Lawmakers Move To Curb Rape On Native Lands

May 3, 2009 - LYNN NEARY, host:

This is WEEKEND EDITION from NPR News. I'm Lynn Neary.

Today WEEKEND EDITION is continuing its occasional series called Upshot, an update about compelling interviews or enterprise pieces that have aired on NPR. Nearly two years ago we brought you a series of stories about the epidemic of rape in Indian country.

One in three Native American women will be raped in her lifetime, according to the Justice Department. That's two-and-a-half times the rate of other women. The problem lies with a jurisdictional maze of authority, lack of funding and, experts believe, a feeling among predators that reservations are a free-for-all where no law enforcement can touch them.

For the first time in two centuries, some of that may be changing. And here to talk with us about it is NPR correspondent Laura Sullivan, who reported the original stories with help from producer Amy Walters. We'll go back and listen to parts of those pieces and discuss what's happened since in a moment. But first, welcome to you, Laura.

LAURA SULLIVAN: Thank you.

NEARY: Good to have you with us.

SULLIVAN: Good to be here.

NEARY: Give us a recap of some of your findings in that original report.

SULLIVAN: Well, what we found is that these incredible numbers of sexual assault have largely been going unreported, uninvestigated and unprosecuted in Indian country. And there are really three reasons for that. One, the Bureau of Indian Affairs is just chronically underfunded. Federal prosecutors aren't taking up these cases. And thirdly, there is this sort of maze of archaic laws that prevent tribes from arresting and prosecuting offenders themselves.

And the result is that many of these cases are simply falling through the cracks. We found a really good example of one of these cases on the Standing Rock Sioux Reservation in South Dakota where a 20-year-old named Leslie Ironroad had gone to a party one night and had been raped and beaten by several men there.

She wound up in the hospital in Bismarck, North Dakota, and that's where her friend Rhea Archambault found her and went to go visit her. And if we play a little bit of that part of the story and we can hear what happens next.

Ms. RHEA ARCHAMBAULT: I said, Leslie, what happened? She goes, Rhea, is that you? She goes, turn the lights on, I can't see.

SULLIVAN: But the lights were on.

Ms. ARCHAMBAULT: She goes, Rhea, I was raped. And she was squeezing my hand.

SULLIVAN: Archambault called the Bureau of Indian Affairs police, a small department in charge of all law enforcement on the reservation. A few days later, an officer arrived in the hospital room.

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Mr. WHITE: I looked back and there was nothing that I could substantiate. Sure, she passed away, but

SULLIVAN: Archambault says Leslie told the officer that the men locked her in a bathroom and said they were coming back. Leslie said she swallowed pills for diabetes she found in the cabinet, hoping if she was unconscious they would leave her alone. The next morning someone found her on the bathroom floor and called an ambulance.

Ms. ARCHAMBAULT: I seen what she said and I heard what she said. She named all the people that were there - the ones that were hitting her, the ones that were fighting her. She named everybody (unintelligible).

SULLIVAN: A week later, after falling into a coma, Leslie was dead and so was the investigation. None of the authorities who could have investigated what happened to Leslie Ironroad did, not the Bureau of Indian Affairs, not the FBI, not anybody. People who know the men who likely attacked her say they were never even questioned.

Leslie Ironroad's case is not the only one. I spoke with at least a dozen people here - rape counselors, doctors, tribal leaders and victims - people who were either assaulted or know women who were in cases where no charges were filed. It's a pattern that repeats itself on Native American land across the country. On Standing Rock, there's one person in charge of law enforcement, Gerald White.

Mr. GERALD WHITE (Law Enforcement, Standing Rock Sioux Reservation): I consider any sexual assault a serious problem. I mean, we don't take them lightly.

SULLIVAN: White is the chief of the Bureau of Indian Affairs police department. It was one of his officers who was dispatched to Leslie Ironroad's hospital room.

Mr. WHITE: So, every sexual assault that's reported to us we investigate to the fullest.

SULLIVAN: So, how about Leslie Ironroad?

