

CHANGED
VULNERABLE
FORGOTTEN
UNANSWERED
EXPECTANT
BROKEN
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DETERMINED
CHANGED
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EMPTY
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Crime on Montana's Indian Reservations

THE UNIVERSITY OF MONTANA SCHOOL OF JOURNALISM

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EMPTY JUSTICE

CRIME ON MONTANA'S INDIAN RESERVATIONS

On the seven Montana Indian Reservations, complex jurisdiction issues can complicate law enforcement, sometimes creating gaping holes in the justice system that allow criminals to remain free for years, or even go unpunished.

It has important social consequences because, according to data compiled by the U.S. Justice Department, violent crime among American Indian populations is higher than that of any other ethnic group in the United States and more than double the national average. Montana is no exception.

But in Indian Country, finding justice is no simple task. On six of Montana's seven Indian reservations, serious offenses fall under the authority of the federal government. Major crimes are investigated by the FBI or the Bureau of Indian Affairs, prosecuted by the state's U.S. attorney, and tried in federal courts.

One study found that more than half the cases from Indian country referred for prosecution are declined. U.S. Attorney Bill Mercer, like other U.S. attorneys nationwide, won't release information about how many cases his office handles or declines. He does note that among cases referred to his office, his staff finds that in one-third of the referrals a crime did not occur, and in two-thirds of the cases there is not enough evidence to prosecute. Still, he doesn't deny there are flaws in the system.

"People who don't live on reservations don't have any idea what the problems are," he said.

Holes in the justice system have created anxiety on the reservations. Tribal members distrust federal investigators, whom they see as uncaring, but also complain that tribal law enforcement and tribal leaders are inept or corrupt. They worry about the feds infringing on their sovereignty, but rely on the Bureau of Indian Affairs to fund their law enforcement.

In this publication you'll see stories that illuminate some of the problems: Inadequate investigations, overwhelmed staff, improper interference in legal cases and complex issues of sovereignty and jurisdiction. There are also stories of people striving to make the system work.

People affected by crimes want justice. But just what justice is, or how to achieve it, isn't always clear.



JURISDICTION on Montana's Indian Reservations

IF A VICTIM IS NATIVE AND THE PERPETRATOR IS NATIVE:	TRIBAL FEDERAL
IF THE VICTIM IS NATIVE AND THE PERPETRATOR IS NON-NATIVE:	FEDERAL
IF THE VICTIM IS NON-NATIVE AND THE PERPETRATOR IS NATIVE:	TRIBAL FEDERAL
IF THE VICTIM IS NON-NATIVE AND THE PERPETRATOR IS NON-NATIVE:	STATE
IF THE CRIME HAS NO VICTIM AND THE PERPETRATOR IS NATIVE:	TRIBAL FEDERAL
IF THE CRIME HAS NO VICTIM AND THE PERPETRATOR IS NON-NATIVE:	STATE FEDERAL

*Does not apply to the Flathead Reservation

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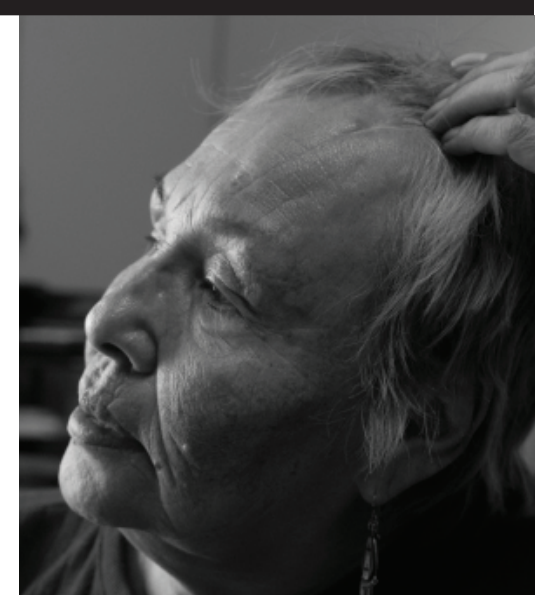
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Dee Dee Boushie says she's "a living, talking miracle." She has withstood three violently abusive husbands and sexual abuse since she was 3 years old.

Battling Back

Northern Cheyenne women — physically and emotionally scarred — rise from a debilitating cycle of domestic violence

Story by Carly Flandro | Photos by Sam Andresky

Scars cover Dee Dee Boushie's head, and she parts her thin, dyed-blonde hair to show them. She can't remember how she got them all, but says they're probably from glass bottles or frying pans—whatever her husband could grab first.

Sitting on the edge of her chair, 62-year-old Boushie stretches out her legs and pulls up the hem of her pants. A light pink scar on her right ankle marks where she was kicked with a brand-new pair of cowboy boots. She doesn't remember getting the scars on her left leg, but knows they're from her third husband.

He's the same man who broke a bottle over her head and then lunged

at her with a piece of the broken glass, trying to slice her face open. Boushie blocked him with her left arm, which is still marred by a thin red line.

Farther up on Boushie's arm is a scar where she tried to cut open her vein and kill herself.

"I'm sitting here, a living, talking miracle," she says.

Boushie says she's been abused since she was 3 years old, but the men who have sexually abused her and tried to kill her have never been punished. Boushie reported her third husband to the police, but they didn't arrest him because they said it was a "family matter."

“I thought I’d die in that marriage. I imagined myself—accepted myself—ending up in a coffin.”

Dee Dee Boushie

Boushie’s one of several Indian women living in the town of Lame Deer on the Northern Cheyenne Reservation who volunteered to share their stories. They are women who have been smacked, thrown against walls and abused by men.

Their pasts vary, but one thing is the same: The men who hurt them have never spent more than a few days in jail.

Lame Deer is a one-stoplight town. Home to just more than 2,000 people in southeast Montana, it’s a place where going to the grocery store often means running into a cousin, a place where people know each other by name.

Sometimes, it’s a place where husbands beat their wives. And when that happens, it can be a place where reporting a domestic violence crime is the same thing as asking a policeman to jail his cousin, brother, father or son.

That’s why some women don’t tell, and why when they do, their abuser often remains free.

He fractured her skull with a kerosene lamp and tried to run over her with his car.

He’d take her leg over his knee and try to break it like a piece of firewood. In one of the most painful beatings Boushie ever had, he hit her over and over again with a dog chain.

He was Boushie’s third husband, and though all her husbands had been abusive, he was the worst.

“I thought I’d die in that marriage,” she says. “I imagined myself—accepted myself—ending up in a coffin.”

The day after their wedding, he broke Boushie’s jaw with a folding chair and didn’t take her to the hospital for 12 days. For nearly two weeks, Boushie was unable to eat.

After that, she tried to get help. She reported her husband to the police, but says they let him out of jail after a short time. Boushie says it was because people were afraid of him.

She reported her first husband to the police, too. They told her it was none of their business.

“Even if I was all beat up, it didn’t matter. His uncle was a judge, and his brothers and cousins were all policemen,” Boushie says. “I felt I could

never get any kind of help.”

After so much abuse, Boushie decided it wasn’t worth it anymore, and repeatedly tried to kill herself. She took two boxes of rat poison, cut her arm open and overdosed on sleeping pills.

“Being a victim, you don’t really care about your life,” she says.

It’s a perspective she learned early on. Boushie says she was 3 years old when a preacher abused her for the first time.

“He never raped me, but it almost happened at 14,” she says. “That was the last time I’d let myself near him.”

Boushie never told anybody about the sexual abuse because it wasn’t something people talked about. It was filthy to speak of, dirty to put into words.

In 1992, at the age of 45, Boushie couldn’t stand it any longer. She left her third husband and hasn’t seen him since.

Sitting in her chair, she’s finished her story. Her small dark eyes look out from sunken sockets slightly misshapen from the beatings.

But no tears blur her vision. She’s married to her fourth husband now, a man she says has never mistreated her.

“I think I’m just as good as anyone now,” she says. “Before, I felt I was beneath everyone. I don’t have to be a doormat or a punching bag for anyone.”

Police officers may have not helped Boushie in the past, but Hawkan Haakanson, the acting police chief with the Bureau of Indian Affairs on the Northern Cheyenne Reservation, says things like that don’t happen now.

“It just doesn’t happen a whole lot that I’m aware of,” he says.

Haakanson, who’s been the police chief for about eight months, says he’s gotten as many as four calls a day from people reporting domestic violence. That’s especially true during holidays

and the winter months. Still, he says they always follow up on cases and he’s never seen a case where family ties kept an abuser out of jail.

August “Tiger” Scalpcane knew people would think he was a weak man if he took the job at Healing Hearts, a center for domestic abuse and sexual violence victims, but he did it anyway.

According to the American Indian Women’s Chemical Health Project, three-fourths of Native American women have experienced some type of sexual assault in their lives. The statistic seems to hold true on the 694 square miles of the reservation east of Billings, but it wasn’t always that way. Women were a sacred part of Northern Cheyenne history and tradition.

But for Scalpcane, fighting domestic abuse is a personal matter. Both of his sisters have been abused, as was his niece. So he helps victims find safe shelters, encourages them to leave their abuser and report him or her to the police.

Domestic abuse is “a cycle that I hope can be broken,” he says. “That’s what we’re trying to do. That’s why I put my best foot forward and hope others will follow in my footsteps.”

But after a year at Healing Hearts, Scalpcane knows victims often don’t listen to his advice. A victim is usually abused nine times before leaving the batterer, he says.

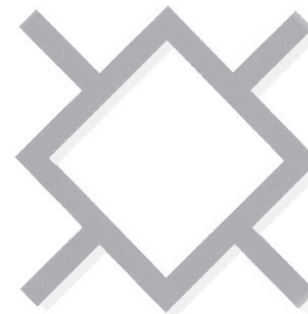
And the majority of women refuse to report the crime or cooperate with the chief prosecutor. Many women are afraid of reprisal, Scalpcane explains, and others can’t afford to lose their household’s only breadwinner.

“There’s one million reasons,” he says.

“And they’re all good reasons when you’re living it,” adds Diane Spotted Elk, an advocate at Healing Hearts.

She knows from experience.

When he comes home, will he be drunk? Will he be angry? What if I say the wrong thing?



Population: 4,470
Native: 91%
Counties: Rosebud, Big Horn
Reservation center: Lame Deer

Nervous and afraid, Spotted Elk would wait for her husband to come through the door.

Maybe it would be a good day, and he'd just ignore her. Or maybe he'd come home and knock her around or slap her. If he was really mad, he might beat her with a metal hanger.

"He would snap at everything and anything, or nothing," Spotted Elk says. "I was not comfortable. Not ever comfortable."

There was always the fear that something would spark his anger, cause him to reel back and hit her. Spotted Elk felt like there was no one to turn to. He wouldn't let her have friends and she hadn't seen her family in two years. He wouldn't even let her walk to the corner store by herself.

"My self-esteem was really low," says Spotted Elk, a woman with curly black hair that's pulled back so tightly it looks straight. "I felt like I wasn't pretty enough."

But that was a long time ago. It's been 17 years since Spotted Elk was abused, and 17 years since she chased her husband with a knife and told him she was leaving.

"I would *never* allow *no one* to mistreat me in that manner again," she says.

It's the first time her voice has risen during her matter-of-fact account.

At Healing Hearts, Spotted Elk, 44, helps women who are abused and feel "worthless," the way she used to feel. She tells each of them to do something she was too afraid to do: report their abusers to the police.

It's advice that Karla Lei took.

"You're not gonna turn me in. You're too chicken," her husband, a 6-foot-tall, 300-pound man used to say, Lei remembers.

He was a controlling man, and didn't want Lei to see her friends or parents. He was abusive too, and sometimes he'd push her around or slap her.

One morning he came home after being out drinking all night and beat Lei worse than he ever had before. He left after that, driving away drunk.

Lei went to Healing Hearts, and after getting their advice, she reported her husband to police.

But her husband, who worked at the chief tribal prosecutor's office, found out what she had done. In turn, he reported that Lei had been abusing him.

The two charges contradicted each other, so the prosecutor—Lei's husband's boss—dropped them both.

Glenn Littlebird, the current chief prosecutor in Lame Deer, says that behavior isn't tolerated any longer.

"Something like that will never happen while I work here," he says. "It may have happened, but it will never happen again."

Johanna Red Neck was taken away from her abusive mother and sent to a Catholic boarding school when she was 4 years old. They gave her the name Doreen

and told her never to speak Cheyenne again.

And while she was there, she never did.

She saw the other children punching their fists against a wall until their knuckles bled, punishment for not using English. And if their hands didn't bleed, the nuns would scrape them against the wall until they did, she says.

When she was there, she says a Catholic priest used to lead her down stairs to someplace dark. He sexually abused her, but Red Neck doesn't recall if she was raped. She blocked everything from her mind until all that remains in her memory is walking down those stairs. The priest continued to abuse her until she was a teenager, she says.

She escaped at age 17, when she married.

"Then it started with my husband," Red Neck says, wiping away a tear.

To Red Neck, love was a dirty thing—some-



Above: Thilla Red Bird pats her son Benjamin on the head while doing housework. Abused as a child, she now says she would never hurt her children.



Right: Johanna Red Neck, Red Bird's mother, holds a picture of herself when she was a teenager.

thing that drained away life's color.

From the age of 5 to nearly 40, Red Neck was abused by different men and felt so worthless she couldn't stand to see herself in a mirror.

For decades, Red Neck saw only gray. She stared past green grass and blue skies, unable to focus on anything but the abuse.

Red Neck and her husband were alcoholics, and things got the worst when they drank. He'd call her names, or beat her. He once kicked Red Neck in the head so hard that she nearly died from blood loss.

Still, she never left him.

"I had an obligation because of my children," Red Neck says. "They were younger and I wanted them to have a mom and a dad."

Red Neck was abused physically and emotionally, but it was the sexual abuse that tore her down the most—the times when she said no and he kept going.



Lame Deer is a town with one stoplight, one gas station and one grocery store. The town's tight-knit nature makes reporting a domestic violence crime difficult.

Red Neck became the mother of seven children, and her body was tired. She didn't want to carry another child, so she was surgically sterilized. She says her husband didn't speak to her for an entire year.

Red Neck didn't know that domestic violence could be reported as a crime.

"I didn't know it could be done like that," she says. "More women need to know about the resources that can help them."

Red Neck is 56 years old and has been divorced for 20. White hair frames her round face, on which the lines run deep.

Like her mother, Red Neck was an abused woman. And like her mother, Red Neck became an abuser.

