with that individual for several hours. For our officers, it is a 2-hour, 127-mile one-way trip to transport that subject to a secured mental health facility."³⁰ - Andover Kansas Police Chief Michael Keller

Training and partnerships with mental healthcare professionals are hugely advantageous, as shown by the success of the following programs:

1. **Crisis intervention team** training helps teach officers and deputies strategies to de-escalate situations and identify steps on how to initially provide a mental health assessment to individuals who are experiencing a crisis before shifting these individuals to a qualified mental health provider. The federal government should prioritize funding for this training.
2. **Co-responder models** reduce law enforcement time spent on behavioral health treatment calls and divert individuals in mental health crisis from jails and emergency rooms.³¹ These models vary widely around the country, but they generally involve law enforcement, behavioral health field responders, and emergency medical services personnel to handle each situation using a team-based approach to identify the best course of action for the individual in crisis.
3. **Partnerships between local government, hospitals, and behavioral health providers** help confront the issues of substance abuse and mental health. The Bureau of Justice Assistance's National Training and Technical Assistance Center (NTTAC) provides a toolkit for law enforcement agencies looking to build such relationships.³²

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²⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4232131/>

²⁶ <http://jaapl.org/content/early/2019/09/24/JAAPL.003863-19>

²⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3859122/>

²⁸ <https://www.apa.org/monitor/julaug03/alternatives>

²⁹ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/04/policy-reforms-can-strengthen-community-supervision>

³⁰ *President's Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 19, 2020) (written statement of Chief Michael Keller, Andover Kansas Police Department).

³¹ <https://www.prainc.com/wp-content/uploads/2020/03/RespondingtoBHCrisisviaCRModels.pdf>

³² <https://bjatta.bja.ojp.gov/media/tta-spotlight/police-mental-health-collaboration-toolkit-%E2%80%93-resource-designing-and-implementing>

In Vail, Colorado, the Eagle Valley Behavioral Health System provides mental health services to all segments of the community through a collaboration of the existing service providers.³³The system is funded by the local nonprofit Vail Health hospital foundation.

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4. **Emergency detention orders** are tools that law enforcement personnel may use with court processes to detain a person believed to be an imminent threat to themselves or others due to a mental health disorder or substance use disorder. These orders help provide for the individuals' transportation and evaluation at the appropriate facility for either evaluation or admission. These are not always used by many rural and tribal areas, as there may be a lack of appropriate mental health facilities and assessment centers, and the distances to obtain these services may be too great.

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In Colorado, a number of co-responder models effectively address mental health crisis incidents by using team approaches that involve law enforcement, behavioral health field personnel and emergency medical system responders. This team approach ensures the person in crisis gets to the most appropriate resource. In Eagle County, Colorado, this approach has reduced emergency room admissions by 76 percent and committals to a regional mental health facility by 64 percent. This is significant, as it is a two- to three-hour drive for an officer or deputy each way.

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School Based Law Enforcement

The need for school-based law enforcement is essential as evidenced by school shootings and other gun violence seen across the nation. For years, much emphasis has been placed on security in urban schools, which have long been thought of as inherently more violent places as a result of their presentation in popular media and because they have historically been more violent places. Concerned about the increasing incidence of school violence, the National Sheriff's Association has moved to address the myriad of challenges surrounding this serious issue. Assuredly, everyone has a real and moral obligation to ensure our schools are zones of safety. While school violence is a valid national concern, it has an immediate effect most felt in local jurisdictions.³⁴

3.1.10. School jurisdictions that consider arming specially selected and trained school personnel as a deterrent should ensure that these personnel are capable and trained to prevent, recognize, and respond to threats of violence.

The need for school-based law enforcement is essential, as evidenced by school shootings and other gun violence seen across the nation. As the Associated Press reported, "Of the 10 deadliest school shootings in the U.S., all but one took place in a town with fewer than 75,000 residents, and the vast majority of them were in cities with fewer than 50,000 people."³⁵

For years, much emphasis has been placed on security in urban schools, which have long been thought of as inherently more violent places as a result of their presentation in popular media and because they have historically been more violent places.³⁶ However, non-urban areas are also susceptible to violence. Meanwhile, attention to and investment in school security in rural institutions remains low, particularly in comparison to urban schools.³⁷ This discrepancy can be addressed by treating the situation with the same seriousness that is placed on the urban environment, which can directly save lives.

³³ <https://www.eaglevalleybh.org/>

³⁴ <https://www2.ed.gov/offices/OUS/PES/studies-school-violence/school-crime-pattern.pdf>

³⁵ <https://www.chicagotribune.com/nation-world/ct-mass-shootings-small-towns-20180521-story.html>

³⁶ <https://www2.ed.gov/offices/OUS/PES/studies-school-violence/school-crime-pattern.pdf>

³⁷ <https://www.oecd.org/education/school/50293148.pdf>

They are intended to proactively identify and address behavior that might lead to greater conflict and reduce the overall risk of further escalation.³⁸ However, to accomplish these goals, School Resource Officers (SRO) must have adequate training beyond their role as law enforcement officers and be seen by other staff as a positive force rather than just a rule enforcer.³⁹

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The STOP School Violence Act improves school security by providing students and teachers with the tools they need to recognize, respond quickly to, and prevent acts of violence. Both BJA and the COPS Office offer grants to improve security within schools and on school grounds through evidence-based programs.⁴⁰

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3.1.11 Local law enforcement should collaborate with school districts and local schools to develop or enhance a comprehensive school safety plan that requires school safety training for all school personnel.

Schools across the country are becoming more security conscious with the increase in shootings. A comprehensive school emergency plan uses an “all-hazards” approach, “which takes into account a wide range of possible threats and hazards [and] includes those that might take place in the community that might impact the school.”⁴¹

These plans should consider a range of threats, including those that are weather-related and pandemics. Most importantly, they must account for the dangers associated with active shooters and other potential violent offenders. They should also be mindful of the unique characteristics of the school, its surrounding areas, and its staff.

Rural schools are not typically equipped with this type of threat assessment and response training, and they would benefit from working with local law enforcement, who also are highly familiar with potential concerns in the area. Together, they can use resources provided by the DOJ and Department of Education to devise plans that are specific to their needs. The federal government provides for several recommendations that can be included in such a plan through the school safety clearinghouse where school officials can find “actionable recommendations to create a safe and supportive learning environment where students can thrive and grow.”⁴²

3.1.12 The Community Oriented Policing Services Office should provide funding or grants that are designated specifically for rural and tribal school safety programs. These designations should include but not be limited to school resource officers and equipment for school safety.

One of the persistent challenges as it relates to school-based law enforcement is the absence of clearly defined roles and responsibilities. School-based law enforcement programs often follow the triad model, which is a blend of enforcing the law, counseling students, and teaching staff and students about safety issues. However, these responsibilities are often vaguely defined. The problem is often further exacerbated by a lack of communication between school administration and the officers.

In 2015, state officials in Texas passed legislation that requires school districts with at least 30,000 students to educate and train law enforcement who work in the schools. These training topics include de-escalation techniques, mental and behavioral health needs, mental health crisis intervention, child and adolescent development and psychology, positive behavioral supports, conflict resolution techniques, and restorative justice.

School administrators should also be trained on these topics and on the proper role of SROs and school safety officers (SSOs), and how to work collaboratively with them.

The DOJ should ensure that this training is viable for schools that may not have the necessary funding for this training

³⁸ <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2019/10/SFY-Two-Billion-Dollars-Later-Report-Oct2019.pdf>

³⁹ <https://cops.usdoj.gov/supportingsafeschools>

⁴⁰ <https://www.govtrack.us/congress/bills/115/hr4909/summary>

⁴¹ https://rems.ed.gov/docs/BuildingBlocksToSchoolSafety_ToolkitForEOPs.pdf

⁴² <https://www.schoolsafety.gov/>

and for the equipment necessary to put this training into practice.

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After the Marjory Stoneman Douglas High School Tragedy in Parkland, Florida, the governor mandated that all schools that did not have an assigned SRO should be covered by an officer or deputy from the local department. Florida established a guardian program, which hired previous military or law enforcement officers and provided them with training and equipment. The guardians became armed personnel whose sole duty was to stop an armed assailant at a school.

Florida has since transitioned from guardians to SSOs. The SSOs work under the school board and covers the schools that do not choose to participate in the SRO program. An SSO costs a school between \$20,000 to \$30,000 annually, whereas an SRO costs \$54,000 annually. The average rule is one SRO or SSO per 1,500 students, so many Florida schools need more than one SRO or SSO.⁴³

Originally, the SSO did not carry a police radio; however, they have since added radio training to their program. Overall, the SSO program has relieved the strain on local law enforcement for coverage within the school systems and has also provided schools a more cost-efficient option for security.

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Technology Within Rural Areas

3.1.13 State and local governments should ensure that all law enforcement officers have access to computer-aided dispatch, records management systems, and in-car computer systems to leverage their interconnectedness with national, state, regional, and local information sharing systems.

Computer-aided dispatch (CAD) is a system designed to automate and augment police dispatch and create a database of information collected from a department's activities.⁴⁴ CAD is now considered a standard in modern-day policing and should be networked with in-vehicle computers and given the ability to connect to national databases.

Although CAD provides state-of-the-art capabilities for most departments across the country, not all departments share equally in its benefits. Some departments do not have CAD as a standard tool, and others do not have the same level of technology or access to necessary databases and complementary systems.

As CAD has become seen as an essential tool for policing, state and local governments should ensure that their departments meet those standards through necessary funding and coordination. These systems should also contain a records management system (RMS) and in-vehicle computers systems.