Mr. WHITE: I looked back and there was nothing that I could substantiate. Sure, she passed away, but her being involved as a victim of a sexual assault, I couldn't find anything that supported that happened here. A person doesn't report, then how can we investigate it if we don't know about it?

SULLIVAN: She told her story to a BIA officer while she was in the hospital.

Mr. WHITE: Again, like I said, I haven't found any report, you know, a document to support that.

SULLIVAN: There should be one. There was no investigation, but it wasn't because the police didn't know about it. Through records, interviews with officials at the hospital, state medical examiner's office and police department and conversations with more than a dozen people familiar with Leslie Ironroad's case, NPR learned the officer in Ironroad's hospital room was BIA police officer Doug Wilkinson.

Officer Wilkinson resigned from the Standing Rock Police Department. I tracked him down in the small town of Little Eagle, South Dakota. In a phone conversation, he confirmed the basic details of the story. Wilkinson said he didn't want to talk on tape, but he said a lot of sexual assault cases like Leslie Ironroad's are never investigated.

He said he was overwhelmed and overworked and couldn't possibly keep up with the number of calls for rape, sexual assault and child abuse he got each week. And when it came to federal prosecutors, he said, quote, "We all know they only take the ones with a confession." Bottom line, he says, we were forced to triage our cases. A few were pushed through, the rest forgotten.

NEARY: So, that's really powerful tape, really powerful story that we were listening to. And a good example of what was happening at that time. The story aired in 2007. Has anything changed since that time?

SULLIVAN: So, the big change right now is money. Most law enforcement in Indian country is totally dependent on the federal government. And there just has not been a lot of money coming through that channel at all. But right now two things are happening. One is the February federal stimulus bill that sent $500 million to Indian health services. This is going to pay for equipment, and facilities, and new clinics and much needed rape kits. This is the largest chunk of money sent to IHS in years.

The second thing was the March appropriations bill, which is sending an additional $235 million to IHS. And more interestingly its sending $85 million to the Bureau of Indian Affairs. That's a really big deal because the Bureau of Indian Affairs is often the only law enforcement on the reservation. And there just aren't enough officers. Even when we were on Standing Rock, there were five BIA officers for the entire reservation, which is essentially the size of Connecticut.
NEARY: Yeah, that was one of the pieces of information that came out of that that I found really startling. And it sounds like money will address that part of the problem. But your piece has also dealt with the question of the prosecution of these crimes. Can money solve the problems there?

SULLIVAN: Okay. So, the short answer is no. And here's where things get really complicated. It's the law. Only federal prosecutors, only the U.S. Attorney's Office can prosecute crimes on Indian land. Now, the U.S. Attorney's Offices are the ones in charge with prosecuting terrorism, and drug cartels and racketeering, really big cases. And many people that I talked to said that the case of one woman being raped on a reservation just isn't going to have the kind of prominence that these other cases have, and so they often just get shuffled aside.

And there's something else about the law, too. Some tribes do have their own police departments and they have their own prosecutors. They even have their own courtrooms on the reservation. So you think, great, they don't need the U.S. Attorney's Office. Not so fast. The law says that Native American tribes and prosecutors can only prosecute Native Americans. So, even in that case, if they are prosecuting one of their own, their hands are still tied because they can't prosecute them for serious crimes, felonies like rape.

NEARY: That seems impossible.

SULLIVAN: It's what a lot of people say. And the reason is it's based on a 1977 Supreme Court decision that pretty much spelled it out this way. Only federal prosecutors can bring cases against people in Indian country. And it's made things really confusing.

NEARY: We're talking with correspondent Laura Sullivan about her investigation into the sexual assault of Native American women. Let's play a little bit more of your original series, Laura. The series, of course, delves into this legal quagmire we've been talking about. And here's what you saw firsthand while you were reporting out in Oklahoma.

SULLIVAN: To understand just how different the rules are on Indian land, stop by the gas station just outside Ada, Oklahoma. Beneath a gas pump, the minimart is land that has belonged to the Chickasaw people for more than a century. Tribal Police Chief Jason O'Neal is standing next to the ice machine trying to explain what he can and can't do with a suspect.