If Red Neck was mad, her kids knew it by the way she came down the long driveway to their house.

"The faster she drove, the madder she was," says her daughter, Thilla Red Bird.

And when she was upset, they knew they were going to get beaten.

"She'd hit me with anything she could find,"

Red Bird says. "Fly swatter, fan belt, wooden spoon, chokecherry stick—those ones actually rip the skin open."

Red Bird, 36, says there were happy times in her childhood, but those were phony happy times.

"We had to play a wonderful family, be a Brady Bunch when somebody came over. Everyone thought we were a perfect family," Red Bird says. "I ruined that perfection when I became suicidal."

She immediately ducks her head to wipe the tear streaming down her cheek.

She tried to kill herself when she was 12.

Sometimes Red Bird feels the pain again, the pressure of her uncle on top of her. Her wrists and ankles hurt from being tied down together. She screams and feels her face being smothered by a pillow.

When it's over, Red Bird opens her eyes and wakes up sweating. He's not there, and the pressure on her wrist is just the weight of her bracelets and watch. She used to take her socks off and be scared by the ankle lines left by the elastic bands. They were just like the lines that made

their mark when she was tied up. It's why to this day she won't wear a bracelet or socks, even in the coldest weather.

This nightmarish vision is a part of her post-traumatic stress disorder. She still suffers from the abuse, 23 years later.

"All I can say is (sexual abuse) isn't normal when I thought it was normal the whole time," Red Bird says, as more tears fall. She promptly wipes each one away. "What's hard for me to finally realize is that I am a good person and it's not my fault."

Red Bird has four kids now and is determined that three generations of abuse will stop with her.

"So what if my grandma went through it? So what if my mom did? My kids don't have to go through it," she says.

Outside her house, Benjamin and Naomi, ages 4 and 6, play in the snow.

Benjamin makes a snowball, and mischievously looks at his big sister. He waits for the right moment, and tosses it at her.

Their mom finishes mopping the floors and calls them inside, making sure they take off their shoes before entering. They abandon their muddy shoes in a pile at the door, going inside to play with their aunt, cousin and older brother Caleb. Red Bird notices the dried mud caked on Benjamin's arm and sighs in defeat.

"I can't keep him clean for nothing," she says, smiling.

Red Bird does the dishes while everyone else encircles the kitchen table, rolling a bouncy ball from person to person.

"Keep it rolling!" Benjamin yells.

After the game, Benjamin throws the bouncy ball at his sister, hitting her in the back.

Benjamin's aunt sees, and immediately tells him no. It's not OK to hurt someone else.

Benjamin and Naomi have never been abused, and neither, Red Bird says, have her older children, who are 17 and 12 years old.

People always told Red Bird it would be hard to break the cycle. But she knows what to do differently.

"I know what I have to change," she says. "I'm finally talking about all this."

CHANGED



Ben Yellow Owl, 17, sits with his oldest son Bryson, 21 months, in the dining room at the Po'ka Ranch, where he works while recovering from a drug addiction.

Safe Keeping

On the Blackfeet Reservation, the Po'ka Ranch looks beyond walls and bars to help troubled youth

Story by Chris Arneson | Photos by Russel Daniels

The big brown building on the outskirts of Browning on the Blackfeet Reservation stands next to a picturesque red barn. It doesn't look like a juvenile justice facility. There are no bars and no police officers. The scene might fit better on the pages of a children's book, except the children that it shelters have endured less than a storybook life.

Inside the house dozens of children down steaming bean soup, anxious to get outside where they can play and ride horses. Once dinner's done, the kids run hollering and laughing out the front door, past the barn and the silhouettes of jumping sheep, cows, cowboys and horses that are painted on its side. Staffers smile as they approach with horses already saddled.

Back inside children color pictures of elk, or *ponoka* in their native



Children at the Po'ka Ranch learn about ranching, horsemanship and agriculture. Those lessons are central to Po'ka's curriculum, which includes life skills classes and substance-abuse treatment.

language. Floyd Heavy Runner tells them the Blackfeet names of deer and bear. In Blackfeet the ranch's name, po'ka, means child, Heavy Runner says, explaining that the "p" takes a "p-b" sound. Heavy Runner, whom the kids call "Tiny Man," is one of few tribal members who still speak the language fluently.

The Po'ka Ranch is the Blackfeet tribe's most recent attempt at combating juvenile delinquency. It fuses Blackfeet culture with incentive-based prevention and education programs to rehabilitate high-risk children at the first sign of trouble. Though the program is still developing and has only been taking clients since November, it represents a glimmer of hope on a reservation with a troubled history in juvenile justice.

Each day after school lets out, Browning school bus No. 5 fills with children headed to the Po'ka Ranch. It carries them through downtown Browning, past the town's only grocery store and past the bright lights and crowded parking lot of the Glacier Peaks Casino. The bus squeals to a stop at the old homestead, just out of sight of the boarded-up windows and abandoned cars that litter the small town.

Each of the more than 30 children who step

off the bus have some "need" that has been identified by a staff member.

"It might be that they're behind in school, it might be they're in foster care, it might be that they have a death in their family," says Po'ka executive director Francis Onstad. Sometimes children are admitted because they abuse drugs or alcohol. Program staff only have to identify one "need" to admit a child. And once enrolled in the program, a child's family and siblings are encouraged to take part in activities, celebrations and counseling.

Although Po'ka has about 70 clients, it provides services to more than 100 people, counting family and siblings. All of the clients are there by choice. Free food and activities help to keep them coming back every weekday and children and parents alike are drawn to the culture-centric curriculum.

After a hot meal and a few hours of horseback

riding, language lessons or life skills classes, staff round up the children at the Po'ka Ranch and herd them into white 15-seat vans, and deliver them to their homes. But the learning doesn't stop there. Heavy Runner has recorded hundreds of Blackfeet phrases into Phraselator language software. Children and families can check out a computer from Po'ka to practice the language at home. They can also take home LeapFrog educational software, which Po'ka uses to improve reading and writing skills for children who may be behind in school.

Po'ka is funded by a slice of a \$9.5 million federal grant intended specifically for Indian country that requires Native American culture be integrated into every aspect of the program. It mandates that Po'ka incorporate a child's family in the rehabilitation process. This is a radical departure from earlier Blackfeet juvenile justice efforts that focused little on rehabilitation, and often took the form of week-long stays in the reservation's juvenile detention facility.

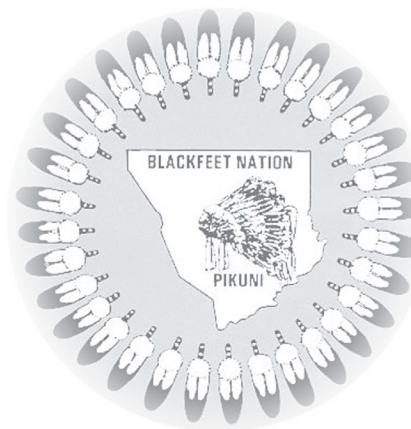
Ben Yellow Owl remembers what things were like before Po'ka. He works on the ranch now—sometimes in the kitchen, sometimes with horses. Wherever he's needed.

He's wearing a stained, gray sweatshirt with blue cuffs that match the color of his faded jeans, marked by an oil stain just above the right knee. In his arms he holds a child with dark curly hair and a curious smile. Bright brown eyes look up at Yellow Owl as he takes off his baseball cap, and introduces himself.

"I'm Benjamin Ray Yellow Owl. I'm 17. I'm a dropout, a teen parent, and this is my first child, Bryson Benjamin Alexander."

Like many of the children on the Blackfeet Reservation, Yellow Owl grew up fast. He didn't have a choice.

As a 12-year-old, he learned to drive the family car, shuttling his father home after late nights at the bar.



Population: 10,100
Native: 86%
Counties: Glacier, Pondera
Reservation center: Browning

Yellow Owl started getting in trouble when he was 9, escaping his turbulent home life by spending time with older friends next door. They taught him to smoke cigarettes. Yellow Owl says he smoked only to look cool.

Soon cigarettes turned to marijuana, alcohol and eventually harder drugs.

There's not much for adolescents to do in Browning. There's no movie theater, no arcades. The bowling alley recently shut down. The jobless rate on the Blackfeet Reservation nears 80 percent. For young people, jobs are hard to come by, and drugs are easily accessible.

Yellow Owl remembers hanging out with his friends in middle school. Everywhere they went, they brought a bag of marijuana.

"Get a bag, go swimming, get a bag, go fishing, get a bag, go into town and play ball—it was like our job," Yellow Owl says.

Like any 11-year-old, Yellow Owl built forts and played with toy guns. But unlike most kids that age, drugs had become the center of his life. Those toy guns he was playing with were actually pistol-shaped marijuana pipes, he says.

Before the Po'ka program, there were few family services on the reservation. There were no parenting classes, no anger management classes and no substance abuse services for adolescents, Po'ka director Onstad says. The only resource for children on the reservation was the tribe's juvenile detention facility, the White Buffalo Home.

Known to local kids as "White Buff," it was built in the early 1970s as a drug treatment center and group home for troubled youth. The facility was underfunded, but it was better than nothing, tribal officials say. In 2003 the BIA took over the dilapidated building and converted it to a juvenile detention facility. The BIA installed thick steel doors and put steel grates over the windows. The facility held kids as young as 11, often for curfew violations and possession of alcohol.

The dull yellow brick building is sealed so tight that outside air seems to have a difficult time getting in. The White Buffalo Home was shut down in 2008 in the midst of a fiscal crisis as the Tribal Council decided it could no longer afford its \$1 million annual budget. Though the structure has been condemned by the federal Department of Justice and the foundation and walls are crumbling, the building is now used



The White Buffalo Home was built in the early 1970s as a juvenile treatment and rehabilitation center, but in 2003 the BIA converted the home into a juvenile detention facility. The facility closed in 2008.

as an administrative office for the tribal police. Meanwhile, juvenile offenders are sent to detention centers outside the reservation.

The closure of the White Buffalo Home left a gaping hole in the Blackfeet juvenile justice landscape. Federal law mandates that juveniles be held in facilities separate from adults. So when kids get in trouble on the Blackfeet, police drive them to the nearest juvenile detention facility in Great Falls, more than 120 miles away. The children are held there until trial. If sentenced to serve jail time, they're taken to the Northern Cheyenne Reservation's juvenile detention center in Busby, more than 500 miles from the Blackfeet Reservation.

Icy roads and blustery conditions typical of long Montana winters can make the trip treacherous. In any case, tribal members say it's wrong to take youth off the reservation. Long commutes also eat up valuable police resources, but since the youngsters can't be held in the tribal jail, they must be transported immediately after arrest. Officer salaries, gas and vehicle maintenance are paid for by the BIA.

"Sometimes they'll transport two or three times a night," says Tribal Judge Don Sollars. "It's just such a waste of taxpayers' money.

It seems to me that for what the bureau is paying to transport these kids, they could build a facility."

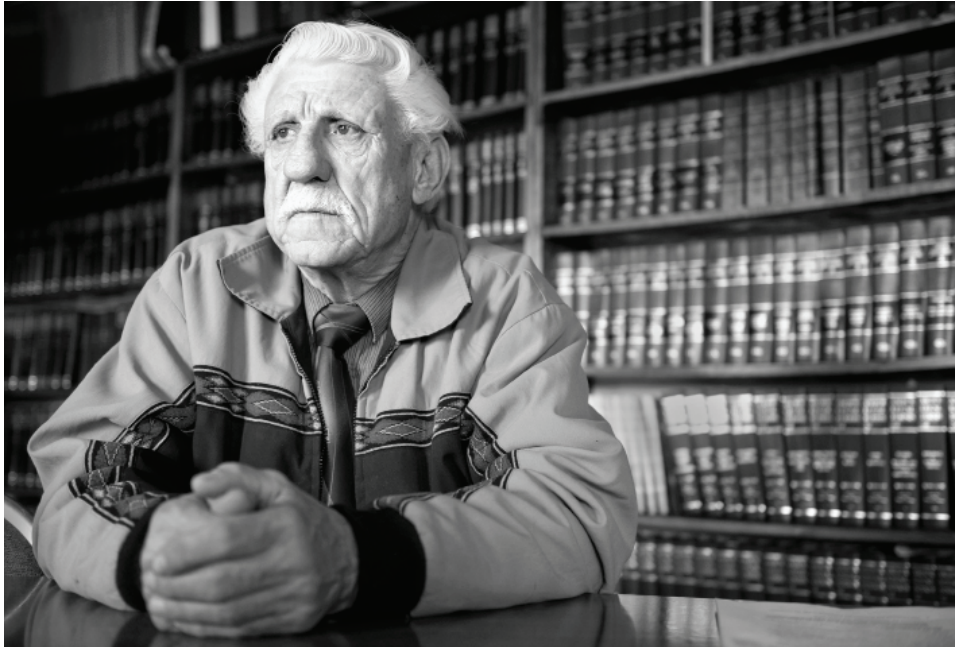
When youth are released from the Busby facility, the BIA doesn't drive them back to the reservation. Instead, parents have to make the eight-hour trip to retrieve their children.

"Not everybody has the money to run and get 'em," Sollars says. "A lot of times they'll have to borrow money to go get 'em, and I think that's wrong."

The Tribal Council and juvenile justice system are working to reopen the White Buffalo Home on a limited basis, and they're also lobbying the federal government for money to build a new juvenile detention facility. So for now, judges and prosecutors are wary of imposing jail time for minor offenses. They're more likely to sentence a juvenile to house arrest, probation or drug treatment classes than a jail stay in Busby.

Officials say reopening the White Buffalo Home would be something of a "Band-Aid." What the tribe really needs, they emphasize, is a new juvenile detention center that is adequately funded and staffed with trained therapists and correctional officers.

Tribal officials remember all too well the his-



Tribal Judge Don Sollars says the Blackfoot tribe needs a juvenile detention center, but it also must focus on prevention programs.

tory of the White Buffalo Home. They remember the congressional hearings and FBI investigations into abuse. Echoes still reverberate down the hallways of the old building when doors of cells, now used for storage, slam shut. And horror stories still send shivers down the spines of former White Buffalo employees.

In 2003 the BIA assumed control of tribal law enforcement responsibilities, including the White Buffalo Home. Law enforcement officials say juvenile crime rates soon jumped on the reservation. At White Buffalo, reports of abuse began to surface. A 2004 congressional investigation noted that a White Buffalo employee had been charged with raping a 17-year-old inmate while transporting her to the hospital.