An RMS is "an agency-wide system that provides for the storage, retrieval, retention, manipulation, archiving, and viewing of information, records, documents, or files pertaining to law enforcement operations. RMS covers the entire life span of records development—from the initial generation to its completion. An effective RMS allows single entry of data, while supporting multiple reporting mechanisms."⁴⁵

3.1.14 The federal government should provide start-up funding to for state and regional law enforcement agencies to have access to computer-aided dispatch, records management systems, and in-car computer systems.

These CAD, RMS, and in-car computer systems may take different forms in different states. Some may be a statewide system that agencies can pay to access, or it may be a number of linked regional systems that provide the same capabilities. By encouraging a system approach to CAD and RMS, regional and state-wide solutions can be developed, implemented, and supported, regardless of the agency size or vendor.

Many rural and tribal departments either cannot afford CAD, RMS, or in-car computer systems, or these systems comprise a large section of their annual budgets. These important systems help the officers and deputies work

⁴³ <http://www.fcpti.com/fcpti.nsf/pages/SROPD>

⁴⁴ <https://cops.usdoj.gov/RIC/Publications/cops-w0892-pub.pdf>

⁴⁵ <https://ucr.fbi.gov/law-enforcement-records-management-system>

effectively, document interactions, and work safely. Modern tools help rapidly report and query crime information, which helps underwrite local, regional, state, and federal databases. Unfortunately, there are hundreds of vendors for CAD and RMS systems, and each are for-profit companies that are predisposed to discourage collaboration between entities or the ability to have statewide systems. The emergence of cloud-based systems provides an opportunity for a national standard to be implemented, similar to what has been done with live-scan fingerprint and sex offender management systems.

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The Utah Department of Public Safety uses a software program that provides RMS connectivity for Salt Lake City, Utah, and four major counties: Davis, Weber, Tooele, and Summit. These regions cover 65-75 percent of the population of Utah.⁴⁶ Although the initiative is not completely statewide, any law enforcement agency can access the information, regardless of whether they contribute. There is no state mandate or statute requiring the sharing of RMS data.

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3.1.15 States should use FirstNet Authority in rural parts of the United States to provide secure and reliable data access to in-car computer systems.

FirstNet is a national broadband network that is dedicated to public safety. FirstNet uses digital broadcasting to equip first responders with advanced and uninterrupted communications capability across the country, including in remote jurisdictions where communications systems are often deficient because of environmental conditions and a lack of modern technology. A public-private partnership that uses AT&T transmission capabilities, FirstNet can transmit memory-heavy information in real time without buffering or signal failure, including video or other large files.

Given FirstNet's ability to connect distant and remote jurisdictions with the information that will help them stay informed during routine patrol and planned events as well as emergency situation, the government should work to ensure that all agencies have the opportunity to join the system.

PULL QUOTE: "FirstNet is revolutionizing emergency communications for public safety in rural and tribal communities. FirstNet evens the playing field for these communities with a reliable, interoperable network that is built with wireless services, applications, and user devices at the lowest possible fees."⁴⁷ Karl Wilmes, Deputy Executive Director of Public Safety Broadband Technology Association

3.1.16 The Department of Justice should advance the National Information Exchange Model to provide states the ability to have statewide systems. The Department of Justice should mandate that vendors of computer-aided dispatch and records management systems adhere to these open standards.

The National Information Exchange Model (NIEM) is a set of standards created through partnership between the DOJ, Department of Homeland Security, and Department of Health and Human Services to develop, disseminate, and support information exchange processes across diverse public and private organizations. This advances the ability of jurisdictions to share critical information in emergency situations and during the day-to-day operations of agencies across the nation.

[CROSS REFERENCE INTERSECTION OF CRIMINAL JUSTICE PERSONNEL]

Systems work best when they share standards that allow them to efficiently communicate with a common language. NIEM uses a common data capture that enables efficient information exchange. When NIEM standards are followed by individual criminal justice agencies, NIEM can save time and money by providing consistent, reusable data terms and definitions and repeatable processes.

Many smaller agencies—particularly those in rural and tribal jurisdictions—lack the funding and technical

⁴⁶ <https://publicsafety.utah.gov/>

⁴⁷ Written Statement from Karl Wilmes, Deputy Executive Director of Public Safety Broadband Technology Association

expertise to fully support data integration efforts or even fully understand and implement NIEM and Criminal Justice Information Services (CJIS) standards in installing their own information systems. The government should leverage federal resources to make these standards universal, which would give law enforcement agencies across the nation an efficient means to communicate with each other.

Federal Funding and Resources

3.1.17 The Department of Justice should ensure that funding is distributed equitably to meet the identified needs of small, large, and rural jurisdictions under the Edward Byrne Memorial Justice Assistance Grant program.

The Edward Byrne Memorial Justice Assistance (JAG) Program⁴⁸ is a federal formula grant program authorized under 42 U.S.C. §3751(a)⁴⁹ and administered by the U.S. Department of Justice and is the leading source of federal justice funding to states and local jurisdictions. Sixty percent of funding is received through a designated State Administering Agency (SAA), which is responsible for identifying funding priorities, managing a multi-disciplinary planning process, and overseeing of sub-recipient projects.⁵⁰

This program funding is offered to address a range of issues, from violent crime to officer safety and wellness. While the JAG funding is primarily directed to local law enforcement, it is one of the most flexible grant programs and can be used for eight purpose areas that span the criminal justice system:⁵¹

1. law enforcement
2. prosecution and court, including indigent defense
3. prevention and education
4. corrections, community corrections, and reentry
5. drug treatment and enforcement
6. planning, evaluation, and technology improvement
7. crime victim and witness (other than compensation)
8. mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams

Although beneficial, the JAG program has been criticized by the field because states are not required to report which agencies receive JAG funding. This means that funds could be going to the larger agencies and bypassing the smaller, rural, and tribal communities.

To ensure transparency of how funds are distributed, BJA should modernize their sub-recipient reporting requirements through the federal performance management tool (PMT) to be more useful, accessible, and relevant.⁵² Improving access to this data would enable law enforcement and other stakeholders to identify where funding has been allocated, the types of programs funded, and the impacts of those programs on justice system challenges. In addition, PMT data could more readily be used, as states implement enhanced strategic plans and direct funds appropriately to higher priority areas. This proposal could be implemented without legislation by the DOJ and would only require internal BJA development or contracted services.

⁴⁸ <https://bj.a.ojp.gov/program/jag/overview>

⁴⁹ <https://www.law.cornell.edu/uscode/text/42/3751>

⁵⁰ <https://www.ojp.gov/funding/state-administering-agencies/overview>

⁵¹ <https://www.ncja.org/investing-byrne-jag>

⁵² <https://bj.a.ojp.gov/program/jag/reporting-requirements>

3.1.18 Rural and tribal law enforcement agencies should find and use technical assistance programs through their state administering agency or other state or national organizations that facilitate and enhance grant writing and effective grants management.

Grant funding can enable law enforcement and other agencies to perform their functions and maintain the safety and wellbeing of officers and the communities they serve. While federal agencies should improve the grant application process, Local, rural, and tribal agencies should seek training and technical assistance programs from which their justice systems could benefit. They should also take steps to ensure that their applications are not dismissed due to avoidable errors.

Notably, both the federal government and a number of non-governmental organizations offer technical assistance in grant writing and effective administration so there are several resources that are available. PoliceGrantsHelp offers grant application services, some of which are free of charge.⁵³ The International Association of Chiefs of Police (IACP) offers a best practices guide for grant writing and a guide for accessing free resources for smaller law enforcement agencies.⁵⁴ The COPS Office offers user guides for each of its funding programs.⁵⁵ The DOJ facilitates a series of workshops designed to provide tribes tools and guidance to increase access to grant funding and other resources to improve tribal justice systems. The National Criminal Justice Association (NCJA) provides training and technical assistance on strategic planning, grant management, and accessing federal grant funds, services of which many are offered free of charge or for a small registration fee and are open to state and local partners.⁵⁶ The Office for Victims of Crime (OVC) Tribal Financial Management Center works with tribal grantees and applicants which submitted an unsuccessful applications to strengthen their financial management infrastructure and put them in a stronger position when applying for future funding.⁵⁷

Many federal grants are awarded directly to state governments, which then distribute funds to agencies within that state through the respective state administering agency (SAA). Therefore, rural and tribal agencies must often work directly with the SAA. The SAA and the federal government should help grantees navigate complicated application requirements.

Jennifer Brinkman, Director of the Office of Criminal Justice Programs in the Tennessee Department of Finance, argues, “SAA [are in] a unique position. They are at the state level, but they work daily in local communities across their states to address gaps in resources and foster collaboration and strategic planning. When federal discretionary funds end, it is often the SAA that the local communities reach out to for sustainability. Engaging with SAAs on local projects can foster better sustainability plans and stronger collaborations.”⁵⁸

To assist grantees, all SAAs should develop a training and technical assistance program for those agencies that receive federal grants. As an example, agencies could mirror the State of Tennessee Office of Criminal Justice Programs and provide services such as

- host grant management training seminars for all new grantees tailored to the Uniform Code, the Department of Justice Financial Guide, and program specific requirements
- create online training tools and resources to assist sub-recipients with how to complete an application, in addition to fund source-specific video trainings, financial management trainings, and how to complete an application for funding
- conduct regular monitoring with grantees to support project development and provide training and technical assistance

⁵³ <https://www.policegrantshelp.com/>

⁵⁴ <https://www.theiacp.org/sites/default/files/2018-08/BP-GrantWriting.pdf>

⁵⁵ <https://cops.usdoj.gov/grants>

⁵⁶ <https://www.ncja.org/>

⁵⁷ <https://www.ovctfmc.org/>

⁵⁸ *President’s Commission on Law Enforcement and the Administration of Justice: Hearing 5: Grant Programs* (April 30, 2020) Jennifer Brinkman, Director, Tennessee Office of Criminal Justice Programs in the Tennessee Department of Finance and Administration

- actively engage in outreach to promote funding and training announcements from federal agencies

3.1.19 Congress should enact legislation that requires DOJ grant-making components to ensure equitable access to grant funds for rural and tribal law enforcement agencies.