Chief JASON O'NEAL (Police Chief, Chickasaw Tribe): It is a very complex situation.

SULLIVAN: Here's a guy walking into the store now. If he goes in there and he steals a carton of cigarettes, what happens to him?

Chief O'NEAL: If he's an Indian, he would go to jail.

SULLIVAN: If he is a non-Indian, what happens to him?

Chief O'NEAL: We would simply let him go and forward a report to the U.S. attorney.

SULLIVAN: And what happens to those reports?

Chief O'NEAL: Well, I really couldn't tell you. I don't think I've ever been called back on one of them.

SULLIVAN: Lynn, so, here's the thing: Jason O'Neal works for the tribe. He patrols the tribal land, but he can't charge non-Indians with a crime - only the federal prosecutors can. And so Chief O'Neal told us that usually that means no one gets charged at all. And this is especially important when it comes to sexual assault because 80 percent of the victims describe their offenders as people from outside the reservation, people who are not Native American.

And there was a really good illustration of this particular kind of crime and how it affects the reservation on the day that we spent with Jason O'Neal. If we could play a little bit more of that tape.

(Soundbite of recording)

Unidentified Woman: Hello. I'm filing a report of (unintelligible).

Unidentified Man: 231 Central.

SULLIVAN: It's a Native American woman on a cell phone. She says she's been raped but she doesn't know where she is. Chief O'Neal is standing in the doorway of a command center. He looks antsy.

Chief O'NEAL: I know that they're working on it and doing everything they can to locate her position and see if everything's okay.

SULLIVAN: Who the woman is, who her attacker was and especially where she is mean everything to O'Neal. If a woman's Indian on Indian land with an Indian attacker, he can help her. If not, there's often little he can do. More than 80 percent of Indian victims describe their attackers as non-Native men. O'Neal describes the attackers as almost untouchable.
Chief O'NEAL: Many of the criminals know Indian lands - almost a lawless community that they can do whatever they want.

SULLIVAN: In this case on this day, the woman turns up on county land. That means O'Neal has no role to play here. He won't even know what happened to her. Situations like this are excruciating for O'Neal and tribal leaders. They're trying desperately to stop the sexual assault after what they call years of neglect by federal officials.

To take a quick look around this department, it's easy to see why they're frustrated. They have their own emergency command center, better staffing, more training and more officers than most of the surrounding sheriff's departments. What they don't have is the power to arrest the men raping women on Chickasaw land - if they can figure out where exactly that is.

Chief O'NEAL: Many times when we respond we don't know if we're on Indian land. Keeping track of that over almost 8,000 square miles is difficult.

SULLIVAN: There is a way around the confusion and a way to give O'Neal more authority to make arrests. Tribal police can partner with neighboring police departments. Then it wouldn't matter where they're standing or who they're helping, but some won't sign on like one sheriff's office nearby.

Chief O'NEAL: The sheriff had told his deputies that he didn't care if they were lying on the side of the road bleeding to death, they were not to call upon our agency to help them. And you know what? That just goes back to plain old racism.

NEARY: So has there been any effort at all on Capitol Hill to fix this?

SULLIVAN: Well, in March, a group of senators from the Indian Affairs Committee introduced a bill that would for the first time in American history just completely upend these jurisdictional rules. This is not a money bill. This is a law bill. And it would mean that tribal police like Jason O'Neal could arrest anyone of any race for committing a crime on tribal land. And tribes could prosecute those offenders, though, the law still says they can only imprison these offenders for up to three years.

The bill also forces U.S. attorneys to explain and track if they decline a case from Indian country. It makes the Justice Department create an office of Indian country crime. Local sheriff's departments will get grants if they cooperate with tribal police, like Jason O'Neal. Tribal police would be given access to the FBI crime databases so they can investigate crimes on their own. And everyone from the prosecutor's office down to the BIA would have to attend training for how to investigate sexual assault cases. If it passes it would really be a sea change.