Corrections officers at the home also made extensive use of what they called the “resister chair.” Unruly kids were shackled to the chair, then hooded and left for hours or even days on end, former tribal Police Chief Fred Guardipee says. The Tribal Council outlawed the practice in 2004, but not before the device left psychological marks on young Blackfoot children.

Guardipee was on the Tribal Business Council’s law and order committee, which in theory had oversight of White Buffalo. He says simply locking children in a jail cell does little to deter them from reoffending.

“It was a real form of punishment,” Guardipee says. “Everything was a form of punishment; rather than looking at trying to rehabilitate our

children, we were punishing them. And our children were being made (into) criminals.”

Freda Vielle was a correctional officer at the White Buffalo Home before it closed. She says most staff tried to improve the lives of kids who ended up there. The staff therapist helped with homework and conducted counseling sessions for the young inmates. But the facility was un-

derfunded, overcrowded and did little to keep kids out of trouble.

“I don’t think it helped them,” Vielle says, while showing visitors through the old facility. “A lot of them were depressed being in here. They were always wanting to get out.”

The home’s biggest failure, she says, was that it didn’t incorporate parents into the healing process. On the reservation, family can offer the moral support of hundreds of cousins, aunts and uncles. But when the family isn’t there to stand behind a child, it can be devastating.

“I witnessed a lot of parents calling up here and saying, ‘Oh, just keep my kid in there,’” Vielle says. “Parents wouldn’t even want to come see ‘em. It made them feel unwanted.”

Ben Yellow Owl never sat in the resister chair. He never stayed more than 24 hours, but he knows the White Buffalo Home well. If you don’t believe him, go look in cells 3, 4, 5 and 6 where his name is carved into the walls.

As a 13-year-old entering the home for the first time, he was scared.

Subsequent visits, especially when he was arrested for drinking alcohol, were worse. He remembers the drunk tank, an empty room painted white that held intoxicated children for close supervision. Inside, there was no bed, no chair—nothing a child could use to injure himself. During the Blackfoot’s annual Indian Days celebration, the tank would be crammed full of

intoxicated children. Now it holds filing cabinets and old computer parts.

“Sometimes when I’d go in there drunk I’d freak out,” Yellow Owl says. “I’d just act dumb. I’d do anything to get out of there—act sick, and just puke all over, gag myself.”

Sitting in the White Buffalo Home gave Yellow Owl time to think about his actions and the direction of his life. But those thoughts floated away as he walked out the cramped double doors that serve as the home’s only exit.

“It never stopped me,” he says. “I was dumb. Right when I got out I’d try calling my friends. ‘You guys want to get a bag?’ It was pretty much a routine.”

As a 15-year-old, holding his son Bryson for the first time, Yellow Owl says he thought about how things had to change. The birth of his second child, Kaydan, reinforced the point. “After I had my kids it just kind of woke me up,” he says. “I realized I can’t be hanging out with my friends every day getting weed and getting high and acting dumb.”

But intentions aren’t always followed by actions.

It wasn’t until Yellow Owl enrolled in substance abuse classes and started working with the Po’ka Ranch that his life began to turn around, though even then its path hasn’t always been a straight one.

Yellow Owl isn’t just an employee at the ranch, he’s also a client. His work only earns him a small stipend, not enough to feed his two children, but the program is helping him study for his GED, providing books and practice tests.

“I want to go to school and take classes at the college here, pretty much like everybody else,” he says.

Things are getting better, but Yellow Owl still struggles. He still argues with his girlfriend. Sometimes it gets physical. Sometimes he gets high just to escape. Earlier last year he stopped coming to work for nearly seven months. Most of that time was spent drinking and smoking. But Yellow Owl is back at work. He knows his kids are counting on him.

“I want them to be the kind of kids who talk about their dad,” he says. “I just want to stay on the right track and not do wrong—because of my kids.”

An Undecided Case

Rocky Boy's Reservation addresses the many challenges tribal judges face, with mixed results

Story by Kelsey Bernius | Photos by Letty Hingtgen



Joel Rosette is the chief judge of the Chippewa Cree Tribe. At 28 years old he has a bachelor's degree in business administration from the University of Montana, and a juris doctorate from the University of New Mexico.

A discreet braid of sweet grass hangs above the lone window in the chief judge's courtroom at Rocky Boy's Reservation. The Chippewa Cree Tribe considers the herb sacred as it serves as a symbol of honesty, openness and compassion. And although Rocky Boy's residents have endured a past full of contradictions to the emblems of that revered grass, some see change coming to this smallest of Montana's seven

Indian reservations.

A newly appointed judge, three years out of law school, has come to symbolize hope in a broken justice system.

On the hill across from the Rocky Boy High School, tucked away in a corner office of a mud-brown double-wide trailer with a door that sticks, Chief Judge Joel Rosette hears cases involving any of the 3,000 tribal

EXPECTANT



A braid of sweet grass tacked to the wall above the window in Judge Rosette's courtroom symbolizes honesty, openness and compassion.

members living on the reservation.

An enormous mud puddle surrounds the concrete steps that lead to the court. The wind seems to blow from all directions. On the outside of the stubborn front door a typed sign reads, "Do not come in and ask to speak to a judge about a case!" In this tight-knit community, judges at Rocky Boy's face a unique challenge in the fact that nearly everybody knows everybody else either through blood, marriage or gossip.

Rosette has just returned from his lunch break and sips a Diet Dr. Pepper. Dressed casually in jeans and a black button-up shirt, his hair is buzzed short and he sports a well-defined goatee. He speaks in a steady, subdued tone. His seriousness is not tempered by his boyish smile.

"I was humbled they (tribal council) would even consider me for the job," Rosette says.

He knows it's not an easy one, often made more difficult by the tribal council itself.

Judges at Rocky Boy's used to be elected by the people and were not required to have legal training. Often judges have to hear cases involving family members or close friends—either their own or those of people in power. And often they face pressure from people wanting to

"There's a difference in value systems. It's set up as a Western court and the majority of that time it goes against the values of the community. There's more compassion than (exists in) traditional law in the West. The challenge is balancing that line."

Chief Judge Joel Rosette

influence the outcome. In one case a judge broke the law herself trying to save a family member from arrest.

Added to the mix is an understaffed and overwhelmed Federal Bureau of Investigation that several reservation residents say allows serious criminals to walk free on the reservation for years before facing charges, if ever.

The result is a tribal law and order system that many Chippewa Cree have lost faith in.

But law and order is attempting a comeback here, especially in the judicial sector. In 2004, the tribal council declared that judges would no longer be elected, but would instead be appointed and would need a law degree. In that same year, the court system received a \$200,000 federal grant that helped modernize the courts, allowing the purchase of computers, servers, photocopiers and Internet access.

With these modern and long overdue additions has come an added level of complexity to a system that tries to balance modern Western judicial models with Chippewa Cree methods of dealing with crime. It's this that Rosette says is one of the main challenges for the tribal justice system.

"There's a difference in value systems," Rosette says. "It's set up as a Western court and the majority of that time it goes against the values of the community. There's more compassion than (exists in) traditional law in the West. The challenge is balancing that line."

Yet Rosette acknowledges a plus side of the system too. "It's a challenge, but it also becomes our advantage," he says.

The first judge appointed in the new judicial system lasted four years on the job. Duane Gopher, who holds a law degree from Lewis and

Clark College in Portland, says although several factors led to him leaving, a main one was the fact high-ranking officials in the community bent the law when either they or family members got into legal trouble.

Gopher speaks quietly, methodically and pauses between every spoken thought as if he isn't sure he should open up. He now serves as the environmental programs coordinator, overseeing the five EPA grants that the tribe currently administers.

"The biggest challenge that I seen and got tired of—and was one of the decisions of me leaving—was the lack of adherence to tribal law by tribal leaders of the community," Gopher says.

Gopher says in several cases councilmen's sons were caught with drugs and got off scot-free because the tribal prosecutor was fearful that the council would fire him if he brought charges. He also said that several public officials were reported for domestic abuse but never cited or prosecuted.

"There's always that fear of repercussion from whoever that person is related to within (the system) whether it's within the courts, law enforcement or the tribal council," says Gopher, noting that at times he had to sentence his own family members to jail. "For any court to work effectively you need a prosecutor with no ties to the community."

Inadequate police reports also forced Gopher to throw out several cases, usually every week. Often, he says, the report was a line or two of hardly legible words.

"Most police here have no formal training," Gopher explains. "The problem we have with the law enforcement is they have no standards that they have to adhere to. BIA used to have a pres-

ence, they used to send you to law enforcement academy. Some of the guys have gone through that, but majority of (the) force has not.”

Gopher says officers even have to buy their own bulletproof vests.

He notes that police reports improved toward the end of his term when the police department hired Steve Henry as an investigator. The reports are now much better, Judge Rosette says. He sometimes throws out cases for lack of evidence, but inadequate investigations or illegible police reports aren't big factors in the number of unprosecuted crimes at Rocky Boy's, he says.

Henry, who is now a highway safety officer, echoes Gopher's attitude toward community and family pressure. He served as a tribal prosecutor for six years before he quit and came to the police department. Henry says he was constantly frustrated by family members of defendants pressuring him not to prosecute cases.

“On a regular basis, family and community members would come into my office and give me grief about a particular case,” he says.

“The justice system is supposed to be blind, but it really isn't here.”

Gopher also says that the relationship between the tribe and federal prosecutors has not been good. Gopher claims that murderers, child molesters and drug dealers are still walking around free, years after their crimes.

Gopher thinks the federal government should have no presence on the reservation.

“Why rely on the feds when we as a tribe are totally capable of trying crimes on our own?” Gopher asks.

Under the Major Crimes Act, federal law enforcement is responsible for investigating crimes on Indian reservations.

Most often, FBI agents take charge of investigations on Montana reservations and issue reports that the U.S. attorney's office in Billings uses to decide whether to pursue charges. In Montana, from 2004 through most of 2007, according to a report in the Denver Post, the U.S. attorney's office declined to prosecute almost 55 percent of the crimes referred to the office from Montana's

seven reservations.

Major crimes like murder and robbery can be tried in tribal courts, but only as a misdemeanor with the maximum sentence of one year. And if the tribes wait to see whether the federal government will proceed with a prosecution, often the statute of limitations has passed, leaving the tribes without the authority to prosecute a crime federal prosecutors declined.

Still, Gopher says that tribal courts should prosecute all cases in which the tribe has concurrent jurisdiction with the federal government, so that if federal prosecutors don't bring charges the tribe can still find some measure of justice.

Another reason crimes aren't always prosecuted in tribal courts is that Indians view justice from a different perspective, Gopher says.

“The people are very forgiving. A lot of times what would be considered a heinous crime in the non-Indian world is quickly forgiven here,” Gopher says. “For example, if somebody physically assaults another they are usually forgiven in a couple of days. By the time it goes to

jury the jury has forgiven the person, but most importantly so has the victim.”

One of the few spots of social activity near Rocky Boy Agency is the gas station, casino and café, Jitter Bugs. At the establishment, which lies along Highway 85 just off the reservation, alcohol sales are legal and frequent.



Jitter Bugs, a gas station, convenience store, casino and bar in Box Elder, is one of two places just off Rocky Boy's Reservation where people can purchase alcohol.



Population: 3,500
Native: 98%
Counties: Hill, Choteau
Reservation center:
Rocky Boy's Agency

Charon Parker is working the cash register at Jitter Bugs while on spring break from Montana State University-Northern in Havre. She is the daughter of former judge and lawman Mike Parker. Both her mother and grandmother worked as dispatchers at the police station and she essentially grew up at the police department. She is majoring in liberal studies and Native American studies and plans to transfer to the University of Montana in Missoula to study pre-law and eventually attend law school.

Parker, who also worked as a secretary for Gopher, says that both Gopher and Rosette represent a new class of judges who don't let family ties and favors dictate their rulings.

“We usually go through them (judges) so quick. There's judges' dropping left and right,” she says. “But Joel's going to do a good job; he won't let family ties affect his job.”

The most notorious case of judicial abuse of power involved Chippewa Cree Associate Judge Crystal Lavern Denny. Mention her name and eyebrows raise and eyes turn away.

On Feb. 10, 2002, Denny tipped off her cousin George Parisian about a planned federal drug bust and search of his home. Both Parisian and Denny were caught. Parisian was sent to prison and U.S. District Judge Richard Cebull sentenced Denny to five years' probation with six months of home detention and a \$100 fine. She was also banned from ever working for the tribal



Charon Parker rings up beer Friday afternoon at Jitter Bugs—a popular pre-weekend stop. She grew up immersed in tribal law enforcement, her father working in the courts and her mother a police dispatcher.

court or law enforcement.

Within a year Denny had violated her probation. She had received a DUI and committed misdemeanor theft, among other charges, and was sentenced to eight months in jail. In 2006 she was once again brought before a federal judge for probation violations, this time on more serious, and numerous, charges. Alcohol and cocaine use, another DUI, failure to report for drug testing, failure to participate in substance abuse therapy, and failure to notify her probation officer of contact with law enforcement got her a nine-month sentence.

Next time, her probation violations began only weeks after her release. One violation occurred on Christmas Day 2007, an arrest for driving while intoxicated. And although her blood alcohol level was .225 percent, the case was dismissed the next month by tribal prosecutors. More DUI arrests ensued and her probation was revoked.

Gopher, who was an associate judge at the time, says that irresponsible behavior isn't unusual among people in positions of power on the reservation, though the Denny case was particularly egregious.

"I think she (Denny) would be the only judge to do that sort of thing though," Gopher says.

Gopher says when he became chief judge he ordered that only he, and not associate judges, could sign off on warrants. He acknowledges there were still leaks, but says the change greatly decreased tipoffs.

"Anybody who is entrusted to hold an office should be held to the highest standard. If you don't have that, what good is the system?" Gopher asks. "What good is the law?"

Others agree that abuse of power isn't uncommon. Parker says it's well known that if a tribal council member's child gets in trouble with drugs, prosecutors will be pressured to drop charges.

"If you don't let my kid out of jail and if you don't drop the charges, you won't have a job. That's how it's been as long as I can remember," Parker says.

Parker's family has felt the effects first hand. She says her father, Mike, was fired from his prosecutor's job after a councilman's son was caught in 2003 with an ounce of cocaine. Twenty minutes before the defendant was to be sentenced, her father was called into council chambers and fired.