Grant programs are highly competitive and are often based upon factors that make it unlikely for a rural or tribal agency to successfully win grant awards. A small percentage of available grant funds are awards to small, rural, and tribal agencies, and many cannot meet matching funding requirements. Many are earmarked for specific programs, for population centers, by size or style of agency, or through a host of other requirements that make it difficult for a small agency to meet.

The DOJ and other federal agencies should reviewed existing grant programs and provide a specific percentage to rural and tribal law enforcement agencies, which would enhance their ability to provide public safety services.

3.1.20 The Department of Justice should examine the feasibility, costs, and benefits of expanding the performance period of law enforcement-based awards that have an impact on rural and tribal agencies.

In 2020, the COPS Office increased the length of the award period from three years to five years for the Coordinated Tribal Assistance Solicitation (CTAS), and Purpose Area #1: Tribal Resources Grant Program (TRGP) Hiring and Equipment/Training.⁵⁹ This change addressed requests Indian Country agencies for longer term funding that they said would be less burdensome for tribes as well as the DOJ. The award caps were also adjusted to accommodate the longer grant term.

DOJ may also see its value to other awards that may benefit tribal and rural jurisdictions.

Given how recent this change was made, it is not yet clear how fully the intended benefits will actually be realized or if there are other unexpected considerations that may arise. Therefore, the DOJ should develop a process to measure the outcomes from this change with the goal of establishing a new baseline for wards. If the intended benefits are realized and the outcomes prove positive, the government will have evidence that may provide guidance regarding awards more generally.

3.1.21 The Department of Justice should examine the feasibility, costs, and benefits of lowering the match requirement for the COPS Hiring Program to support recruitment and retention of rural and tribal law enforcement agencies.

Any funder may require that a grantee match some portion or all of the funds that they provide. When a federal grant requires the grantee to match funds, there are standard regulations that govern what can be counted as match and how these funds must be documented. Funders have various reasons to require match. The primary reason is to share the costs of various government programs across jurisdictions or with the private sector. Funders sometimes structure match requirements to promote sustainability of projects past the life of the grant program.

The COPS Hiring Program (CHP), administered by the COPS Office, is a competitive solicitation, open to all state, local, and tribal law enforcement agencies with primary law enforcement authority.⁶⁰ CHP grants cover up to 75 percent of the approved entry-level salary and fringe benefits of each newly-hired or rehired, full-time sworn career law enforcement officer over the three-year grant period, with a minimum 25 percent local cash match requirement and a maximum federal share of \$125,000 per officer position. CHP is structured with declining federal participation so that the local agency is hopefully self-sustaining by the end of the three-year grant period.

These grants have had a dramatic and positive effect on many law enforcement departments by allowing agencies to increase the size of their departments. The have also allowed departmental administrators to use officers more strategically. However, most small and rural law enforcement agencies struggle to meet the match requirement and or take over COPS officers' salaries after the 12-month period, as stipulated in the retention clause.

⁵⁹ <https://www.justice.gov/tribal/grants>

⁶⁰ <https://cops.usdoj.gov/chp>

To preserve jobs, increase community policing capacities and support crime prevention efforts, the COPS Office should examine the feasibility, costs, and benefits to lowering and or eliminating the match requirement for all CHP awards.

3.2 Tribal Law Enforcement

Background

According to the United States Census Bureau 2018,⁶¹ the estimated AIAN population is 2.9 million, or about 0.9 percent of the U.S. population. At the time this report was compiled, there were 574 federally and state-recognized American Indian reservations in the United States, and an estimated 4.8 million persons lived on these reservations or in Alaska Native villages.⁶²

PULL QUOTE: “There is no one-size-fits-all solution problems in Indian country. In the United States, there are 574 federally recognized tribes. Each tribe is unique in its governmental structure, cultural heritage, and law enforcement needs. Any solution must fit the local conditions of the tribe and include collaboration between tribal, state, and federal agencies.”⁶³ R. Trent Shores, United States Attorney, Northern District of Oklahoma

The public safety challenges in Indian Country are not uniform; they vary widely between districts and tribes based upon unique conditions, a complex set of legal jurisdictional issues, geographic challenges, differences in tribal cultures, and the number of tribes and reservations within a particular district.

According to a recent study conducted by the National Institute of Justice, more than 200 tribal law enforcement departments operate in Indian Country.⁶⁴ These departments range in size from only 2 or 3 officers to more than 200 officers. The communities they serve are as small as the Augustine Band of Cahuilla Indians is a federally recognized Cahuilla band of Native Americans based in Coachella, California, consisting of only 12 members, and as large as the Navajo Nation (with a population of more than 300,000 and a land area larger than the State of Connecticut).⁶⁵ These departments are organized in a variety of ways, but they all have one thing in common: The officers who work for those departments are stretched thin and must handle a wide variety of crimes and offenders.

Historic progress has been made over the last several years to improve the response to the public safety needs, breakdown the siloes, and coordinate for more effective program and coordination among federal agencies within AN/AI communities. Over the last several decades, the federal government has responded to the alarming rates of sexual violence against American Indian and Alaska Native (AI/AN) women and children, but these interventions uncovered more challenges than solutions. Among the most significant challenges identified by tribal experts and federal interventionists are the maze of jurisdictional issues; the tremendous diversity of tribes in terms of culture, geography, and resources; the absence of meaningful and consistent data; the general lack of resources and access to culturally relevant justice systems; the lack of victim assistance and mental health services that incorporate context and historical issues, including historical trauma and learned helplessness; and culturally specific evidence-based practices⁶⁶. **Current State of the Issue**

Recent studies suggest that Indian country law enforcement officers operate with only 55 to 80 percent of the resources available to their counterparts who work outside of Indian Country.⁶⁷ Law enforcement, justice, and related program agencies in Indian country have provided remarkable services despite these shortages, but limited resources

⁶¹ See U.S. Census Bureau. (2018). *The American Indian and Alaska Native Population: 2018*. Retrieved from <https://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf>

⁶² For more information about federally recognized tribes, reservations, and Alaska Native village statistical areas, see *Tribal Data Collection Activities, 2012* (NCJ 239077, BJS web, October 2012)

⁶³ *President's Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 21, 2020) (written statement from R. Trent Shores, United States Attorney, Northern District of Oklahoma)

⁶⁴ <https://www.ncjrs.gov/pdffiles1/nij/188095.pdf>

⁶⁵ <https://www.nec.navajo-nsn.gov/Portals/0/Reports/NN2010PopulationProfile.pdf>

⁶⁶ https://ovc.ncjrs.gov/provisional/SANE-SART_AI_AN_Initiative.pdf

⁶⁷ <http://www.tribal-institute.org/download/ACF1262.pdf>

prevent these agencies from providing similar levels of protection and a similar degree of participation in community life as is typical outside of Indian country. In other words, resource limitations place direct constraints on the ability of law enforcement and justice agencies to protect the safety of Indian country residents and to prevent crime and victimization. Increased monetary resources—and the translation of these resources into manpower, training, facilities, equipment, program development, research and evaluation, and community outreach—are critical to improved safety in Indian country.

3.2.1 Congress should provide funding to fully staff the Department of the Interior, Bureau of Indian Affairs Office of Justice Services, and Tribal Criminal Justice Systems.

Bureau of Indian Affairs (BIA) and tribal governments should work together to address recruitment and retention issues to ensure appropriate staffing levels for their law enforcement and corrections personnel. According to the Report to the Congress on *Spending, Staffing, and Estimated Funding Costs for Public Safety and Justice Program in Indian Country*, the full scope of unmet needs cannot be addressed without considering non-BIA sources of funding, which are not readily quantifiable.⁶⁸ As a proxy for unmet needs, the report provided an estimate of the total annual costs that are required to operate appropriate-sized, fully staffed law enforcement, detention or corrections programs, and tribal courts in Indian Country. The report estimated that the total annual need for basic law enforcement and detention services in Indian country is \$1.25 billion.

At the time, BIA annual funding levels for these two programs totaled \$330.3 million, or roughly 26 percent of estimated need, leaving an unmet need of about \$920 million. This figure does not include tribal court programs, for which there is an additional annual unmet need of \$1 billion identified in the report. This estimate included all federally recognized tribes without regard to whether they are located in a P.L. 280 jurisdiction.