NEARY: NPR correspondent Laura Sullivan. Thanks so much, Laura.

SULLIVAN: Pleasure.

NEARY: To hear Laura's original stories and read more about the rape on Indian reservations, go to our Web site, npr.org.
cate bernhardt (trips) wrote:
I'm so glad I caught this story. Over the years I've read about the plights and successes of North American tribes and people from a variety of sources. Like many Americans I am a descendant of indigenous North American people - namely Cherokee.

I'm pleased that the current administration is committing much needed funding to Indian Health Services and granting tribal officials the same authority as state and local officers have across the country - it is long, long overdue.

We can never rectify our nation's violent past of domination and persecution of the native people, but we can make ammends to truly make this "One Nation under God" once and for all.

On the otherhand, it saddens me that we as a nation, and around the globe, are still committing crimes against our neighbors because we can simply get away with it - for whatever reason. Perhaps it is the nature of being human and our never ending battle of good and evil which resides within each of us.

It would be nice to hear updates on this topic - especially if the bill passes.

Wednesday, May 06, 2009 2:44:53 PM

Anne Marshall (graygal) wrote:
All of this is true, but it is not simply a one-sided situation. Living as I do in a small town just adjacent to a reservation I see rapes and law enforcement problems on both sides of the fence. Many, many rapes occur off reservation, some of which are perpetrated by Native Americans and others by whites. The difference is that the small town where I goes unnoticed and gets little to no recognition for their plight in the news media. By the way, I am non-Native and I did not grow up in this town, so it cannot be said that I have an agenda against Natives, the truth is, I think that justice and fairness pertains to all people. And, those who have suffered, or currently suffer from injustice would know better than anyone else what it feels like to be treated unjustly, and the hope is that they would remember how they have suffered, or are suffering, when dealing with those outside of their situation.

Monday, May 04, 2009 7:56:36 PM

Y. W. (Ecolke) wrote:
Many good posts. First, I would like to say that tribes that move to self-governance with less dependence on the BIA work better. At least in Oklahoma that is what I've seen. As far as the rapes this doesn't surprise me at all. The thing is, it isn't just rapes. Crimes against Native Americas that has happened on reservations or on/towns near reservations receive little attention, and there is little motivation to seek a prosecution for the perpetrators. "It's just an Indian" is what I think is the attitude.

My cousin was shot and murdered in Ashland, MT, a town just off of the Northern Cheyenne Rez. It took over 24 hours before the state coroner even showed up. Within the last few weeks there were youth in Rapid City, SD who have been shooting homeless and/or alcoholic Native Americans with BB guns. There's a case right now where these White teen-agers shot Natives with BB's and threw human pee on them. From what I've heard, Rapid City is one of the most prejudice towns in the U.S.

There are thousands of these same stories. This is the first time I remember any law in Congress which will try to address the legal problems with crime on reservations.

Monday, May 04, 2009 2:41:23 PM

Diane Benjamin (dianejeff) wrote:
This was terrific reporting. You got to the heart of a tricky and poorly understood problem that plagues our western states. I much prefer these investigative stories to the quasi-promotional pieces on aspiring singer/songwriters, etc. Thank you!

Monday, May 04, 2009 11:24:05 AM
Rape has little to do with ethnicity and much to do with power and control. Some of the comments below about integration into mainstream America and the oppression of Native Americans (which occurs) indicate a lack of understanding about violence against women. Every woman is threatened by the potential of violence and 1 of three women will be the victim of sexual assault. It is easier to see the pervasiveness of the situation -- from the crimes to the inept and cruel manner of addressing rape -- in an enclosed area.

Monday, May 04, 2009 7:39:54 AM

Trinity NotMorpheus (NeosFriend) wrote:

Amy Schilling (jacobamy) wrote:

Ralph Emerson (Waldo2) wrote:

beth jacobs (bethr) wrote:

Rebecca Hansbrough (spidergirl24) wrote:

Jeanne Baughman (BlueInARedState) wrote:

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