Mike Parker packed up his belongings and decided never to go back to work for the tribe. He recently underwent both cranial and heart surgery and is limited in his ability to speak about the topic.

"I think everything would be better if the BIA took over instead of the tribal council," Charon Parker says. "It's always going to be family here. I don't think that'll ever change."

The present tribal council has taken one step that could lead to change, however. It has created a judicial commission to serve as a barrier between the council and the courts. Bert Corcoran chairs the commission that meets once a month. A retired school superintendent, Corcoran says that when he took the position, he had little knowledge of the intricacies of the tribal court system.

One of the commission's first actions was to find funding for a court administrator. Corcoran says when Gopher was chief judge, the workload created by not having a court administrator made Gopher's job nearly impossible.

Corcoran points out that since judges are hired by the council, they must also answer to them. Even now council members persist in trying to influence decisions and rulings, he says.

Still, he emphasizes that judges must refuse to bend the rules. "And Joel has certainly done that so far," Corcoran says. "If you listen to council you're going to get yourself into hot water really fast because you can't continue to do these favors."

Though mindful of past pressures, Rosette says so far he loves his job and hasn't felt intimidation from the tribal council. He agreed to take the job only temporarily at first, but has since decided to stay. He's found one way to lessen the pressures of the job.

He lives 30 miles north of the reservation, in the old railroad town of Havre. Rosette says he likes to be able to go grocery shopping without being approached about cases.

Rosette considers Gopher a mentor and model judge and says the best advice he got from him was to not take criticism personally.

"Sometimes I feel like the job as a judge can often overwhelm," Rosette says. "But I feel like my energy and passion can make up for that."

Underprotected, Underserved

*Fort Belknap
copes with
the reality
of inadequate
law enforcement
with plans for
a public safety
commission*

Story by Jessica Whalen

Photos by Stefanie Kilts

It's 4 in the morning. A shroud of gray mist stretches across rolling fields, draped over miles of wooden fencing, nestled into the crevasses of the snow-capped Little Rocky Mountains. Fort Belknap Reservation is quiet.

In a farmhouse at the north end of the reservation, a persistent ringing cuts through the stillness. Flicking on the light, Carletta Benson moves toward the phone with a hazy sense of urgency.

No one calls at this hour with good news.

"Hello?" Benson asks, voice grainy with sleep.

"Carletta?" her sister says, "Jay just killed two people and he's headed your way. We don't know where he's at."

Twisting the phone cord around one clenched fist, Benson peers down the smoky line of road that traverses the ranch where she lives



An abandoned bicycle rests near the boarded-up house where Calvin Snell, 69, and Doreen Manzanares, 62, were murdered on Dec. 17, 2008, in Lodge Pole, on the Fort Belknap Reservation.

with her husband.

"Where are the police? Are they here? Are they coming?" she asks, fear replacing her exhaustion.

But the dogs aren't barking. If someone was on her land, she would know.

After saying goodbye to her sister and locking the doors, Benson waited. With a rifle in one hand and the phone in the other, she called the police station five times. Five times she was told that law enforcement couldn't give out any information regarding the case or the suspected whereabouts

VULNERABLE



Carletta Benson, a neighbor of the Has The Eagle family and a counselor at Hays-Lodge Pole School, waited for hours to know the suspect's whereabouts after the double murder.

of 25-year-old Elwin "Jay" Has The Eagle.

After hours of watching out the window, ("We were too scared to go back to sleep," Benson says) a friend told the Bensons that Has The Eagle was in custody. Police arrested him following a car chase at speeds of more than 100 miles per hour.

The double homicide occurred around 1:30 a.m. Dec. 17 in Lodge Pole, just two weeks after Has The Eagle was released from the Phillips County jail on \$50,000 bond. He had been in custody for beating a man over the head with a rock and leaving him for dead. In the Lodge

Pole homicide case, Has The Eagle pleaded not guilty and has yet to go to trial, but criminal investigator Robert Ironmaker says Has The Eagle faces a life sentence on charges of slitting the throats of Calvin Snell, 69, and Doreen Manzanares, 62, before stealing their car.

"I live right next to the Has Eagle family, not even a mile as the crow flies, and the only thing I knew was that Jay was someplace close," Benson says. "We were terrified. Any information would have been a relief, but the cops refused to talk to us. That was wrong."

Complaints like Benson's are one reason the Fort Belknap Tribal Council is in the process of putting together a public safety commission—a forum where community members can voice concerns about safety and law enforcement. The

commission's function is to hear complaints or suggestions and then decide if they should be acted on.

The commission will comprise five members, handpicked by the tribal council, and must meet certain criteria. For example, one slot will go to a current or former law enforcement officer. Council member Andrew Werk, who chairs the council's law and order committee, will oversee the new commission.

"We want it to be very objective," Werk says. "I think it will be a good tool to help with ongoing safety issues. There is always skepticism, but the hope is to get community members involved and get some things resolved a little faster."

However, Werk is concerned that the Fort Belknap community isn't showing much interest. "It's hard to say if the idea is being well-received," he says. "We haven't had the amount of public response that we would like to see."



Population: 3,115

Native: 94%

Counties: Blaine, Phillips

Reservation center:

Fort Belknap Agency

Werk has held four community meetings, but only the first had more than a dozen people attending and most of those were law enforcement employees apprehensive about the commission's role. The Lodge Pole meeting had to be rescheduled twice—once because of a winter storm, and once because no one showed up.

"People just don't think anything is going to change," Benson says. "I mean, it's a nice idea if it works, but we'll see."

In spite of this, the council feels that a safety commission will benefit the community. "We need a safety commission, or someone to police our law enforcement," says councilman John Allen. "We can't allow officers to bully the public."

Ironmaker, who has worked in law enforcement for 37 years, acknowledges that complaints about officer conduct are common. "We're always getting calls from folks who say that some cop manhandled them, or pulled them over for no reason," he says. "If we fired every officer who had complaints brought against him, we wouldn't have a police force."

That's one reason Ironmaker feels a safety commission would do more damage than good. Police in Fort Belknap make \$10 an hour, the lowest starting wage in District 5 (which includes all of Montana) and, according to Ironmaker, more complaints against tribal law enforcement will add to "the extremely high turnover rate" on the force.

"I don't like it," he says. "A lot of us think it's

going to be a police bashing. I've been involved with safety commissions before and they've just never worked. Maybe things have changed, but I don't think they have."

Moses Dionne has been in law enforcement 17 years. In April of this year he left his position as chief of police at Fort Belknap to take a higher-paying job on the Fort Peck Reservation. He is unsure about his views on the safety commission, but says that if done right it could be a good thing.

With regard to Benson's complaint that she was kept in the dark when she tried to find out if a suspected murderer was on the run near her home, Dionne says he "wasn't aware that anyone by the name of Carletta Benson requested information that night."

In fact, Dionne and Ironmaker say that when Has The Eagle allegedly committed the murders, Fort Belknap police weren't even aware he was back on the reservation. They thought he was still in the Phillips County jail on an assault charge.

"Would it have made a difference if we had known?" says Ironmaker. "Maybe. Maybe not."

Regardless of what information tribal police had or released that night, crimes like those grisly murders have lasting effects, effects that a safety commission won't be able to erase.

On a reservation that's home to fewer than 5,000 members of the Assiniboine and Gros Ventre tribes, many people now lock their doors. Law enforcement officials are feeling increasingly stretched in terms of resources and manpower. And a fear that the rising crime rate on Fort Belknap can't be curtailed is troubling police and community members alike.

"In the last couple of years, there has been a steady increase in crime, especially in the Hays-Lodge Pole area," says Dionne. "And we've only got 10 officers on the ground. In 2002 there were 1,200 arrests, compared to around 1,800 in 2008."

The small towns of Hays and Lodge Pole sit about five miles apart, roughly 35 miles from the reservation's central hub, Fort Belknap Agency, where tribal police offices are located. Dionne says that one of the reasons the crime rate is higher in Lodge Pole is because perpetrators know that it takes police about a half hour



Above: Seven members of the Fort Belknap Tribal Council meet at Fort Belknap Agency. The council is working to establish a public safety commission to handle complaints about safety and law enforcement on the reservation.

Right: Former Fort Belknap Chief of Police Moses Dionne says an insufficient budget for law enforcement and the high turnover rate among police officers make it difficult to fight crime.

to arrive after a call comes in to the tribal police office.

Sometimes, if the call isn't considered an emergency, it takes even longer.

"It took the cops an hour and a half to get down to the grocery store after our gas pump was broken" and they caught a teenager stealing gas, says Sheila Martin. Martin and her husband own Martin's Grocery in Hays, which has the only gas pump in town. "A kid who's been poking a stick in the thing to steal gas finally got caught, and it took forever to get someone down here."

Although Martin's Grocery is located in Hays, Lodge Pole residents also use its gas pump. The nearest gas station beyond that is in Agency.

"It's frustrating is what it is," Sheila Martin's husband, Gerald, says. "For me, you feel like taking the law into your own hands. What else can you do?"

Sheila Martin nods, glancing out the picture



window down the mile of dirt road that leads to the store.

"There are three police officers that live in Hays," she says. "Why couldn't someone come? We're ready to quit. People don't understand that we're here for the community, but the community won't help us out."

"And the safety commission is a joke," Gerald Martin adds. "Nothing will change. Who's going to get fired? There aren't enough officers as it is."

Both police and citizens agree that law enforcement is severely understaffed and underfunded.

"There are 10 police officers, and two vacan-



Andrew Werk, the Mountain Gros Ventre representative on the Fort Belknap Tribal Council, will direct the new safety commission.

cies,” Ironmaker says. “That’s not adequate. We need to have 15 to 20 officers on the ground. Back in the ’70s, we had 10 or 12 officers. Now there’s more housing, but the law enforcement budget never did go up.” In fact, budgets have gone down in recent years.

The BIA gives each reservation an allocation based on its size and population. But after the Sept. 11 attacks, reservations across Montana began receiving fewer resources, and as a result departments are cutting staff and reducing wages—regardless of whether the employee is a police chief or a rookie.

“Since the war, our BIA funds have decreased by roughly \$200,000 to \$400,000,” Dionne says. “It’s a lot. Think about what we could be doing with that.”

After working for more than 17 years, Dionne made \$12.50 an hour. The police chief couldn’t afford to cut himself anything more than that, because there isn’t enough in the \$1,047,386 yearly budget.

“If we’re expected to be out there and provide top service to our community, then our officers need to get paid more,” Dionne says.

And although there are three officers living in Hays, Dionne says he doesn’t call them to a scene unless they’re dealing with a gun or rape case. The salary is one reason; the lack of

short more than \$600,000 in a budget for staff, food, and jail supplies.

The current jail has eight cells and houses 16 inmates.

“Sometimes we have 20 people in there though,” Clerk and Recorder Cheryl Hansen says.

Hansen doesn’t know if or when the BIA will come through with enough money to turn the new jail into a working facility. She hopes soon, particularly because as crime rates rise, so does the need for more holding space.

The spike in crime is being attributed to many factors—higher use of drugs and alcohol, the recession, and juvenile delinquency.

“There’s an increase in methamphetamine use,” Tuffy Helgeson says. “And of course there’s no work, so all across the country people are drinking more. Here it’s worse because there weren’t many jobs to begin with.”

Helgeson teaches Assiniboine language and history at Hays-Lodge Pole High School. His long hair is tied back in a simple ponytail, trailing down the back of a jacket adorned with Native motifs.

He believes that prevention is the key to building a safer community.

“If we can prevent our young kids from using alcohol and drugs, we can break this violent

manpower is another.

“That’s why it took me so long to get out to Martin’s Grocery,” the police chief adds. “I was the only one on duty, and the officers I’d sent home to rest had been working for upwards of 36 hours. Of course I’m not going to get them up to take that call.”

Salaries and staff numbers aren’t the only things taking a hit.

Fort Belknap can’t afford to open its new jail, an almost \$2 million facility. They’re

cycle,” Helgeson says. “But it starts at home, and the fact is, students are giving up.”

Benson, who also is a counselor at Hays-Lodge Pole High School, says that last year alone 36 kids dropped out. Fourteen were freshmen.

“When you have such a high dropout rate, of course you’re going to have a high crime rate,” she says. “Our youth are our (future) leaders, and what are we doing for them? The Boys and Girls club shut down. There’s nothing for kids to do. And somebody needs to be accountable.”

Benson and Helgeson added that because minors know police are scarce in Hays and Lodge Pole, they party without much threat of repercussion.

And even if they are caught, there’s a chance that one of the youths is related to the police officer who busts them.

“My son was at a party a while back and the cops showed up,” Helgeson says. “But the officer was the father of a kid at the house, so he just drove them all home drunk and didn’t arrest anyone.”

Helgeson says he took his son to the station so he could spend a night in jail for his actions, but law enforcement refused to hold the 16-year-old.

“They wouldn’t take him—they wouldn’t take him to the juvenile detention facility,” Helgeson says, shaking his head. “Kids here learn a double standard. And then you’ve lost the battle.”

Since Fort Belknap doesn’t have its own juvenile detention facility, the BIA pays to have minors transported and housed in Blaine County—33 miles away from the reservation. That’s where Helgeson’s son would have had to go.

Helgeson adds that although he thinks the safety commission is a good idea, it might be “too little, too late in lieu of recent circumstances.”

“The council is trying to fix the problem without knowing what the problem is,” he says.

However, council members have hope for the commission. In order to combat some of the problems associated with a rising crime rate, says Werk, the chairman of the council’s law and order committee, you have to start at the community level.

“I’m very open-minded, very positive about what we’re trying to do,” he says.

Taking Their Own Path

Angered by what they insist was a botched investigation into their son's death, a Crow family pursues a suit against the FBI

Story by Charles Pulliam and Shane McMillan

Photos by Shane McMillan

Small homes interrupt the matte brown horizon at the northwest edge of the Crow Reservation, speckled dots and dashes amid the crisp spring snow. The vast expanse of rolling hills defines this raw, wide open country, where family becomes more than just blood relations; they're best friends, confidants, people you can count on.

A Crow family whose home is nestled in those hills was ripped apart on Feb. 2, 2005, when Steven Bearcrane-Cole was shot and killed by a co-worker. As Earline and Cletus Cole tried to cope with the shock and grief of their son's death, they assured their four remaining children that the law would find justice for Steven. But in the four years since 23-year-old Bearcrane-Cole died, the Coles say they've learned that they couldn't count on the FBI or federal attorneys. Instead, they are pursuing the justice they insist was denied their son.