Recognizing the historical inadequacy of appropriated funding levels, the BIA has followed a policy of prioritization for many years and generally provides law enforcement and detention funding only to tribes in non-Public Law 83-280 jurisdictions. This has left tribes in many areas completely without BIA support for tribal police and detention needs. For non-P.L. 280 tribes, BIA Office of Justice Services (OJS) either directly provides law enforcement and corrections service to tribes or provides funding directly to the tribes to operate their own services. BIA OJS also provides funding to tribes for court services.⁶⁹

Staff shortages remain a constant for federal agencies and offices related to tribal justice. Since 2010, these staff shortages have not been addressed in any substantial fashion. However, the Department of the Interior (DOI) has requested and received incremental increases to its Indian Country law enforcement budget.⁷⁰

PULL QUOTE: “Every year since the Tribal Law and Order Act was signed into law in 2010, the BIA’s Office of Justice Services has completed its Report to Congress on *Spending, Staffing, and Estimated Costs for Public Safety and Justice Programs in Indian Country*. It is important to note that this report also reflects those needs for tribes in Public Law 280 states, including Alaska, which historically has received little to no funding from the BIA for public safety needs. With that being said, I strongly recommend that Congress fund Indian Country public safety programs at the level reflected on the BIA’s annual report.”⁷¹ William (Bill) Denke II, Chief of Police, Sycuan Tribal Police Department

Meanwhile, both BIA direct service and many BIA tribally contracted (BIA-funded) law enforcement programs in Indian country are understaffed. Tribes on 212 reservations across the U.S. have not ceded criminal jurisdiction to the states under Public Law 83-280; therefore, they have chosen either BIA or BIA-funded programs. According to the 2018 Uniform Crime Reports, U.S. cities with a population of less than 10,000 people averaged 3.8 full-time law enforcement officers per 1,000 people. Meanwhile, BIA reported that in 2015, to get both BIA and BIA-funded programs funded at just a level of 2.8 officers per 1000 would cost \$566 million.⁷²

⁶⁸ https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016_TLOA_Report_FINAL.pdf

⁶⁹ https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016_TLOA_Report_FINAL.pdf

⁷⁰ https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016_TLOA_Report_FINAL.pdf

⁷¹ President’s Commission on Law Enforcement and the Administration of Justice, May 21, 2020 Testimony from William (Bill) Denke II, Chief of Police, Sycuan Tribal Police Department

⁷² https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016_TLOA_Report_FINAL.pdf

The amount actually expended that year was just \$199 million, both because the amount appropriated was less than \$566 million and BIA and many tribal law enforcement agencies struggled to recruit and retain officers. To fund these programs at 3.8 officers instead of 2.8 officers per 1,000 would significantly increase the cost above \$566 million. In addition, BIA and BIA-funded programs should have more officers per 1,000 than small city police departments because reservations generally have larger geographic areas to cover than cities. Although BIA and tribal law enforcement supervisors and officers work hard to ensure public safety, these officer shortages can have negative impacts, including delays in responding to calls for service and backup; delays in investigating cases; the need for officers to work long hours, leading to fatigue and long-term burnout and limiting opportunities for training; and frequent moving of officers to other locations to cover acute staffing shortages.⁷³

To ensure fundamental public safety in Indian Country, Congress, BIA and tribes need to look for ways to get more law enforcement officers in the field.

PULL QUOTE: “While we continue to make great strides to enhance public safety in Indian Country, we still have much more yet to do.”⁷⁴ Charles Addington, Director, Bureau of Indian Affairs, Office of Justice Services

3.2.2 The Department of Interior should conduct a complete review, update, and re-classification all BIA law enforcement position descriptions to ensure compliance with 25 CFR 12.33, which requires positions be established at no lower grade level than similar federal law enforcement officer positions in other agencies. The Department of Justice and Office of Personnel Management should provide technical assistance for this task.

BIA law enforcement officers and investigators are payed less compared to their counterparts in federal agencies both within and outside the DOI. Because 25 CFR 12.34 is predicated off of 12.33, the amounts paid by tribes for law enforcement officers in departments funded by BIA would also become more competitive. This change would have a positive result on recruiting and retaining both BIA and tribal police officers.

3.2.3 The Departments of Justice and Interior should jointly analyze the extent of the drug problem in Indian Country; identify existing federal, state, local and tribal law enforcement resources to address the problem; and make recommendations to address the gap in enforcement.

Drug distribution and use in Indian Country is a significant problem. According to Drug Enforcement Administration (DEA) 2019 *National Drug Threat Assessment*, methamphetamine and marijuana are the drugs most widely used by American Indians, but prescription drugs and heroin use have increased in many areas of Indian Country.⁷⁵ The widespread availability and use of drugs in Indian Country, coupled with drug trafficking groups operating in Indian Country, contribute to high rates of crime on reservations. According to Substance Abuse and Mental Health Services Administration’s (SAMHSA) 2018 National Survey on Drug Use and Health: American Indian and Alaskan Natives, AI/AN⁷⁶ adults use methamphetamine at three to four times the rate of the overall U.S. population. A 2006 report by the National Congress of American Indians confirmed that Native American communities have the highest meth use rates, and that meth causes dramatic increases in violent crime, suicide and child neglect.⁷⁷

Opioid abuse is also a serious problem among AI/AN. According to Leslie Hagen, the National Indian Country Training Coordinator for DOJ’s Executive Office of United States Attorney’s, “AI/AN had the highest rate of opioid overdose deaths of any minority, and almost as high as whites. However, AI/AN may have had the highest rate since the actual number of deaths for AI/AN may have been underestimated by up to 35 percent.”⁷⁸ In addition, between 2009 and 2012, A/ANI women were 8.7 times more likely to be diagnosed with maternal opioid dependence or abused during pregnancy.⁷⁹

⁷³ https://www.bia.gov/sites/bia.gov/files/assets/bia/ojs/ojs/pdf/2016_TLOA_Report_FINAL.pdf

⁷⁴ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 27, 2020) (written statement from Charles Addington, Director, Bureau of Indian Affairs, Office of Justice Services)

⁷⁵ https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf

⁷⁶ <https://www.samhsa.gov/data/report/2018-nsduh-american-indians-and-alaska-natives>

⁷⁷ https://www.justice.gov/archive/tribal/docs/fv_tjs/session_1/session1_presentations/Meth_Overview.pdf

⁷⁸ https://heinonline.org/HOL/Page?handle=hein.journals/usab66&div=77&g_sent=1&casa_token=&collection=journals

⁷⁹ <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2017/08/opioid-use-and-opioid-use-disorder-in-pregnancy>

Drug enforcement efforts in Indian country are inadequate. Sufficient BIA and tribal law enforcement in Indian country is critical to address these efforts. Local law enforcement are necessary to understand local distribution patterns, to effectively develop confidential informants, and to provide operational support to drug investigations and arrests.

BIA drug enforcement agents are vital to local investigations in Indian Country, providing critical coordination between local law enforcement and other federal drug agents. However, BIA's Division of Drug Enforcement only has 48 agent positions for all of Indian Country, not all of which are always filled.

Federal Bureau of Investigation (FBI) Safe Trails Task Forces have proven to be very effective, accounting for approximately 40 percent of all arrests by the FBI in Indian Country in 2017;⁸⁰ however, only 20 Safe Trails Task Forces exist in all of Indian country. DEA agents can work in conjunction with FBI Safe Trails Task Forces; provide task force officer status to state, local, and tribal law enforcements; and work together with BIA drug enforcement agents and state, local, and tribal law enforcement to help address the problem. They can also provide intelligence to these groups, outlining the flow of drugs from nearby communities into Indian country. However, the DEA has no agents specifically designated for Indian Country.

3.2.4 Congress should enact laws permitting the Criminal Justice Information System (CJIS) to share names and other identifying information about the person; requiring all law enforcement with access to enter information on all missing persons cases; and providing funding and directing the Criminal Justice information System to coordinate with tribal governments and other stakeholders to be sure all missing Native Americans are included in the NCIC Missing Persons File. In addition, CJIS should add fields in the NCIC missing persons file to allow law enforcement to input a missing Native American's tribal affiliation and whether the person went missing from Indian Country.

A 2016 NIJ study based on 2010 data from the Centers for Disease Control and Prevention reported that 56.1 percent of AI/AN women have experienced sexual violence in their lifetimes, and 55.5 percent have experienced physical violence by an intimate partner. The CDC reported in 2017 that AI/AN women experience one of the highest rates of homicide, which was based on an analysis of data from 18 states.⁸¹

In response to the problem, President Trump signed an executive order forming the Presidential Task Force on Missing and Murdered American Indians and Alaskan Natives. The task force, also known as Operation Lady Justice, focuses on enhancing the operation of the criminal justice system and addressing the legitimate concerns of AI/AN communities regarding missing and murdered people.⁸² The work of the task force is concentrated on consulting with tribal governments, developing protocols for new and unsolved cases, reviewing cold cases, and clarifying roles, authorities and jurisdiction throughout the lifecycle of cases.

In support of these efforts, Attorney General Barr launched the Missing and Murdered Indigenous Person (MMIP) Initiative.⁸³ That Initiative places MMIP coordinators in 11 U.S. attorney's offices to develop protocols for a more coordinated law enforcement response to missing person's cases. The initiative also calls for expanded use of specialized FBI rapid deployment teams. Montana's coordinator assisted a local sheriff who requested an FBI child abduction response team to help locate the body of Selena Not Afraid who went missing in January 2020.⁸⁴ In addition, the MMIP Initiative calls for improved data and data sharing.

All missing AI/ANs should be reported to proper authorities in a timely manner, law enforcement and community responses should be understood and coordinated, and responding personnel should have the training and resources they need to quickly and competently act. The missing person's information should also be promptly entered into appropriate databases.

⁸⁰ <https://www.fbi.gov/investigate/violent-crime/indian-country-crime/safe-trails-task-forces>

⁸¹ http://www.ncai.org/policy-research-center/research-data/prc-publications/VAWA_Data_Brief_FINAL_2_1_2018.pdf

⁸² <https://www.whitehouse.gov/presidential-actions/executive-order-establishing-task-force-missing-murdered-american-indians-alaska-natives/>

⁸³ <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-launches-national-strategy-address-missing-and-murdered>

⁸⁴ <https://www.nytimes.com/2020/01/20/us/selena-not-afraid-missing-montana.html>

PULL QUOTE: “Behind every missing person’s record is a face, a family, friends, and a community. I have talked to loved ones of missing women in Montana and heard their fear and sorrow.”⁸⁵ - Kurt G. Alme, United States Attorney, Montana and member of the Rural and Tribal Law Enforcement Working Group

One area needing congressional assistance is the collection and sharing of data. Currently, federal, state, and local law enforcement are only required to record in the NCIC Missing Persons File missing persons age 21 and younger. Tribal law enforcement are not required to enter any missing person information.⁸⁶ All law enforcement with access to the NCIC Missing Persons File should be required to report missing person information in all cases. In addition, the CJIS cannot publicly release NCIC Missing Persons File information.⁸⁷ The names and other identifying information of missing AI/ANs must be disclosed to tribal governments, missing persons organizations, and families to be sure that all missing persons are in the NCIC Missing Persons File so they can be looked for and to ensure that those who are found can be cleared or canceled. Finally, the data fields in the NCIC Missing Persons File should be expanded to enter tribal affiliation and whether the person went missing in Indian Country.

PULL QUOTE: “Now it is important for our American Indian and Alaskan Native neighbors to tell their stories and share their perspectives on both the problem and solutions. Having those stories and perspectives will help us all work together nationally, and in tribal communities across the country, to create community plans to find the missing, to bring justice to those who are murdered, and to identify and address the underlying causes.”⁸⁸ - Kurt G. Alme, United States Attorney, Montana and member of the Rural and Tribal Law Enforcement Working Group

3.2.5 Congress should ensure the Office of Tribal Justice’s staffing is commensurate with its workload.

Hundreds of federal cases and requests from tribal leaders for guidance and support, in addition to other conflicts and issues that require expert analysis are managed by the DOJ each year. The Office of Tribal Justice (OTJ) coordinates DOJ responses to these complex matters, the underlying policy, and emerging legislation among DOJ components that are active in Indian Country. The OTJ also coordinates with Congress and numerous federal agencies, including the DOI, Department of Health and Human Services, and Department of Homeland Security. OTJ provides legal expertise in Indian law to DOJ in matters that progress to the appellate level and on issues being considered for legislation.⁸⁹

According to the OTJ Director of Tracy Toulou, the current staffing level is six full-time employees. This number is insufficient to achieve and maintain the breadth of these responsibilities and to ensure that the DOJ maintains an effective government-to-government relationship with Indian Country. OTJ needs additional full-time employees to better manage these efforts. The OTJ should also be authorized and funded to create and staff regional offices within Indian Country. These satellites would provide DOJ with an opportunity to enhance services and programs that are vital to strengthening efforts to address law enforcement and public safety needs within Indian Country.

PULL QUOTE: “The Department has made great strides to enhance public safety in tribal communities, but we have a long way to go. We recognize that our goal of lasting public safety in Indian Country is largely dependent on our commitment to empowering tribal governments and partnering with them to carry out tribal solutions for challenges facing their communities. Additionally, we must improve coordination and collaboration at the federal, tribal, and state levels.”⁹⁰ R. Trent Shores, United States Attorney, Northern District of Oklahoma.

⁸⁵ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 27, 2020) (written statement from Kurt G. Alme, United States Attorney, Montana and member of the Rural and Tribal Law Enforcement Working Group

⁸⁶ <https://www.fbi.gov/services/cjis/ncic>

⁸⁷ <https://www.fbi.gov/services/cjis>

⁸⁸ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 27, 2020) (written statement from Kurt G. Alme, United States Attorney, Montana and member of the Rural and Tribal Law Enforcement Working Group

⁸⁹ <https://www.justice.gov/otj>

⁹⁰ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 21, 2020) (written statement from R. Trent Shores, United States Attorney, Northern District of Oklahoma

3.2.6 Congress should allocation sufficient, predictable, and dedicated funding for the Department of Justice's Tribal Access Program.

The DOJ launched the Tribal Access Program for National Crime Information (TAP) in August 2015.⁹¹ TAP was developed to meet the Tribal Law and Order Act of 2010's (TLOA) requirement that tribal law enforcement officials who meet applicable federal or state requirements be permitted access to national crime information databases.⁹² A tribe's ability to fully participate in national criminal justice information sharing via state CJIS systems agencies (CSAs) depends on various regulations, statutes, policies, and relationships of the states in which a tribe's land is located.⁹³

Tribal access through TAP is limited to law enforcement, prosecution, corrections or detention, criminal courts, pretrial services, and probation or parole for criminal justice uses. For non-criminal justice uses, tribal agencies include sex offender registration; housing; child support enforcement; head of state; civil courts that issue orders of protection; agencies that investigate allegations or child abuse, neglect, or exploitation; and agencies whose staff or volunteers have contact with or control over Indian children.

TAP was developed as an optional method of access through DOJ as the CSA for tribes that were unable to fully access information through their state CSA or who preferred not to use that route. Tribes must apply and be accepted into the program, then they must complete all of the requirements to be able to access the information. Tribes accepted into the program decide which of the agencies detailed above will use TAP and for what purposes, including whether they chose to enter information. Tribes may use TAP in conjunction with their current state access, if any, or may choose to use TAP exclusively.⁹⁴

TAP is funded by DOJ's Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), COPS Office, and OVC. Tribes must have either a sex offender registry program under the Adam Walsh Act; a law enforcement agency with arrest powers; or an eligible agency which serves victims of crime, such as a civil court that issues orders of protection. If a tribe does not have any one of those three agencies, then they are not eligible for TAP. Without general congressional funding, those tribes remain without access. Also, without sufficient and predictable funding through congressional authorization, the program is annually in jeopardy of being forced to both turn away new applicant tribes and shut down services to the tribes currently in the program.

3.2.7 All federal agencies should convert more grant-based and competitive Indian Country criminal justice funding into a permanent, recurring base funding system.

Federal base funding for tribal justice systems should be made available on equal terms to all federally recognized tribes. This approach would help tribes take maximum advantage of base funding, strengthen tribal justice, and close the public safety gap that afflicts AI/AN and their communities.

According to *A Roadmap for Making Native American Safer*, "DOJ's involvement has been of great benefit to Tribes. In some cases, it has developed programs explicitly for tribal applicants; in others, it has opened funding streams formerly available only to State and municipal governments to tribal governments. Tribes have taken advantage of these funds to, among other key investments, enhance their criminal codes, develop victim support programs, practice community-oriented policing, design wellness courts (tribal drug courts), and create intertribal judicial bodies."⁹⁵

Despite these benefits, DOJ's funding approach has some detriments.

- Small tribes and tribes with fewer resources lack the capacity to pursue grants or write competitive applications. These tribes have fewer resources to address their criminal justice needs.
- To construct a robust criminal justice system, a tribe must repeatedly apply for and be awarded many single-issue grants with different deadlines and reporting requirements, which is a significant

⁹¹ <https://www.justice.gov/tribal/tribal-access-program-tap>

⁹² <https://www.justice.gov/sites/default/files/usao-az/legacy/2010/10/14/Tribal%20Law%20%20Order%20Act%202010.pdf>

⁹³ <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>

⁹⁴ <https://www.justice.gov/tribal/tap-resources>

⁹⁵ https://www.aisc.ucla.edu/iloc/report/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf

management challenge.

- Many tribes are uncomfortable with the idea that for one tribal government to win grant funds, other tribes must lose.

Law enforcement in Indian Country face unique practical and jurisdictional challenges, and it is paramount that tribal police have the tools they need to fight crime and maintain public safety in their communities. DOJ recognizes that investigating crime and prosecuting those responsible is critical to public safety in Indian Country. To that end, the DOJ's partnerships with tribes and all federal, state, and local law enforcement are crucial to success.

Amendments to Federal Criminal Laws to Enhance Public Safety in Indian Country

The Tribal Law and Order Act of 2010 (TLOA) and the Violence Against Women Act Amendments of 2013 (VAWA Amendments) make federal officials more accountable to AI/AN communities and enhance civil rights protections for Natives and non-Natives alike.⁹⁶ Offices and agencies such as the U.S. Attorney's Office, the BIA's Office of Law Enforcement Services, and the FBI, work strategically both to assess current responses and craft more effective solution.

The proposed legislative amendments support law enforcement and maintain public safety in Indian Country. For the sake of brevity, the purpose of the first four amendments (3.2.8 through 3.2.12) is to insert "*enters or leaves Indian Country;*" into a statute to make it a federal crime to commit offenses over reservation boundaries and not just across state lines.

3.2.8 Congress should enact legislation to amend Title 18, Chapter 117, Transportation for Illegal Sexual Activity and Related Crimes to include entrance to and departure from Indian Country.

Proposed amendment

§ 2421. Transportation generally

(a) In general. Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, ***or into or out of Indian Country***, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

3.2.9 Congress should enact legislation that amends Coercion and Enticement (18 U.S.C. 2422) to include entrance to and departure from Indian Country.

Proposed Amendment

§ 2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, ***or to enter or leave Indian Country***, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 10 years or for life.

⁹⁶ https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol--40--no--1--tribal-sovereignty/making_native_america_safer/

3.2.10 Congress should enact legislation that amends Transportation of Minors (18 U.S.C. 2423) to include entrance to and departure from Indian Country.

Proposed Amendment

§ 2423. Transportation of minors

(a) Transportation with intent to engage in criminal sexual activity. A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, **or into or out of Indian country**, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than 10 years or for life.