Recently the Coles and another Crow Indian family filed a lawsuit in federal district court in Billings, claiming that the FBI has a pattern of failing to adequately investigate crimes against Indians.

To fund the fight, the Coles and their extended family have been selling off their cattle, one head at a time. "We'd sell a cow here, one there," Earline Cole says. She says the family sells a heifer each time a bill comes from their Denver-based attorneys or each time their legal team needs to fly to Billings for hearings.

"We're wealthy in a sense of family," explains her husband, Cletus Cole. "Grandpa's herd is down from selling though," he adds, referring to his father-in-law, Earl Bearcrane.

Earline spends most of her days and restless nights doing legwork for the case to help minimize legal fees. She receives packets of information needed for the case and, once she gathers it, reports back her findings. She has become fluent in legal terms and knows every detail of her son's case.





Earline and Cletus Cole lost their son Steven in 2005 when he was shot by a co-worker on a neighboring ranch.



Cletus Cole pauses at the sink in the family's home. The Cole family hopes winning their case will clear their son's name and help them move on.

Earline and Cletus Cole still suffer daily from their loss. Their voices occasionally quiver when they speak of their son and they struggle to hold back tears.

Earline has high cheekbones, long dark hair and brown eyes that soften and sharpen as she talks about her second-oldest son. In fitted jeans, a pink top with floral embroidery and a green fleece vest she fits comfortably in both the sweeping landscape of their valley and the angular streets of Billings, some 20 miles west. Cletus is the quintessential Indian cowboy. A belt with a beaded buckle secures dark denim jeans

around his thin waist. Tucked into his jeans is plaid shirt with pearl buttons that snap shut. A black cowboy hat shades his eyes, which often look tired.

Sitting around the big table in the dining room at her parents' house, Earline looks toward her husband from behind a stack of legal documents.

"We aren't the kind of people to talk bad about others," she says, "but we just want justice for Steven."

Steven Bearcrane-Cole was shot by Bobby Gene Holcomb at the Leachman Cattle Co.

ranch, where both men worked as ranch hands.

The shooting happened on one of Bearcrane-Cole's days off. His girlfriend, Melissa Costas, had dropped him off at the ranch after Holcomb called to ask him to help out for a few hours. After working in a field several miles from the barn and stock pens, the two men, who had been drinking, reportedly got into a dispute over a horse. Holcomb drove back to the barn in a truck pulling a horse trailer, leaving Bearcrane-Cole in the field. Ranch foreman Roger Reitman reported that Bearcrane-Cole rode up bareback on a horse about a half-hour later and

“We live in a society where we expect government, and we have the right to expect the government to do something when we are the victims of crime.”

Patricia Bangert, civil rights attorney

headed for the dingy white and yellow trailer that served as a bunkhouse. Holcomb later told authorities that Bearcrane-Cole kicked in the door to the trailer and attacked him with a knife. Holcomb said he grabbed his .22 caliber pistol and, fearing for his life, shot Bearcrane-Cole between the eyes.

But Patricia Bangert, an attorney for the Coles, says evidence contradicts Holcomb's claim. Crime scene photos show Bearcrane-Cole lying on his back, she says, and the knife Holcomb claims Bearcrane-Cole attacked him with was not only sheathed, but beneath his body and under an electrical cord lying on the floor.

“That's the magic knife that went from Steven's hands, into a sheath, underneath a cord and underneath his body,” Bangert says. “It doesn't make sense.”

A civil rights attorney, Bangert has taught as a visiting professor at several Colorado law schools and was director of legal policy for the Colorado attorney general. She says she took on the case, despite the fact she knew it would be controversial because it names several FBI agents and U.S. attorneys as defendants.

Bangert says FBI agents “refused to do anything but the most cursory investigation” into the circumstances of Bearcrane-Cole's death.

The FBI agents' findings were referred to the South Dakota U.S. attorney's office, which declined to file charges. The Montana U.S. attorney's office had a conflict of interest in the case because a relative of the Cole family was employed there.

The lawsuit also states that the South Dakota U.S. attorney's office “has a pattern and practice of refusing prosecutions in cases in which the victims of those crimes are Native Americans.”

The Coles are joined in the lawsuit by another Crow family that feels the FBI has failed them.

Veronica Springfield's husband, Robert “Bugsy” Springfield, 48, disappeared on Sept. 19, 2004, on a bow-hunting trip with his 13-year-old son, Colton, in the Bighorn Mountains, an area he grew up exploring.

Searchers used a grid system to comb the area for any sign of Springfield, while a volunteer helicopter pilot used an infrared sensor but also came up with no results. At one point more than 200 volunteers and about two-dozen trained dogs scoured a five-square-mile area. They came back during the spring and still found nothing.

Springfield's remains were found by hunters in October 2005, in an area the family says was 50 yards from where they had camped during the

search. They insist searchers had looked at the exact spot where the body was found.

The family wonders if Springfield, an ex-Marine and Special Forces member, had been murdered and his body disposed of later.

“If he was actually up there in that area, to put it bluntly, we would have smelled something,” Veronica Springfield says. “The animals would have been there. The birds would have been there.”

But what happened next is almost as upsetting as knowing he was dead.

The FBI sent the remains to Quantico, Va., for DNA testing and identification. It took two years for the FBI to return the body so the family could bury the remains. Over those two years the family asked repeatedly when the body would be sent back and were always told it would be soon, only to hear nothing until they



Population: 6.900

Native: 75%

**Counties: Big Horn, Yellowstone
Reservation center: Crow Agency**

asked again.

Springfield's sister Myra Gros Ventre says of their ordeal. They hope that in defending the lawsuit the federal government will at least have to answer for their actions.

“At this point in time, it's not going to bring Bugsy back, but hopefully something good comes out of our suit,” she says.

Springfield's death certificate was released to the family on Nov. 16, 2007. The cause of death was listed as undetermined. Several items in his wallet, including his ID and Social Security card, were returned to the family with no obvious signs of weathering or water damage, which the family believes means they weren't exposed to the elements for any lengthy period.

Bangert says the cases reflect a pattern in federal law enforcement of treating Native American victims as unimportant. The lawsuit states that both FBI agents Matthew Oravec and Ernest Weyand “consistently closed cases involving Indian victims without adequate investigation.”

“We live in a society where we expect government, and we have the right to expect the government, to do something when we are the victims of crime,” Bangert says. “Even though it just concerns three plaintiffs, I think it's a major, major case.”

Eric Barnhart, the current Billings senior supervising resident FBI agent, wasn't serving in Montana at the time of the initial investigations. But he is named in the suit because he now heads the Billings field office.

Barnhart says his office isn't keeping any secrets from the families. He says many of the details the FBI does withhold involve information necessary for a complete and fair investigation, as well as information that cannot be revealed for privacy reasons.

“We're not giving out information because we have something to hide,” Barnhart says. “I understand there is frustration on the part of the victims, but that doesn't mean we can tell them anything they want.”

Barnhart says the FBI dedicates all available resources to investigating homicides. And Montana U.S. Attorney Bill Mercer says the federal government has come a long way in its investigations and prosecutions of felonies in Indian Country. “We have a lot of good people on the ground,” Mercer says.

The Coles feel they've been treated with contempt almost from the moment they learned their son had been shot.

Earline and her two older sons were running errands in Billings when they saw the first responders head out Highway 87. On the way home she found out her son was at the Leachman ranch. When they arrived at the scene at about 6:30 p.m., Earline was met by the foreman, Reitman.

"Bob shot Steve," Earline says Reitman told her. "The second he said that, what I thought since nobody was rushing around, maybe he got nicked, maybe on the leg, nothing serious."

She walked toward three Yellowstone County sheriff's deputies standing near the trailer.

"I said, 'I'm Steve's mother,' and they didn't even answer me. They ignored me," she says. "I asked a second time and they still ignored me. So the third time, I kind of yelled and said, 'I'm Steve's mother, is he all right?' And the one sheriff turned around and just kind of looked at me and said, 'No he's not all right. He died.'"

Once the FBI took over the investigation, because it occurred on an Indian reservation where the federal government has jurisdiction over major crimes, the Coles say things only got worse. The family also says the FBI failed to inform the Bureau of Indian Affairs about the shooting as policy requires. BIA officers arrived on scene, but were not allowed to pursue an investigation, according to the family.

The Coles claim Oravec, the lead FBI investigator named in the lawsuit, was short-tempered, rude and seemed indifferent to the outcome of the case. They say Weyand, his supervisor at the time, didn't push Oravec to fulfill his duties.

A week after their son's death, the Coles met for a case update with agents Weyand and Oravec. In that meeting, the family says Oravec kept checking his watch and a wall clock, looking down as they talked. It frustrated them that Oravec acted as if he had somewhere else to be.

Midway through the roughly 45-minute meeting, the Coles say, Oravec looked up and asked, "Who is Steven?"

"I think that stunned everybody," Cletus says. "I'm looking at this guy and wondering, 'Man, how can this guy not even know what we're talking about?'" He says even Weyand seemed



Above: Earline Cole braids her husband Cletus' hair for their second powwow since son Steven's shooting death in 2005. Steven's daughter, Precious, steps in the room to take a look around.

Right: Earline Cole and Veronica Springfield review legal paperwork.

Springfield is also a plaintiff in the lawsuit that accuses the federal government of neglecting Indian criminal cases.



to be caught off guard by Oravec's remark.

According to their lawsuit, after the meeting, Oravec pulled Cletus Cole aside.

"Cletus, come here, I wanna talk to you for a minute," Cletus says Oravec told him. "(Oravec) gets up and walks back toward the corner and he looks at me and pulls his coat open, and he goes, 'Do you got a problem with me?'"

Cletus says that Oravec purposefully pulled him out of video surveillance and flashed his gun when he pulled his coat open, an action Cletus says he knew was meant to intimidate him.

Oravec would not comment on either the case or Cletus Cole's allegation, saying FBI policy forbids it. He now works in Quantico, Va.

The FBI closed its investigation into Bearcrane-Cole's death within weeks of its occurrence and turned the agents' report over to the South Dakota federal attorneys. By midsummer, the Coles say they learned later, U.S. Attorney Steven K. Mullins and Assistant U.S. Attorney Maura Kohn declined to prosecute the case, on the grounds of self-defense.

But the Coles say they weren't notified of the



Cletus Cole stands over the grave of his son at the family's plot on a hilltop east of their home on the Crow Reservation, 18 miles southeast of Billings.

decision until February 2006, a year after their son's death.

In April 2008, Bangert and the Coles traveled to South Dakota and met with U.S. Attorney Marty Jackley, who had taken over for Mullins, and assistant U.S. attorney Kohn, to express their concerns. The Coles say the two attorneys gave them a commitment to review the case and get back to them with their findings.

However, the lawsuit states that despite the Coles' pleas and presentation of substantial evidence, "Jackley and Kohn have not gotten back to the Coles with the results of any review, and have not initiated any prosecution."

Bangert says Jackley met with them only because it was his job. "I know when someone is meeting because they have to and just kind of usher you out their door," she says.

Photographs of Steven Bearcrane-Cole decorate the walls and cram the shelves of the Coles' home. His 7-year-old daughter, Precious, took one of the pictures around Christmas 2004 when she was just 3 years old. It has become a family favorite since his trademark smile was captured for an instant. Earline says Precious remembers taking the picture and even carried it to school for months.

That the dispute that led to their son's death revolved around a horse is ironic to the Coles. His Crow name *Akiichiilaakinneesh* or "Horse Rider" was handed down from an ancestor who was a scout for General Custer and the 7th Cavalry. It was fitting too, his grandfather says, because Bearcrane-Cole loved horses and was always riding.

Horses were his future. Cletus smiles as he

recalls his son's plans to start a business, leading trail rides in the surrounding hills. Earline and Cletus point across the highway to where their son hoped to build a home. It's not far from where his gravesite is.

The family is still trying to come to terms with their loss. Bearcrane-Cole's absence at family gatherings, his truck sitting off the edge of their driveway, his pictures in every corner, his horses in the field and his daughter Precious are all bittersweet reminders.

Every day Earline toils to complete another step in piecing her son's story together. She says she long ago gave up assuming the law would take care of finding justice in the case.

"You naturally expect justice," Earline says. "We couldn't rely on the justice system so now we got to do it and get down that path ourselves."

Beyond Reach

Story by Nathan Rott | Photos by Hugh Carey

The Crow Nation's lack of an extradition agreement makes the reservation's invisible border a concrete issue; arrests become a game, and everyone knows the rules

Lucas Deputee stepped out of the car into the warm July night. He shut the passenger side door and stood alone in the moonlit silver sage bordering the road as the roar of the car engine faded into the distance.

A few feet behind him, silhouetted by the stars, was a large rectangular sign: “Welcome to Crow Country.”

For Deputee, the sign read: “Safe.”

As he waited for another car to pick him up and take him further south, further into his sanctuary, he thought about what had happened.

He remembered the beer-fueled argument. He remembered snapping, acting, he says, “out of built-in anger and depression.” He remembered threatening the kids and hitting his girlfriend—over and over. He remembered being shaken, scared and drunk.

He also remembered knowing immediately what to do.

“I didn’t think, I just reacted,” he says. “The first thing that came to my mind was ‘hit the reservation.’ As soon as I hit it, I knew I was safe.”

Deputee, 28, quickly fled a Hardin trailer park and called one of his friends, who gave him a ride. He was dropped off just beyond the sign delineating the reservation.

He had made it inside the border of his home, his heritage, but also what would be his self-imposed prison for the next nine months—the Crow Reservation of southcentral Montana.

Deputee, an enrolled member of the Apsáalooke Nation (mistranslated by settlers to become the Crow Tribe), knew that by crossing the physically invisible, but legally impermeable line between Big Horn County and the Crow Reservation, Montana state law enforcement couldn’t touch him. On the reservation, that jurisdictional distinction is common knowledge.

As David Sibley, Big Horn County’s chief deputy attorney, puts it, “It’s like a game, and everyone knows what the rules are.”

TRAPPED



A car on I-90 east of Billings crosses into the Crow Indian Reservation, one of only two in Montana without an extradition agreement with the state. Without it, state law enforcement cannot bring Indians who have committed crimes off of the reservation, but who reside on the reservation, into state courts.

Each of the seven Indian reservations in Montana has limited sovereignty and partial governing powers agreed to by treaty with the federal government. The Crow and Blackfeet reservations are the only two without state extradition agreements, so on those reservations, state-issued arrest warrants for misdemeanors or felonies aren't enforced.

For alleged criminals—both Indian and non-Indian—this provides a vehicle to effectively escape the law. “It’s like a bubble, like you got a shield around you,” Deputee says.

Within 36 hours of the beating, on July 16, 2007, Big Horn County issued a warrant for

Deputee’s arrest based on statements gathered from witnesses and the victim, who spent a week in the hospital. Deputee was accused of aggravated assault, a felony under state and federal laws. But he was untouchable on the reservation. The state’s warrant was useless until Deputee crossed that line. All Montana authorities can do is issue a warrant and wait for the accused to enter their jurisdiction.

“The result is that we have any given number of warrants at any given time,” Sibley says. “We know where they are, we know we can’t get them, and they certainly know we can’t. They are bulletproof.”

“If you’re a federally recognized tribal member on the Crow Reservation, you may as well—for our practical purposes—be in Brazil.”

Diane Cabrera, a Crow tribal prosecutor, resents that idea.

“We don’t want to be perceived as a safe harbor for any type of criminal,” Cabrera says from behind a paper-laden desk. Just outside of her office a ceiling-high wall of file cabinets testifies to the extensive jurisdictional and legal resources Cabrera and her fellow legal counselors need to complete their daily work.

The issue of extradition is one that Cabrera tried to address at the beginning of her tenure as

a prosecutor, in December 2007. During the Crow Legislature's 2008 session, she proposed what she calls a "carefully drafted" bill, which would establish an extradition agreement with the state while maintaining tribal sovereignty.

"I thought we needed [an extradition agreement] for the basic principle of having one," she says. The tribe, as a sovereign nation, she says, should have the power to take dangerous individuals out of their communities and hand them over to the state.

After initially reviewing the bill in April 2008, the Crow Legislature decided to hold public hearings on the issue, Cabrera says. As far as she or anyone else in the tight-knit reservation community knows, those hearings never happened.

So the problem persists.

"We get requests continually from the federal government, state and county governments to have certain persons given over into their authority so they can face charges," Cabrera says. "Yet, I don't have a statute under which I can proceed without violating his civil rights and return him to that jurisdiction to face those charges."

For Cabrera, whose job is to protect the public safety, it's an undesirable position—for everybody involved.

"It cuts against the tribe and the public interest here because I potentially have a felon with violent tendencies running around loose," she says in frustration. "And, the best I can hope for is if he commits a crime under tribal law while



"I couldn't sleep. I started losing it to the point that I was suicidal. They had me in the corner," Lucas Deputee says of his time while in hiding from state law enforcement on the Crow Reservation.

on the reservation, I'll get a crack at him."

Giving Cabrera or any prosecutor that opportunity was something Deputee had no intention of doing.

While Deputee says he didn't definitively know that there was a warrant out for his arrest, he assumed as much. He kept a low profile on the reservation, moving from town to town, researching and asking questions about jurisdictional laws.

When he did leave the reservation, he says he was careful not to drive or drink, always becoming paranoid and anxious to return.

At the Big Horn County Courthouse, sandwiched between Custer and Crow streets in downtown Hardin, Sibley and the sheriff's personnel were aware of Deputee's general whereabouts. Because of the proximity of their office to the reservation and the fact that a lot of county employees are enrolled tribal members, plus the way in which talk circulates in the

small town "there's a lot of things that I know, but I can't prove," Sibley says.

Big Horn County is 4,995 square miles of rolling sage-covered hills and fenced grazing pastures bisected by the thrumming traffic of Interstate 90 and the fluid meandering of the Big Horn River. The bulk of the Crow Reservation, Montana's largest, covers more than 60 percent of the county. The Northern Cheyenne Reservation, which rests along the Crow Reservation's eastern border, sits on another 6 percent of county land.

The Northern Cheyenne Reservation, unlike the Crow, has an extradition agreement with the state. If Montana has an active warrant for someone on the reservation, law enforcement sends a copy to the Northern Cheyenne tribal police. Should the tribal police approve the warrant, they issue a tribal warrant and arrest the individual.

The arrested person then must choose to



David Sibley, chief deputy attorney of Big Horn County, oversees the jurisdiction cases between the county and the Crow Reservation, which he describes as a safe haven. "It adversely affects everything."

"If you're a federally recognized tribal member on the Crow Reservation, you may as well — for our practical purposes — be in Brazil."

David Sibley, Big Horn County chief deputy attorney

waive his extradition rights or appear in tribal court for an extradition hearing. If the court then finds sufficient probable cause for extradition, the accused will be turned over to the authorities who issued the original warrant.

As hot summer days faded into fall on the Crow Reservation, Deputee continued to successfully avoid any legal action.

After the initial panic passed, he says he tried to live a somewhat normal lifestyle. For months, he worked as a plumber, visited friends, always

keeping an eye out for the law. "My thought was just to live here and stay here forever," he says.

If not for a growing paranoia and inner demons, he might have done just that.

Deputee learned from other people avoiding arrest on the reservation that he wasn't as untouchable as he had believed.

Using the federal government's Violent Crime Task Force, state or county attorneys can make a formal request for an "unlawful flight to avoid arrest warrant," says Mark Murphy, Yellowstone County's chief criminal deputy attorney.

If there is a federal interest in the offense, and the state or county can meet the burden of proof, the U.S. Attorney's office can take a case, making the crime fall under federal jurisdiction. In that case, Deputee's "immunity" dissolves.

However, the state or county rarely meet the

criteria to instigate federal action, Murphy says. Especially in cases like Deputee's.

First, "the U.S. Attorney's office is extremely busy," Murphy explains. "They need something to really catch their attention."

Second, even if the crime warrants federal interest, meeting the burden of proof for violent crimes that involve multiple tribal members is often problematic. Getting witness statements from tribal members is also difficult, he says. And because of jurisdictional rules, tribal members on the reservation don't have to recognize state or county calls to court.

So arduous is the process and so rare are situations warranting it, Murphy has only heard of the federal request being acted on six times in his six-year tenure.

But the threat of it was all Sibley needed. Deputee says Sibley advised him by phone to turn himself in, unless he wanted federal marshals to "bust down his door."

It never came to that.

Sitting at the corner table of Crow Agency's Shake'n Burger, a Mexican-style restaurant decorated with sombreros and beads and resonating with the sounds of a widescreen television in the front room, and an overused furnace in the back, Deputee inspects his hands and tells what happened next.

"I couldn't sleep," he says. "I started losing it to the point where I was almost suicidal. They had me in the corner."

For two weeks in May 2008, Deputee weighed his options. He took a prescription sleeping aid, Ambien, and drank on and off to fall asleep. He became even more aware of tribal police. He'd peek out the window of his house to see passing cars and took special notice of strangers in town and unmarked cars—telltale signs, he says, of the FBI.

As the door to the restaurant opens, Deputee instinctively lowers his head. From under the brim of his worn Indianapolis Colts baseball cap, his eyes flick up to identify the person entering the small establishment. In recognition, he waves, shifting uncomfortably in his seat.

"I still freak out," he says. "It still haunts me."

Nine months after that July night, Deputee decided to turn himself in.

He contacted a public defender in Billings

“..the tribal court doesn’t have jurisdiction over non-Indians. There is an inherent imbalance.”

*Sherry Matteucci,
Former U.S. Attorney, Crow tribal counsel*

“I believe in sovereignty ... and I will protect sovereignty. I would die for it.”

*Leroy Not Afraid,
Big Horn County justice of the peace*



Leroy Not Afraid is Big Horn County’s justice of the peace, but also a member of the Crow Nation. He works for the state, but says extradition should be left up to the tribe.

and pleaded guilty to one count of aggravated assault. The Big Horn County’s attorney’s office then quashed the warrant against him.

Deputee was never jailed, but got five years of probation. He was also required to take treatment classes and pay \$1,000 in restitution.

In hindsight, Deputee regrets his decision to run. He dragged out the consequences of his actions, imprisoning himself for nearly a year. His decision was as much a detriment to himself as it was to the justice system that pursued him. It’s a decision Sibley sees far too many people make,

sometimes inadvertently.

“When you have this kind of shield to hide behind, human beings can talk themselves into remarkable things,” Sibley says.

The majority of the 50-plus active warrants in Sibley’s office are not for violent crimes.

They are less striking offenses: traffic violations, drunken driving or public drunkenness. Almost all require court appearances, fines or treatment classes.

Offenders routinely ignore, or simply forget, those court-ordered mandates. So, when they step off of the reservation, they are arrested—again and again, says Rondell Davis, Big Horn County's undersheriff.

Davis shudders at the word jurisdiction. Waving his hand toward the jail down the hall, he says, "Most of the people here are repeat offenders. It's like that movie *Groundhog Day*, it keeps repeating itself over and over."

Davis favors treatment programs over incarceration. That the lack of an extradition agreement limits such programs' effectiveness is a tragedy, he says.

Deputee has trouble keeping up with his treatment classes because of his full-time job and five kids, but the decision to turn himself in was "the smartest thing" he did, Deputee says. While he regrets the alcohol-induced assault and his decision to flee, he doesn't resent the loophole that allowed him to do so, only the "bad name" it gives his home and people.

That "bad name" does more than just hurt the Crow Reservation's public image, says Sherry Matteucci, a former U.S. Attorney whose experiences with Montana's reservations have since motivated her to focus her career on tribal law and justice. In 2003, the Crow Nation asked Matteucci to help them strengthen their legal system and she agreed.

In this role, she has seen the effects of the "lawless lands" label firsthand.

"That belief by people off of the reservations [that reservations are lawless lands], is an economic impediment to the tribe and limits the collective agreements between them and other tribal and state governments," she says.

Mutual law enforcement agreements that in-

clude an extradition component are the most pressing needs in Indian Country today, Matteucci believes.

From her experience with the tribe, though, she doesn't see those agreements in the future. Tribal sovereignty is the main concern, she says, and most Indians fear that under any agreement, the state would end up with unequal authority.

Tribal members can flee state jurisdiction by heading to the reservation. But just as important, the tribes in many cases lack authority over non-Indians who commit crimes on the reservations.

"You don't have any ability for a tribal court to require delivery of any non-Indian person, because the tribal court doesn't have jurisdiction over non-Indians," Matteucci explains. "There is an inherent imbalance."

Leroy Not Afraid, Big Horn County's justice of the peace, agrees that sovereignty is the biggest impediment to an extradition agreement. Not Afraid, who has been a member of the Crow Nation Legislature and just recently was a candidate for the Crow Nation's tribal chairman, adamantly op-

poses any agreement that would further limit tribal sovereignty.

"If I was a member of Crow Nation Legislature still today, my decision (on a proposed extradition agreement) would be no," Not Afraid says with an uncharacteristic iciness in his voice. "I believe in sovereignty. It's deeply rooted in my heart, it's deeply rooted in my family, it's deeply rooted in my ancestral bloodline. I will believe and I will protect sovereignty. I would die for it."

Any decision on extradition, he emphasizes, resides with the Apsáalooke Nation.

Deputee agrees that Crow public opinion will strike down any extradition agreement.

"Our point of view is that they (state authorities) are trying to get us all incarcerated," Deputee says. "The majority of them that are in prison are minorities."

The Montana Department of Corrections'

2009 Biennial Report backs up his claim. In 2008, Montana state's male prison population was 19.2 percent Native American, while 28 percent of female inmates were Native American. According to the report, Native American prison rates are "almost 4 times higher than their representation in Montana's overall population."

Native Americans make up approximately 7 percent of Montana's population and only a portion of all incarcerated Native Americans are reflected in state statistics. Those convicted of felonies on a reservation are sent to federal prisons. And with more than 60 percent of Montana's Indians living under federal jurisdiction on reservations, those prison incarceration rates become even more significant.

Those discrepancies, coupled with centuries-old distrust and prejudice are hard to overcome. Dishonest tribal-federal agreements are another reason why, Matteucci believes, the Crow people oppose an agreement.

Deputee doesn't judge the eight or nine other people he knows on the Crow Reservation who are avoiding state prosecution for violent crimes.

Part of him wants to "tell them to just do the right thing, just turn themselves in, man up. Face your consequences for what you did," he says.

The other part of him knows how hard that is to do.

Holding his 1-year-old daughter, Luchristian, in his arms—arms scarred by a knife-wielding man in a vicious fight prompted by a case of mistaken identity—Deputee surveys Crow Agency's town park. The playground slide is broken and garbage litters the ground. It's a tough place to make a living, and a tough place to grow up.

"I don't like being a criminal, to tell you the truth," he says. "I was never a criminal, I just kind of messed up."

But Deputee's "mess-up" turned into a drawn-out jurisdictional nightmare because of a line marked by only a large blue welcome sign on the western edge of Interstate 90, a line crossed daily by commuters of all ages, races, and nations, and a line passionately protected by the people whom the U.S. government for years tried to trap, exterminate and assimilate.

Deputee's story is over. But the line remains.



American Indian population in Montana: 67,991

Percent of state population: 6.2%

Percent of Indians living off reservations: 35%

Driven By Loss

Embittered by how their daughter's death was handled by Fort Peck and federal law enforcement, a family seeks justice

Story by Kayla Matzke | Photos by Adrienne Barnett

The crosses are almost as frequent as mile markers along U.S. Highway 2 as it cuts across Montana's 110-mile-wide Fort Peck Reservation. Attached to steel posts driven into the prairie, they stand, symbols of stories and lives that ended in littered ditches. Next to old beer bottles, baby diapers and bits of paper, they remain as memories, fading into the wide open prairie.

Across the blacktop from mile marker 615 on the north ditch of U.S. Highway 2 stands one cross, different from the others. Pale pink flowers adorn its post and a single worn red ribbon is tied loosely to its top. Black bold letters read: Sierra Renee Follette, 12-26-86 to 10-24-06. Fresh rust unevenly outlines its edges.

They called her Beasty. She was both Assiniboine and Sioux. She was strong and confident; nobody messed with her. She was always smiling, always positive. If she knew you she would greet you. People always said she resembled her mother, Mary, that they had the same soft, round face. She was a daughter, a mother, a sister, a niece and a friend.

Donelle Buckles remembers the pounding on her door. It was early in the morning hours of Tuesday, Oct. 24, 2006, when she and her husband woke to the sound of frantic, thrashing fists. It was Sam Four Star. She was hysterical, shrieking something about her friend, hit by a vehicle and lying on the road.

Buckles grabbed a blanket and ran to the highway with Four Star while her husband called 911. Nineteen-year-old Sierra Follette was on the asphalt, her left leg bent beneath her. Morning Wise Spirit lay on top of her, trying to soothe her friend.