(b) Travel with intent to engage in illicit sexual conduct. A person who travels in interstate commerce, **or enters or leaves Indian country**, or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, with a motivating purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) Engaging in illicit sexual conduct in foreign places. Any United States citizen or alien admitted for permanent residence who travels in foreign commerce or resides, either temporarily or permanently, in a foreign country, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) Ancillary offenses. Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce, **or enters or leaves Indian Country**, for with a motivating purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

3.2.11 Congress should enact legislation that amends Failure to Register (18 U.S.C. 2250) to include entrance to and departure from Indian Country.

Proposed Amendment

§ 2250. Failure to register

(a) In general. Whoever--

(1) is required to register under the Sex Offender Registration and Notification Act;

(2) (A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice [10 USCS §§ 801 et seq.]), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or.

(B) travels in interstate or foreign commerce, **or enters or leaves, or resides in, Indian country**; and.

(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act; shall be fined under this title or imprisoned not more than 10 years, or both.

3.2.12 Congress should enact legislation that amends Interstate Domestic Violence (18 U.S.C. 2261) to include entrance to and departure from Indian Country.

Proposed Amendment

§ 2261. Interstate domestic violence

(a) Offenses .

(1) Travel or conduct of offender. A person who travels in interstate or foreign commerce **or enters or leaves Indian country** or is present within the special maritime and territorial jurisdiction of the United States with

the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel or presence, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

(2) Causing travel of victim. A person who causes a spouse, intimate partner, or dating partner to travel in interstate or foreign commerce **or to enter or leave Indian country** by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

3.2.13 Congress should enact legislation to amend the Bail Reform Act to add 18 U.S.C. § 113(a)(8) to the list of presumption cases under 18 U.S.C. § 3142(e)(3).

The Bail Reform Act, which requires release while the defendant awaits trial, provides a rebuttable presumption that there is no combination of release conditions that can be set to ensure the safety of any person or the community. The presumption does not impose a categorical denial of release, but it instead puts the responsibility on the defendant to show that there are conditions that would ensure the protection of the community and any individual person. At this time, strangulation is not one of those enumerated offenses.

[CROSS REFERENCE INTERSECTION OF CRIMINAL JUSTICE PERSONNEL]

Research shows that strangling a dating partner highly predicts the perpetrator's likelihood of future potential domestic homicide.⁹⁷ The act of strangulation puts the victim in a particularly vulnerable position compared to other victims of domestic abuse. Officers, doctors, and other medical professionals have witnessed that strangulation victims are at a high risk of repeated abuse or possible death. In the United States, 10 percent of violent deaths are from strangulation.⁹⁸ This is particularly concerning in Indian Country where intimate partner violence is pervasive.

Currently, the United States can seek detention in strangulation cases under 18 U.S.C. § 3142(f)(1)(A). The burden is on the government to prove by clear and convincing evidence that there are no conditions of release that can ensure the safety of the community or any person. In cases where there is not a significant conviction history, and even when there is a long tribal arrest history, this burden can be hard to meet. Insular communities in Indian Country also present a problem, as victims often have a hard time ensuring separation from a released offender.

This proposed change would only create a rebuttable presumption and would still allow release in cases where the defendant is able to demonstrate that there are conditions that will protect the victim and community. To help address violence against women in Indian Country, amending § 3142(e)(3) to add 18 U.S.C. § 113(a)(8) would give the United States an opportunity to better protect victims by detaining offenders throughout the pretrial process.

3.2.14 The Department of Justice should propose legislation that amends the National Firearms Act and the Gun Control Act to permit receipt and possession of firearms by tribal law enforcement officers without a memorandum of understanding with the Bureau of Indian Affairs.

The largest national organization for AI/AN tribal governments, National Congress of American Indians (NCAI)⁹⁹, and the IACP¹⁰⁰ strongly support efforts to allow tribal law enforcement agencies be on equal footing with non-tribal law enforcement agencies.¹⁰¹ These efforts could be either legislative or administrative through the BIA or the Bureau of Alcohol, Tobacco, and Firearms and Explosives. The change will support efforts to allow all tribal police departments to have access to firearms as a result of the National Firearms Act so that tribal officers can effectively carry out their duties and protect tribal communities in Indian Country.

⁹⁷ <https://www.ncjrs.gov/pdffiles1/nij/grants/223691.pdf>

⁹⁸ Allison Turkel, "And Then He Choked Me": Understanding and Investigating Strangulation, National Center for Prosecution of Child Abuse Update, Volume 20, Number 8 (2007). Citing Strack, et al.

⁹⁹ <http://www.ncai.org/resources/resolutions/requesting-equal-treatment-for-tribal-law-enforcement-agencies-in-obtaining-national-firearms-act-weapons-and-tools>

¹⁰⁰ <https://www.theiacp.org/resources/resolution/tribal-police-departments-should-be-recognized-as-governmental-entities-for>

¹⁰¹ <https://www.theiacp.org/resources/resolution/tribal-police-departments-should-be-recognized-as-governmental-entities-for>

Cross-Deputization

The current framework for the criminal justice system in Indian Country is institutionally complex. Deciding which jurisdiction delivers criminal justice to Indian country depends on a variety of factors, including but not limited to where the crime was committed, whether the perpetrator is an Indian or non-Indian, whether the victim is Indian or non-Indian, and the type of crime committed.

Jurisdictional issues in Indian Country have long been complicated by a mixture of multifaceted tribal, state, and federal laws, policies, and court decisions, which make it difficult for law enforcement to work together and effectively address many types of criminal offenses. For decades, policymakers, criminal justice experts, scholars, and other interested parties have tried to fashion laws and policies that would untangle this issue.

Jurisdictional issues have arisen for generations on tribal lands and where state and tribal lands meet. Cross-deputization of law enforcement officers is one solution to the problem. Under this procedure, tribal police are given officer status by state or local authorities and vice versa. If agreed to, both state and local officers and tribal police officers have the authority to enforce the law of the other jurisdiction, regardless of where the incident occurred, and who is involved.

Without cross-deputization, tribal law enforcement have jurisdictional authority (and state and local law enforcement do not, unless the tribe has ceded such jurisdiction under P.L. 280) in the following situations in Indian Country:

- crimes by Indians against Indians
- crimes by Indians against non-Indians
- victimless crimes by Indians

Without cross-deputization, state and local law enforcement have jurisdictional authority (and tribal law enforcement do not) in the following situations in Indian Country:

- crimes by non-Indians against non-Indians
- victimless crimes by non-Indians

Finally, in Indian Country (except on P.L. 280 reservations where state and local law enforcement would also have jurisdiction), only the federal government has jurisdictional authority in the situation of crimes by non-Indians against Indians. Tribal governments that have opted to comply with the requirements set forth in the Violence Against Women Act also have jurisdiction over certain domestic violence crimes committed by non-Indians.

During a visit to the White Earth Nation Public Safety in Minnesota, Chief Judge Blake revealed an active police department that maintains culture and tradition in their operations: “Despite the use of their sovereignty, White Earth Public Safety was able to collaborate with county and state law enforcement and provide law enforcement services to all community members, tribal or not. A tribal law enforcement agency committed to maintaining the sovereignty of the White Earth people, but maintaining the law enforcement principles of the state of Minnesota.”¹⁰²

3.2.15 The Department of Interior, in consultation with the Department of Justice, should look into defining Federal Tort Claims Act protection for Bureau of Indian Affairs, Office of Justice Services commissioned tribal law enforcement officers similar to that of BIA-OJS employed law enforcement officers.

Pursuant to current model deputation agreements entered into between the BIA-OJS and tribes, tribal officers who have been issued special law enforcement commissions (SLECs) are deemed DOI employees for the purposes of the FTCA while carrying out those laws applicable in Indian Country as described in Section 3.A and Appendix A. Therefore, such officers are not be deemed federal employees under 25 USC 2804(f)(1), or for the purposes of the FTCA with respect to the enforcement of any other law except those applicable in Indian Country as described in Section 3.A and Appendix A.

¹⁰² President’s Commission on Law Enforcement and the Administration of Justice, May 21, 2020 Testimony of Richard C. Blake, Chief Judge of Redding Rancheria Tribal Court and President of the National American Indian Court Judges Association.

The RTLE Working Group will refine this recommendation based on a future SME call.

3.2.16 The Department of Interior should extend special law enforcement commissions to all state, local, and tribal law enforcement working together pursuant to a cross-deputization agreement who otherwise meet the requirements for special law enforcement commissions.

PULL QUOTE: “Many times tribes are expected to waive their sovereign immunity and pay for very expensive insurance premiums in order to get over this hurdle—a move that not only leaves the tribes exposed, but also officers in their individual capacities. The liability issue does not only come into play when trying to negotiate deputation agreements, but also with the recruitment and retention of qualified police officers.”¹⁰³—William (Bill) Denke II, Chief of Police, Sycuan Tribal Police Department.

The RTLE Working Group will refine this recommendation based on a future SME call.

3.2.17 The federal government should provide financial assistance to tribal law enforcement agencies for training costs and other requirements that are necessary for the agency to become certified under state agencies to qualify for peace officer status in a cross-deputization agreement.

Although tribal and local governments often struggle to adequately fund law enforcement, officers and deputies have guns, badges, and vehicles necessary to enforce the law; however, they lack the authority to do so. Tribes and local governments do not need to wait on Congress or state legislatures to make positive jurisdictional changes to policing on reservations. The current legal framework provides ample opportunities for cooperation to close the gaps in police coverage.¹⁰⁴

3.2.18 The federal government should provide financial assistance to tribal law enforcement agencies for training costs and other requirements that are necessary for the agency to become certified under state agencies to qualify for peace officer status in a deputization agreement.

Consistent with the general principle that states can pursue suspects that are subject to their jurisdiction, agreements should include two-way fresh-pursuit provisions, a police practice that goes back to common law. Tribal officers should be included in the Uniform Fresh Pursuit Act because states have Indian reservations that can stretch across multiple state borders. This change would be an important step to help tribes and the federal government better address the unique public safety challenges that confront tribal communities.

3.2.19 Federal agencies, specifically the Department of Justice, that distribute funds for Native American and Alaska Native communities should regularly assess unmet needs, including gaps in service delivery.

DOJ has a significant role in providing public safety services and supporting tribal justice systems. DOJ works with BIA and tribal police to provide law enforcement, corrections, and judicial support in Indian Country by administering funds that enable tribes to build the capacity to combat crime and promote public safety. These efforts have curbed growing crime and victimization rates in Native communities, mainly through grant programs and technical assistance. Although these funds have significantly increased over the years, it is not enough to meet the unmet needs of Native communities.

Immediate requirements for increased funding include infrastructure development, without which tribal governments cannot properly deliver services; tribal courts, which preserve order in tribal communities, provide for restitution of wrongs, and lend strength and validity to other tribal institutions; and tribal priority allocations, which permit tribes to pursue their own priorities and allow tribal governments to respond to the public safety needs of their citizens.

¹⁰³ President’s Commission on Law Enforcement and the Administration of Justice, May 21, 2020 Testimony from William (Bill) Denke II, Chief of Police, Sycuan Tribal Police Department

¹⁰⁴ <https://www.walkingoncommonground.org/>

3.2.20 Tribes, with direct financial support from the federal government, should conduct tribal-specific research, preferably conducted by tribal members and tribal police, to strengthen policing and helping the tribe’s police department.

With an eye toward increased self-determination, cultural appropriateness, and Native approaches to community policing, reservation police and the tribal community together must analyze problems, set operational priorities, and implement strategies appropriate for the resolution of each problem. To achieve this, tribal members and tribal police should conduct specific research to strengthen their tribal law enforcement agencies, encourage development of specialize crime-fighting tasks forces, and improve technology.

If the goals of tribal policing include preserving and promoting important tribal norms and values, the training officers receive at state or federal academies is insufficient. Local police training and education is necessary to give officers a better understanding of the government and culture of the tribe they serve and a better idea of how policing gives meaning to those principles. Tribe-specific research, preferably conducted by tribal members and tribal police themselves, is the only real way to meet this goal. The federal government could productively support this process in a number of ways, such as direct financial support or various forms of technical assistance.

3.3 Law Enforcement Needs of Alaska

Background

According to the BIA, “the Alaska Region encompasses 663,268 square miles of land, an area that would stretch from Atlanta, Georgia, in the east to San Francisco, California, in the west and to Minneapolis, Minnesota, in the north.”¹⁰⁵ Additionally, the United States Census Bureau 2019 update shows that more than 80,000 tribal members make up the 299 federally recognized tribes under the jurisdiction of the Alaska Regional Office—from Ketchikan in the Southeast Panhandle to Barrow on the Arctic Ocean and from Eagle on the Yukon Territory border to Atka in the Aleutian Chain.¹⁰⁶ This area makes up 15.4 percent of Alaska’s general population.¹⁰⁷



Source: *State of Alaska*

The map shows the nature of the problem. The green areas show areas accessible by roads, while the much larger orange area has limited or no road access. During the summer, travel is often by boat along rivers; in winter, travel is

¹⁰⁵ <https://www.bia.gov/regional-offices/alaska>

¹⁰⁶ Source: U.S. Census Bureau, 2019.

¹⁰⁷ Source: U.S. Census Bureau, 2019.

by ice road or snow machine trails. In the areas throughout the state where natural barriers imposed by vast wilderness and difficult terrain make those options impossible, Alaskans travel by aircraft.

Alaska's unique way of life is short on law enforcement professionals, and most towns and villages have no permanent law enforcement presence.¹⁰⁸ Therefore, troopers must make long treks to conduct investigations and arrests when crimes happen. It is difficult to estimate the amount of crime in Alaska Native villages because few studies have been able to provide complete accounts of the problem. However, the Alaska Department of Public Safety (DPS) details crime known to law enforcement that has been occurring in Alaska.¹⁰⁹

- The total number of violent crimes increased by 3.0 percent from 2017. The year 2018 recorded the highest number of violent crimes in five years. The most common violent crime offense reported in Alaska is aggravated assault, followed by sexual assault.
- A total of 4,377 aggravated assaults were reported in 2018. This represents 67.3 percent of all violent crime and 14.2 percent of all crimes reported in the state of Alaska. The number of reported assaults increased 3.3 percent, and the rate of assaults per 100,000 persons increased 3.7 percent from 2017–2018.
- A total of 1,100 rapes were reported in 2018. This represents 18.3 percent of all violent crime and 3.8 percent of all crime reported in the state of Alaska. The number of reported rapes increased 10.7 percent, and the rate of rape per 100,000 persons increased 11.1 percent from 2017–2018.¹¹⁰

In the face of these statistics, it is apparent that the small size and geographic isolation of Alaska Native villages is not the only unique feature. It is also difficult to fully explain the epidemic of violent crime that currently plagues residents. The unique jurisdictional scheme that applies to Alaska Native villages is also distinct from the norm in Native American communities in the lower 48 states.

Two legal features are important to highlight:

First, Alaska is one of only six mandatory P.L. 280 states.¹¹¹ This means that, under P.L. 83-280 (*see* 18 U.S.C. 1162), the State of Alaska—rather than the United States—has jurisdiction to prosecute certain crimes committed by or against Native Americans. Therefore, Congress has assigned state law enforcement and state courts, rather than their federal counterparts, the key role in arresting, investigating, prosecuting, and punishing offenders and therefore protecting public safety in Alaska Native villages. The state is also responsible for providing the bulk of funding and other resources in support of public safety efforts.¹¹²

Second, and unique to Alaska, is the near-total absence of recognized Indian Country. “Indian Country” is a legal term of art, defined in 18 U.S.C. 1151, that generally establishes the geographic scope of tribes’ territorial jurisdiction.¹¹³ In *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998),¹¹⁴ the U.S. Supreme Court held that millions of acres of land owned in fee simple by Native villages pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA) no longer qualify as Indian Country.¹¹⁵ That ruling limited the authority of Alaska Native villages to exercise criminal jurisdiction over their lands, which in turn placed an even greater responsibility on the state’s highly

¹⁰⁸ https://www.aisc.ucla.edu/iloc/report/files/Chapter_2_Alaska.pdf

¹⁰⁹ The Uniform Crime Reporting UCR Program is a national wide cooperative effort by federal, state, city, and county, and tribal law enforcement agencies to report data on crime reports within their jurisdiction.

¹¹⁰ The Uniform Crime Reporting UCR Program is a national wide cooperative effort by federal, state, city, and county, and tribal law enforcement agencies to report data on crime reports within their jurisdiction.

¹¹¹ <https://www.justice.gov/usao-mn/Public-Law%2083-280>

¹¹² <https://www.justice.gov/tribal/page/file/930406/download>

¹¹³ The term “Indian country”, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

¹¹⁴ [https://scholar.google.com/scholar_case?case=4745923664711360997&q=Alaska+v.+Native+Village+of+Venetie+Tribal+Government,+522+U.S.+520+\(1998\)&hl=en&as_sdt=20006&as_vis=1](https://scholar.google.com/scholar_case?case=4745923664711360997&q=Alaska+v.+Native+Village+of+Venetie+Tribal+Government,+522+U.S.+520+(1998)&hl=en&as_sdt=20006&as_vis=1)

¹¹⁵ <https://uscode.house.gov/view.xhtml?path=/prelim?title43/chapter33&edition=prelim>

centralized law-enforcement and criminal-justice systems.¹¹⁶

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“While the Troopers work very hard to respond, these extreme situations sometimes leave a village, and most tragically a victim, trying to cope with the situation on their own.”¹¹⁷ Bryan Schroder, United States Attorney for the District of Alaska

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Current State of the Issue

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On June 28, 2019, Attorney General William P. Barr declared a law enforcement emergency in rural Alaska under the Emergency Federal Law Enforcement Assistance Program: “With this emergency declaration, I am directing resources where they are needed most and needed immediately, to support the local law enforcement response in Alaska Native communities, whose people are dealing with extremely high rates of violence. Today, I am also directing each component and law enforcement agency of the Justice Department to submit plans within the next 30 days to further support federal, state, and tribal public safety efforts in rural Alaska. Lives depend on it, and we are committed to seeing a change in this unacceptable, daily reality for Alaska Native people.”¹¹⁸

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Over the years, there has been many efforts to improve public safety within Alaska;¹¹⁹ however, to meet the comprehensive public safety needs of Alaska, there must be appropriate public safety resources such as adequate funding to

- hire and adequately staff law enforcement personnel and provide them with standard equipment and coordination necessary to do their jobs safely and effectively
- sustain infrastructure appropriate to each community’s size and need, such as housing, communications, technology, transportation, holding facilities, offices, and equipment
- increase training and cultural competencies for first responders and law enforcement officers

3.3.1 Congress should allocate permanent base funding to meet the public safety needs of Alaska. This funding must address the inadequate staffing that impedes service delivery, increases overtime expenditures, and causes burnout of existing staff.