When tribal police arrived they told Wise Spirit to get off Sierra, but she refused. Finally, they dragged her away from Sierra's limp body and locked her in the back of a police car.

For 40 minutes, the family says, Sierra lay on the edge of the road



Mary Follette flips through the few pictures she has of Sierra. Her most recent photos were taken on her cell phone. The family could not retrieve them. The phone is dead and the charger lost.

with Buckles' blanket over her. No one performed first aid. Once an ambulance came it rushed Sierra to Poplar Community Hospital, two miles away. Her pelvic bone was fractured and her left leg was broken, the bone piercing through her skin. She had lost a lot of blood.

The driver, the girls told the police, didn't even brake. They said he was driving a white sport utility vehicle, which one of the girls described as an Oldsmobile Bravada.

After Sierra's funeral Mary and Verle Follette say people in town told them that a former tribal police officer whose brother owned an Oldsmobile Bravada was bragging that he had run over Sierra and killed her, but that nothing would be done about it. People in the town of 900 residents would come up to them on the street or leave messages on their answering machine saying they heard the former officer admit to running over Sierra, Mary says.

"They would call and they would say, 'We want to testify,'" Mary says. She would always tell them to call

tribal police. Fort Peck tribal police did not charge anyone and the family says the FBI closed the case with no charges and no prosecution.



Population: 10,321
Native: 60%
Counties: Daniels, Roosevelt
Sheridan, Valley
Reservation center: Poplar

UNANSWERED



After Sierra's death Mary Follette went to grief counseling. Her husband Verle's faith has guided him through his grief.

Blood was found on the suspect vehicle's front bumper, Mary and Verle say. They say tribal police claimed the blood was from a deer, though an FBI investigative report obtained by the family's attorney says blood found on the front bumper of a vehicle that was tested was determined to be human.

"Something needs to be done," Verle says. "Our hope is that this doesn't happen to other families. We're not a case, we're a people."

The Follettes can't help but smile when they talk about their daughter. She liked to joke and play tricks on her mom. "She was always different in everything she did," Verle says. Sierra was the third born of their five children, the second eldest of their four daughters. The loudest too. Many Sundays she would go to the House of Prayer where her parents served as pastors, a pack of friends in tow.

By the fall of 2006 Sierra was a new mother

to a baby boy, Trent. "My little man," she called him. A month before the accident, Sierra had moved out of her parents' house into a mobile home in downtown Poplar, a place for her and Trent.

The smiles quickly fade from Mary and Verle's faces when they talk about Sierra's death. "I don't even know where to start," Verle says, shaking his head. Verle gets anxious when he talks about Sierra, and busies himself shuffling papers, fixing coffee and finding things. Mary says he's the type of man who will pick up hitchhikers, take them home and feed them, give them money and pray with them. He likes helping people. But he couldn't help Sierra that night.

It started out as a normal Monday night. Sierra asked Mary if she would babysit 13-month-old Trent while she hung out with friends Sam Four Star and Morning Wise Spirit. Around 12:30 a.m. Tuesday, Mary went to Sierra's trailer

and found Sierra and her friends watching movies. She says she didn't see or smell alcohol and stayed only briefly.

"Next thing I know the cops are pounding on the door," Mary says, telling them a car hit their daughter. It was close to 4 a.m.

Mary and Verle went to the hospital, where the tribal public safety director told them Sierra's leg had to be amputated. Tribal criminal investigator Ken Trotter was interviewing Sierra, they say they were told. They thought she was going to be all right but "they wouldn't let us see her," Mary says.

Two and a half hours later, a doctor told them Sierra had died.

"They came out and said, 'We did all we could.'" Mary fell to her knees sobbing, Verle held her

and prayed. Even after Sierra was pronounced dead Mary and Verle say tribal police told them they couldn't see her body because it was considered evidence.

"It hurt me knowing that my daughter left this world without her mom and dad able to be there," Verle says.

The Follettes got no further information about Sierra's death until the following Monday. Police told them that after Mary had visited Sierra, the girls left Sierra's trailer and ended up at a house party two miles east of town with three off-duty tribal police officers, Terry Boyd Jr., Quincy Crow and Joey Chase. Though all three girls were under 21, the men gave them alcohol, according to police reports. After an argument erupted about sharing cigarettes, one of the men kicked Four Star out of the house. The

girls asked for a ride back to town, but the men refused. So they began the trek along Highway 2, headed back to Poplar.

Mary says the girls told her that Four Star walked nearest the ditch, Sierra was in the middle and Wise Spirit was nearest to the two-lane road. The girls told police they were walking the white line that separates the shoulder from the highway, to see if they could do it. They told investigators that when a white SUV came toward them, they ran toward the ditch.

Four Star and Wise Spirit both declined to be interviewed for this story. "I feel in talking to them that they blame themselves," Mary says.

When the car that struck Sierra approached the girls, Wise Spirit ran away from the road, hitting Sierra's foot, causing her to trip, Mary says she told her. Sierra fell, her legs extending into the roadway. As she tried to get up, the SUV hit her.

Sierra's death certificate states the manner of death as homicide. Just below that, under cause of death, are four citations: multiple severe pelvic and lower extremity traumatic injuries, blood loss, pedestrian struck by motor vehicle, and vehicular manslaughter.

A toxicology report showed Sierra's blood alcohol level was .14. Traces of the prescription pain killer Meperidine and caffeine were also detected in her blood. The Follettes didn't get Sierra's death certificate until December. They were angry to see "alcohol ingestion" listed as a factor in her death. They claim Trottier was using it as an excuse to not do a more thorough investigation.

Last fall, Mary says, Phoebe Blount, a victim specialist with the FBI in Glasgow, showed up at Mary's office with two brown bags containing Sierra's jeans, shoes, shirt, belt, bra and underwear. Mary says Blount told her the FBI had closed the case and she wanted to destroy the evidence. "She wanted permission to burn my daughter's stuff. I said, 'That's not normal. I want it back,'" Mary says.

Blount said she cannot comment on the Follette case, but Eric Barnhart, an FBI supervising agent in the Billings office, explained that in all investigations that remain unprosecuted, evidence is either given back the owner or the vic-

tim's next of kin. If there is no owner or the relatives don't want the evidence, it's the FBI's practice to destroy the evidence by burning it because of bio-hazard reasons, he says.

"I can't speak of specifics," Barnhart says. He also declined to comment as to whether Sierra Follette's case is closed.

Her family says they were told it is and they can't understand that. "It's a homicide; they should never be closed," Verle says. "It's really a frustrating thing for us. We don't know where else to go."

Trottier, the supervisor of the criminal investigation unit for Fort Peck Tribes, says Sierra Follette's case is still open even though he says the FBI closed it.

"It's an active case, which with Fort Peck Tribes, it means we're still following any leads," Trottier says, while acknowledging they have not pursued any recently. "We haven't had anything new come in."

Trottier says he can't talk about what occurred the night Sierra was hit since the case is still open. He wouldn't comment on suspects or about the facts of the case either.

"I really wish we could (talk) because we have this girl hit on the highway and somebody knows who did it. And the family needs closure," Trottier says. "It will be open till it's closed."

Trottier says it's normal procedure for tribal investigators to keep a case open even when the FBI has closed it.

U.S. Attorney Bill Mercer, whose office prosecutes major crimes on Indian reservations in the state, won't comment as to whether the case is open or closed.

"It's our policy that we don't deny or confirm the existence of the investigation," Mercer says.

Mercer also refused to comment as to whether any suspects were identified or interrogated. A thorough investigation was conducted, he says.

"I can't decline a case if I don't have a suspect," he says. "We haven't been able to find that per-



Mary Follette has never opened the evidence bags the FBI gave her. Inside the bags are the clothes Sierra wore the night she was struck by an SUV.

son who was driving that car."

Mercer says he has to look at all the facts surrounding Sierra's death to size up the viability of the case, to see if 12 jurors would be convinced beyond a reasonable doubt that a defendant is guilty of a crime. And even if a suspect had been identified, he says, the facts in Sierra's case would make hard to prove a crime had been committed.

Mercer also says he has to consider the perspective of the driver and the circumstances of when and where Sierra was hit. He can't assume the driver did something reckless or had malicious intent, he says. Plus, Four Star and Wise Spirit aren't creditable witnesses, he adds.

"I don't view this as something that would be readably provable," Mercer says.

"If I were a family member and I'd had someone die, I'd be concerned," he says. "But because there's a loss doesn't mean there's been a crime."

But the Follettes are not satisfied.

Mary and Verle filed a \$1.5 million wrongful death claim with the BIA. They allege negligent behavior from Trottier and the three tribal police officers who gave the girls alcohol. The BIA denied the claim so the family has secured an attorney to pursue a civil lawsuit.

The Follettes insist the three tribal police officers should have been charged with contributing to minors, but they were not. The officers claimed they didn't know the girls were underage and said they'd often seen Sierra drinking in



Verle Follette holds Trent, Sierra's 3-year-old son.

Baracker's Bar, which was near her trailer home. After Sierra's death, Verle says, the tribal chairman told them that the officers would likely be fired. They weren't. The officers were suspended, Verle says, with pay.

The Follettes' lawyer, Stephen Mackey from Billings, is pursuing their civil case against the BIA. Mackey says for the last year he has been filing Freedom of Information requests with the FBI to get the facts of the case.

One FBI report Mackey obtained in the fall of 2008 shows that tests found it was human blood on the front bumper of a car owned by the man the Follettes say bragged about hitting Sierra. However, Mackey said in an interview in May that the FBI has yet to respond to his inquiry as to whether that blood was Sierra's. He doesn't understand the long delay.

"We still don't have results," he says. "It's weird. They said they did this blood test and that it was human. I don't know why they wouldn't give it to us. That was a very strange experience for me."

Mackey says he'll press for answers.

"It's a tricky case," he says. "It's not clear who did it. The Follettes are suspicious of the tribal investigation. It has the smell of a cover up, in-

tionally."

Mercer won't comment about the blood found on the car.

One year after her death the Follettes held a memorial walk for Sierra. Instead of having a traditional giveaway and feast, Sierra's younger sister Lana came up with the idea of the walk. They started at the spot Sierra was hit and they finished her journey home for her.

"It started out to help my girls get through it. I didn't want them to be left out," Mary says. They were astonished by the number of people from the community who came.

"It was really touching. It really helped to know that so many people cared," Mary says.

The Pendleton jacket Sierra was wearing the night she was hit—a jacket that once was Verle's—is hanging in the Follettes' closet. There's a faded blotch of blood on the left arm.

"Sometimes it feels like those are the only things you have to hold on to, you know," Mary says as she starts to weep. "I used to hold the jacket and just smell it." But it doesn't smell like Sierra anymore.

It's hard for Mary to be the wife of a pastor who leans on his faith so heavily; she still thinks

about the what-ifs. What if she hadn't offered to watch Trent for Sierra that night? And she can't forget the last days she had with her daughter.

"I was telling Verle the other day there is not one day that goes by that I don't think of her," Mary says. "I remember seeing a girl that looked like her and following her. There are a lot of points when I feel like I'm ready to give up."

But with no answers in Sierra's case, Mary won't give up. And she can't forget. She passes Sierra's cross every time she drives the 75 miles to Williston, N.D., for groceries; she passes it several times a day sometimes. Mary and Verle debated about moving away from Poplar after Sierra died, but they can't.

"I would like to think that something is going to happen," Verle says. "I wish they would realize that it's not just push it under the rug. People need to be treated like people."

Verle has coped with the loss of his daughter through his faith. "I wouldn't have wanted to go through this without God," he says. It comforts him to know that Wise Spirit prayed with Sierra as they lay on the road right after she was hit. Through Sierra's case, Verle hopes change will come in the tribal justice system.

"It was really hard for me being a dad; I wanna take care of my children," he says. "I felt like I let my daughter down because I wasn't there."

Three-year-old Trent is Sierra's legacy. Mary and Verle always wanted to have a big family. They always wanted to have another boy after their last daughter.

"I don't know what we did before Trent was here," Mary says. "In him I see a lot of his mom. It's almost like seeing your daughter. Verle always used to say Sierra should have been a boy."

Trent recognizes his mom in pictures. He watches a DVD the funeral home gave the Follettes, a collage of photos of Sierra set to music. It's what he knows of his mother. Trent bends to kiss the picture of her on the front jacket. His brown eyes remain fixed to the TV screen when the photos appear. He wears little John Deere boots with green tops. Sierra always dressed him in cowboy clothes and Mary and Verle try to do the same. When he's older they will tell him more about Sierra.

"I want him to know that he had a good mother," Mary says.



Everett Fyant was found along Highway 200 across the street from the Dixon Bar the morning of April 22, 1988. He was unconscious with two broken legs, a head injury and hypothermia—a result of what appeared to be a hit and run. He died more than three months later, at the age of 51.

Without Closure

Regardless of jurisdiction issues, when someone dies, a family aches for answers

Story by Allison Maier | Photos by Rita Rieffenberger

The night before her father was found by the side of the road with two broken legs, hypothermia and a head injury that would eventually kill him, Shelly Fyant dreamt of fires, floods and plague.

It was her first night back from a business trip her 8-year-old son, A.J., had begged her not to take. She didn't know that his insistence that something bad was going to happen would later feel like a premonition.

Everett Fyant was full-blood Salish, a descendent of one of the last families forced from the Bitterroot Valley in southwestern Montana to the Flathead Indian Reservation in the late 1800s. He was a Navy veteran and a jack-of-all-trades. From 1964 to 1967, he served as one of the youngest-ever members of the tribal council.

He worked as a carpenter, janitor, plumber and rancher. He cared for the grounds of the Flathead Agency so meticulously that it was referred to



Shelly Fyant, Everett's daughter, holds a photo of her father riding one of his favorite horses.

as the “showcase of the reservation.” He taught carpentry classes at Two Eagle River School and then at the Salish Kootenai College in Pablo—his final career.

The morning of April 22, 1988, two Dixon residents called police after finding Everett lying unconscious by the highway. His hat lay next to him on the pavement and his glasses had been knocked under a bush. Some “Cabin Fever” lottery tickets littered the ground next to him while others rested on his right shoulder.

He appeared to be the victim of a hit and run, though after a night of drinking and allegedly arguing with other late-night visitors to the Dixon Bar other explanations seemed possible.