According to Alaska DPS, the state suffers from high levels of attrition and vacancy rates among law enforcement agencies. A major factor cited by the report is the pay, with state “troopers leaving for other departments with better pay and benefits.”¹²⁰

Currently, DPS has 42 trooper posts throughout Alaska, but a high number of vacancies means the state does not have the staffing to meet its goal of providing a trooper presence in every community that desires full-service law enforcement.¹²¹ The lack of a full staff has had a negative impact on morale, “reduced in-service training, and increased overtime costs for routine shift coverage. Further, gaps in the department’s ability to deliver public safety

¹¹⁶ <https://www.justice.gov/tribal/page/file/930406/download>

¹¹⁷ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 21, 2020) (written statement by Bryan Schroder, US Attorney for the District of Alaska)

¹¹⁸ Attorney General William Barr declares a law enforcement emergency in rural Alaska on June 28, 2019 in Department of Justice Press Release 19-728 <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-announces-emergency-funding-address-public-safety-crisis>. Source: <https://www.law.cornell.edu/uscode/text/18/1151>

¹¹⁹ See *A Roadmap for Making Native America Safer, Chapter 2 – Reforming Justice for Alaska Natives: The Time is Now* (The Indian Law and Order Commission’s Report to the President and Congress of the United States https://www.aisc.ucla.edu/iloc/report/files/Chapter_2_Alaska.pdf).

¹²⁰ <https://uscode.house.gov/view.xhtml?path=/prelim@title43/chapter33&edition=prelim>

¹²¹ <https://uscode.house.gov/view.xhtml?path=/prelim@title43/chapter33&edition=prelim>

services include reduced ability to respond to routine calls for service (including not responding to some calls that are deemed lower priority), slower response times, reduced travel for proactive law enforcement, and a lack of equipment (e.g. aircraft and boats) to effectively respond to calls for service in rural Alaska.”¹²²

Vivian Korthuis, Executive Officer of the Association of Village Council Presidents, says, “The response to any kind of disaster, or crises, for example, a fire, a death, a drowning, murders [will be minimal because] there are only three officers to respond to any of this.”¹²³ Attorney General Barr answered that call for help by declaring a law enforcement emergency in rural Alaska. In June 2019, DOJ made \$6 million immediately available under the Emergency Federal Assistance Program.

In addition to increased attrition, recruitments have not yielded adequate numbers to backfill vacancies. DPS has currently authorized 300 Alaska state trooper (AST) and 89 Alaska wildlife trooper (AWT) positions (see figure 3). Over the last 10 years, the number of authorized positions has fluctuated based on constitutional mandates, legislative actions, and authorized budgets.

Tribal communities rely on the patchwork of state law enforcement (i.e., AST) and state-funded and tribal-hired law enforcement (i.e., law enforcement provided by tribal consortiums through village public safety officers (VSPo)). This patchwork approach leaves many gaps in service and most rural communities struggling to keep even one officer employed.

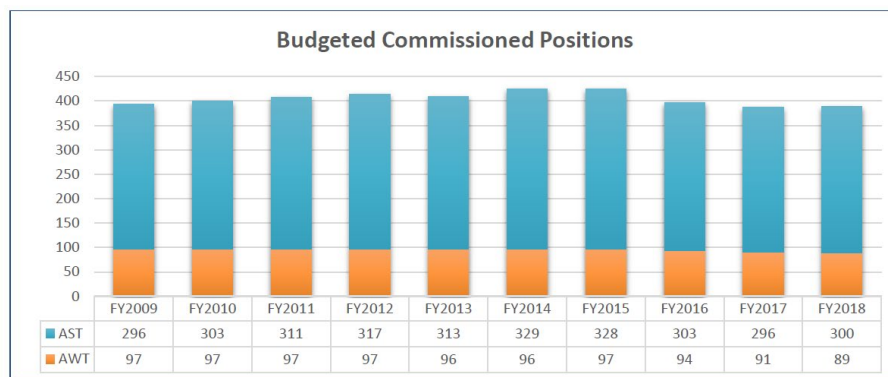


Figure 1: Source Alaska Department of Public Safety: Recruitment and Retention Plan Overview 2018–2023

3.3.2 Congress should provide funding to ensure village public safety officers receive training and technical assistance.

VPSOs are personnel who engage in a wide range of activities related to the security and welfare of the community. As the *Anchorage Daily News* states, "They put out fires and search for stranded travelers, retrieve bodies under ice, and help the injured when four-wheelers crash."¹²⁴ However, they are also the only law enforcement in many of the small and isolated rural communities that are found in corners all around Alaska. VPSOs are difficult to recruit for remote villages and sometimes encounter problems with cooperation from locals. VPSOs work for tribal entities, and they are funded by Alaska DPS. In general, they are not armed; however, they can be, if their tribal entity managers approve it.

Considering their important role and their isolated nature, high-level training is as difficult to achieve as it is essential. Currently, VPSOs are highly restricted from the types of activities that they can engage in, and they often need the oversight of troopers. One way to make them more effective would be to enhance their capacity to take on greater law enforcement tasks themselves. Such further training would mean that VSPo would be able to play a more active role in their communities without needing to enlist resources from state troopers, particularly where troopers are not

¹²² <https://uscode.house.gov/view.xhtml?path=/prelim@title43/chapter33&edition=prelim>

¹²³ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 27, 2020) (written statement by Vivian Korthuis).

¹²⁴ <https://www.adn.com/alaska-news/rural-alaska/2017/02/11/as-alaska-stuggles-to-fill-vpso-ranks-the-officers-remain-for-now-unarmed/>

readily available.

3.3.3 Congress should provide funding for infrastructure development for rural law enforcement services through an agency such as the Denali Commission.

In the summer of 2018, Association of Village Council Presidents (AVCP) took a comprehensive assessment of public safety buildings in the region.¹²⁵ Of the 48 communities, 38 had public safety facilities—4 of those facilities required major renovation or replacement and 24 facilities required some level of renovation. Nine communities had no public safety facilities at all and 26 of the communities had no dedicated public-safety housing.¹²⁶

The Denali Commission is “an independent federal agency designed to provide critical utilities, infrastructure, and economic support throughout Alaska. With the creation of the Denali Commission, Congress acknowledged the need for increased inter-agency cooperation and focus on Alaska’s remote communities.”¹²⁷ The federal government should take an active role in ensuring adequate law enforcement in Alaska’s Native villages, including more extensive funding of village law enforcement needs.

“The visit by the attorney general highlighted the need for a cooperative effort between the federal government, Alaska Native tribes and organizations, and the State of Alaska,” explains Bryan Schroder United States Attorney for the District of Alaska. “While the attorney general provided support that is being used to fill in significant funding gaps, we must come up with new ideas to provide the public safety that rural Alaskans deserve, like all citizens of our state. I recommend that the federal government as a whole commit to continuing our cooperation with Alaska Natives and the state government, including appropriate funding support. I can assure you that the United States Attorney’s Office for the District of Alaska is committed to rural Alaska, and Attorney General Barr has demonstrated his continuing commitment as well.”¹²⁸

3.3.4 Congress should provide adequate funding to the State of Alaska to effectively staff village public safety officer program programs.

The state implemented the VPSO Program in the early 1980s to offer remote villages a trained officer who is proficient in five different areas of public safety: law enforcement, firefighting, search and rescue, water safety, and emergency medical services. When trouble transpires in the villages they serve, VPSOs are the first to deal with it. Not only do VPSOs serve by themselves with back-up far away, they typically do so without the protection of a firearm. VPSOs are expected to be on call 24/7 to deal with the problems that arise in what are some of the most violent-and-accident-prone places in the nation. For this job, VPSOs receive wages and benefits that are substantially lower than what is afforded those with similar responsibilities elsewhere across the state. It is not surprising, then, that one of the main problems that the VPSO program faces is officer turnover.¹²⁹

The management authority for the VPSO program resides in three entities: the village where the VPSO is located, the regional non-profit Native Corporation that receives funds from DPS, and the Alaska state troopers. Each level has specific responsibilities when it comes to selecting, training, equipping, supervising, and paying VPSOs.¹³⁰

Historically, VPSOs received their minimal law enforcement training through DOJ grants that were administered by the state, or, infrequently, by BIA. Most of the funding for VPSOs is provided by the state in the form of annual grants and the program is having difficulty filling positions, leaving many villages uncovered. The VPSO program is underfunded and understaffed, and troopers in rural Alaska cannot adequately provide a presence in villages.¹³¹

¹²⁵ <http://pcva.247ikon.com/wp-content/uploads/2019/01/AVCP-Public-Safety-Facility-Assessment--Summer-2018.pdf>

¹²⁶ Full assessment available at https://www.avcp.org/2019/01/26/avcp-public-safety-facilities-assessment-report_

¹²⁷ <https://www.denali.gov/>

¹²⁸ *President’s Commission on Law Enforcement and the Administration of Justice: Hearings on Rural and Tribal Law Enforcement* (May 21, 2020) (written statement by Bryan Schroder, US Attorney for the District of Alaska)

¹²⁹ <https://dps.alaska.gov/AST/VPSO/About>

¹³⁰ <https://dps.alaska.gov/AST/VPSO/Home>

¹³¹ <https://www.ncjrs.gov/pdffiles1/nij/grants/182609.pdf>

Funding for VPSOs should be increased to adequate levels. Troopers should also be proactive and work in conjunction with VSPOs in these rural areas.¹³²

¹³² Alaska Rural Justice and Law Enforcement Commission - Page 90 <http://www.law.state.ak.us/pdf/press/040606-ARJLEC-report.pdf>