Everett died 105 days later, having spent the last three and a half months of his life in a coma, shuffled among various hospitals. He died at the age of 51—Shelly Fyant's age now.

After 21 years, the cause of the injuries that led to Everett's death remain unknown, his case file gathering dust in some storage facility in Sanders County, where the clerk of court's computer system only holds information for the past 10 years. Most of the officials originally involved in the case have retired or died.

But though law enforcement officials have moved on, the Fyant family has not. They say the case was handled unjustly, blaming an inefficient

law enforcement system and racial stereotypes on a reservation where more than 70 percent of the population is white.

Law enforcement officials on the reservation say that the shared state-tribal jurisdiction agreement adopted on the Flathead in the early 1960s makes prosecuting crimes there more efficient than is common on Montana's six other reservations. Nevertheless, they admit that sometimes cases still fall between the cracks.

More often than not, hit and runs remain unsolved no matter where they occur. But Shelly Fyant says Everett's case was never investigated the way it should have been, with the state agencies that should have taken control, such as the Sanders County Sheriff's Department and the Montana Highway Patrol, pushing responsibility off to the tribe, which couldn't do much either. She says her father's case was treated like that of “just another drunk Indian.”

“Sanders County, the Highway Patrol and the tribal police of the Flathead Reservation should have all been involved and to my recollection no one ever came to the hospital to take pictures, to talk to the doctors about his injuries, any of that,” she says.

Though it's been two decades, emotional scars remain raw and tears come easily. Everett's younger sister, Virginia Butler, says it's something you never get over.

“It's something you think about every day,” she says. “You pray to God it will be resolved.”

Prosecuting crimes in Indian Country is famously complicated, requiring precise knowledge of the race of the perpetrator and the victim and an on-the-scene judgment about the nature and severity of the crime to determine whether the tribe or the federal government has jurisdiction. Investigating agencies can include tribal law officers, Bureau of Indian Affairs investigators, FBI agents, or state Highway Patrol officers.

With so many agencies involved, especially in the early stages of investigations, it's not uncommon for cases to get lost in jurisdictional black holes.

Larry Epstein is county attorney in Glacier County, which includes most of the Blackfoot Reservation. Epstein says if a non-Indian were to run over his Indian wife on the Blackfoot Reservation, the crime would likely go unprosecuted. The reason, Epstein explains, is that in most cases the state can't prosecute crimes that occur on an Indian reservation. And though the federal government would have jurisdiction in the case, Epstein says federal investigators wouldn't likely invest the time or have the resources to do a thorough investigation.

On the Flathead Reservation, however, the state shares jurisdiction with the Flathead tribes. It's the only Montana reservation that operates under Public Law 280, which gives the state the legal authority that usually falls to the federal government. It essentially extends state laws onto Indian reservations.

Congress passed Public Law 280 in 1953, during a period in which official federal policy was to terminate reservations and assimilate Indians into the larger American society. It required six states—California, Minnesota, Nebraska, Oregon, Wisconsin and eventually Alaska — to adopt the jurisdiction changes on all of its reservations, with few exceptions. All other states were given the option to adopt the law.



Population: 26,172
Native: 20%
Counties: Flathead, Lake, Missoula, Sanders
Reservation center: Pablo

A decade later, the Confederated Salish and Kootenai tribal council—under pressure—adopted Public Law 280, making the Flathead the only Montana reservation to implement it. Five years later, in 1968, Congress passed further legislation stating that tribes must give consent to PL 280 before it could be applied. Since that year, no tribe has given its consent.

In 1993, the Flathead tribes partially withdraw their consent to PL 280, giving the tribes sole control over misdemeanor charges against tribal members. The state still prosecutes misdemeanors against non-tribal members and all felonies, no matter who is involved.

Public Law 280 has been controversial nationwide since it was passed. It has been called “extermination legislation”—an attempt to get rid of tribes by obstructing their ability to develop tribal criminal justice systems and allowing the federal government to shed the responsibility of funding law enforcement on reservations.

Despite the controversy, officials in both tribal and state agencies say the law has made prosecutions more efficient on the Flathead. The tribes don’t have to rely on FBI agents, who are spread thin and may be located great distances from where crimes occur, which allows them to interview witnesses promptly and keep evidence untainted.

Though the agreement outlines which cases would go to the state and which would go to the tribe, Lake County Sheriff Lucky Larson says there is sometimes leeway as the two entities collaborate, meaning that the tribe ends up taking felonies occasionally.

Tribal police Capt. Louis Fiddler says that while PL 280 itself may look like a puzzle, following it is quite routine and usually goes smoothly.

“I think it gave us way more power than we once had,” he says.

Polson Police Sergeant Wade Nash says that the agreement has helped the relationship between the city and the tribes because race is less of an issue when deciding jurisdiction than it is on other reservations.

Nevertheless, he says, in any case where there isn’t a suspect, there’s not much that he or any official can do, a point echoed by other members

of the criminal justice system, such as Lake County Attorney Mitch Young.

“There are some crimes that simply fall through the cracks,” he says.

The Dixon Bar is famous if for no other reason than because it was the subject of a 1970 Richard Hugo poem.

*This air is fat with
gangsters I imagine
on the run*

*If they ran here they
would be running
from imaginary cars*

Indeed, Highway 200 here is so empty that driving through Dixon on a spring Saturday afternoon is like driving through a ghost town. When driving west, the bar sits on the left side of the highway across from a row of deserted, dilapidated buildings.

The Dixon Bar was the last place Everett Fyant did the things he loved—drinking, dancing and laughing.

At closing time on April 22, 1988, Everett reportedly left the bar after drinking for several hours with a friend and a truck driver who had parked near the area where Everett was found the next morning. A number of patrons at the bar that night told police that Everett had argued with the two men.

When he left the bar, Everett was likely crossing the street to stay the night at his friend George Markuson’s house. Markuson told police he’d unlocked the front door and put a blanket on the couch for Everett, though he never heard him enter. He called police the next morning after finding Everett on the side of the road.

Everett was unconscious and would never regain responsiveness before his death that August.

The question of what exactly happened to Everett in the early morning hours of April 22 remains unanswered. However, as an article from the *Char Koosta News* stated about a year after



Virginia Butler, Everett’s younger sister, says her brother bought her the first purse and belt she owned and encouraged her to attend school.

the incident: “Foul play was involved, that is a fact no one is debating.”

The most likely scenario is a hit and run. Dr. John Pfaff, a Great Falls pathologist, determined that Everett’s legs had been snapped by a powerful force and not crushed. Reports say skid marks on the highway indicated that the driver of a large truck had braked, released, and then applied the brakes again. Trucks carrying potatoes from Idaho and Washington to Lake County tend to travel on Highway 200 throughout the month of April, local news articles stated.

The family believes Everett also might have been robbed. Everett’s sister Virginia Butler cites the fact that her brother’s wallet contained only one dollar bill, folded up and stuffed in a back compartment, when it was given back to the family. She also claims she overheard one of the physicians in the hospital say that Everett’s head and neck injuries occurred at different times.

Butler spent more time talking to officials about the case than did other family members. She says police also told her that Everett may have been beaten after stumbling upon a drug transaction.

Nevertheless, after a month of interviews, tribal officer Jacque Morigeau concluded in his police report that Everett had been killed in a hit and run, though he said at the time that the case would be kept open. Beginning the spring



Above: Fyant's funeral was held August 8, 1988, at the Jocko Valley Church.



Left: Shelly Fyant, 51, Everett's oldest child, was 30 at the time of her father's death. The event continues to affect her, as though it happened only months ago.

after Everett's death, the Fyant family offered rewards to anyone who could provide information that would lead to an arrest. At first they put forward \$2,000. This was eventually upped to \$25,000.

"None of us had any money, but we figured we'd get it if anyone had information leading to a prosecution," Everett's daughter Shelly says.

Some people claimed to know something and Butler spoke with many of them, including a woman who insisted on meeting in a Safeway shopping aisle. Butler would not say what the woman told her.

"Money will bring out strange things," Butler says.

It only takes about 15 minutes of talking about her dad before Shelly Fyant produces a large

box of Puffs tissue and places it on her kitchen table, cluttered at the moment with faded photos representing the years that Everett was alive. He is smiling in all of them.

As Fyant, her younger brother Louis and her mother Denise discuss the death, the conversation drifts effortlessly into a series of stories about Everett, and then simply an airing of memories from Shelly and Louis Fyant's childhood. They talk about the time they were caught boiling mud in the chicken coop, the horse named Buttons they all used to ride, the times they set up a teepee in the backyard—moments they never expected would be significant.

Butler has memories like that too. She remembers that Everett bought her the first purse and belt she owned and encouraged her to go to school.

"He was my mentor," Butler says, her voice breaking off as she starts to cry.

She wipes her eyes with a Subway napkin and resumes smoking her Marlboro cigarette.

"If I want to cry, I'm gonna cry," she says. "You can't pen your emotions up."

Butler knows all about losing family. She watched a speeding vehicle hit her parents' pickup truck on St. Patrick's Day in 1970. The driver, who was drunk, almost hit her too when she got out of her car to run down the road to her parents. She testified against him in court. Her mom died the following November from injuries sustained in the accident. Her family pretty much fell apart after the loss, and her father died of a blood clot in August 1971. Virginia doesn't think he wanted to live any longer.

One of her younger brothers drowned in a pond when he was 13. A succession of family members has died from cancer. Butler herself has suffered from the disease. She seems tired. When she gets home from work, she says, she often just wants to be alone.

Though their lives have been defined by tragedy, the Fyants have persevered. Shelly works at Kicking Horse Job Corps outside of Ronan and has been a Mary Kay consultant for the past three years. Her home is strewn with Mary Kay products and black and pink Mary Kay totes. She has Mary Kay shoelaces on her white Nike tennis shoes. She wants to quit her other job soon.

Despite the difficult nature of prosecuting hit-and-run incidents everywhere, the Fyant family can't shake the belief that discrimination and apathy are part of the reason why Everett's case remains unsolved.

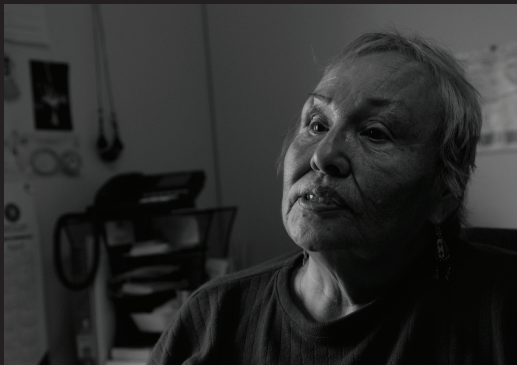
They are sure someone knows what happened that night. They also are adamant that police didn't do as much as they could have. Because of that, they're at a standstill in the grieving process—never quite accepting what happened.

On a Sunday afternoon in April, Shelly follows her 3-year-old grandson around the backyard, attempting to take photos with her cell phone. He will turn 4 at the end of the month—his birthday is the same day as Everett's.

But for Butler, a child with the same birthday as her brother's brings little satisfaction.

Twenty-one years have passed. The case no longer gets attention from state or tribal law enforcement. Still, Butler believes one day they'll get answers.

"It will come around," she says. "I'm a firm believer in that."



Multimedia

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CRIME IN INDIAN COUNTRY

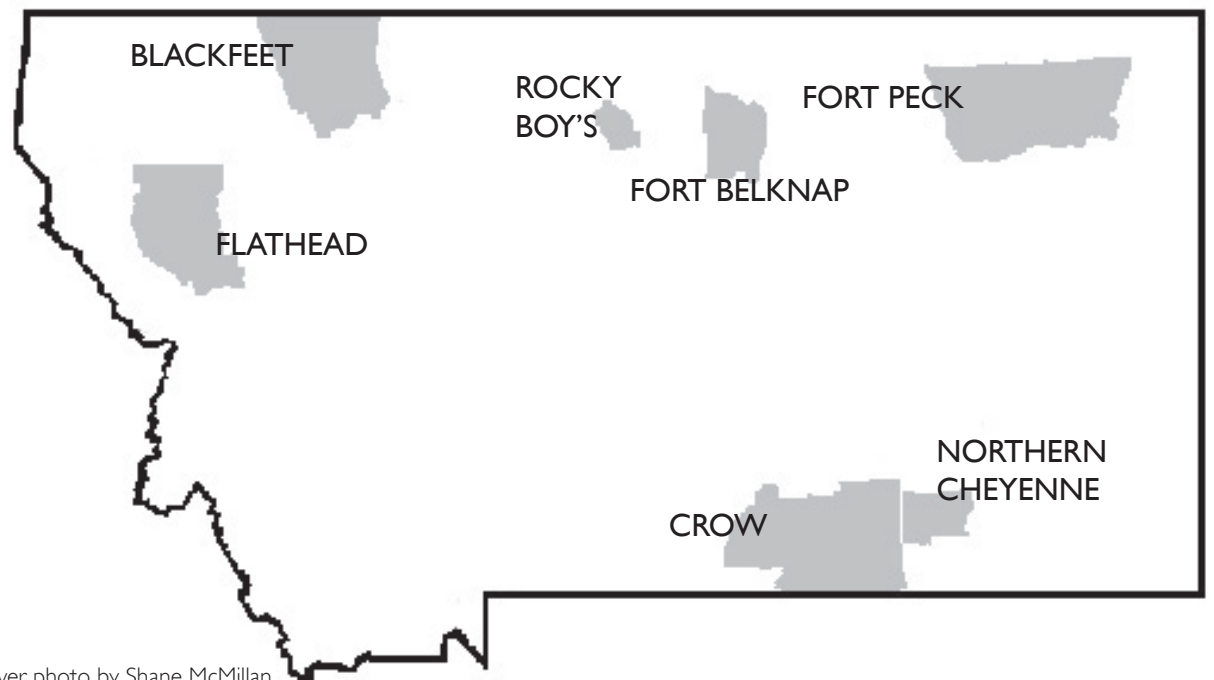
American Indians experience a per capita rate of violence twice that of the U.S. resident population.

Nearly 70 percent of criminal investigations in Indian Country involved violent crimes.

American Indians are twice as likely to experience a sexual assault as compared to members of other ethnic groups.

Just under half of the violent crimes committed against American Indians occurred among those ages 12 to 24.

—from the Bureau of Justice Statistics:
“American Indians and Crime: A BJS Statistical Profile 1992-2002”



Cover photo by Shane McMillan.
Earline Cole speaks about what she insists was the insubstantial investigation of her son Steven's death on the Crow Reservation.