Lisa Brunner remembers the first time she saw her stepfather beat her mother. She was 4 years old, cowering under the table here on the Ojibwe reservation, when her stepfather grabbed his shotgun from the rack. She heard her mother scream, “No, David! No!”

“He starts beating my mother over the head and I could hear the sickening...
thud of the butt of the shotgun over her head,” Brunner said. “Then he put the gun back on the rack and called her a bitch. He slammed the bedroom door and sat down on the squeaky bed. And then I heard the thud-thud of his cowboy boots as he laid down, squeaking again, and he went to sleep.”

There were many more beatings over the years, Brunner said. Twenty years later, she said, she was brutally assaulted by her own husband on this same Indian reservation, an enormous swath of Minnesota prairie that has seen its share of sorrow for generations.

An estimated one in three Native American women are assaulted or raped in their lifetimes, and three out of five experience domestic violence. But in the cases of Brunner and her mother, the assailants were white, not Native American, and that would turn out to make all the difference.

For decades, when a Native American woman has been assaulted or raped by a man who is non-Indian, she has had little or no recourse. Under long-standing law in Indian country, reservations are sovereign nations with their own police departments and courts in charge of prosecuting crimes on tribal land. But Indian police have lacked the legal authority to arrest non-Indian men who commit acts of domestic violence against native women on reservations, and tribal courts have lacked the authority to prosecute the men.

Last year, Congress approved a law — promoted by the Obama administration — that for the first time will allow Indian tribes to prosecute certain crimes of domestic violence committed by non-Indians in Indian country. The Justice Department on Thursday announced it had chosen three tribes for a pilot project to assert the new authority.

While the law has been praised by tribal leaders, native women and the administration as a significant first step, it still falls short of protecting all Indian women from the epidemic of violence they face on tribal lands.

The new authority, which will not go into effect for most of the country’s 566 federally recognized Indian tribes until March 2015, covers domestic violence committed by non-Indian husbands and boyfriends, but it does not cover sexual assault or rape committed by non-Indians who are “strangers” to their victims. It also does not extend to native women in Alaska.

Proponents of the law acknowledge that it was drawn narrowly to win support
in Congress, particularly from Republican lawmakers who argued that non-native suspects would not receive a fair trial in the tribal justice system.

For their part, native women say they have long been ill-served by state and federal law. U.S. attorneys, who already have large caseloads, are often hundreds of miles away from rural reservations. It can take hours or days for them to respond to allegations, if they respond at all, tribal leaders say. Native women also have to navigate a complex maze of legal jurisdictions.

“There are tribal communities where state police have no jurisdiction and federal law enforcement has jurisdiction but is distant and often unable to respond,” said Thomas J. Perrelli, a former associate attorney general who was one of the administration’s chief proponents of the amendment. “There are tribal communities where the federal government has no jurisdiction but state law enforcement, which has jurisdiction, does not intervene. And there are still other tribal lands where there is a dispute about who, if anyone, has jurisdiction. All of this has led to an inadequate response to the plight of many Native American women.”

More than 75 percent of residents on Indian reservations in the United States are non-Indians. In at least 86 percent of the reported cases of rape or sexual assault of American Indian and Alaska native women, both on and off reservations, the victims say their attackers were non-native men, according to the Justice Department.

‘Not enrolled’

The loophole in the American Indian justice system that effectively provides immunity to non-Indians is the story of a patchwork of laws, treaties and Supreme Court decisions over generations.

At the root of the confusion about Indian jurisdiction is the historical tension over Indian land. As American settlers pushed Native Americans off their tribal lands and then renegotiated treaties to guarantee tribes a homeland, large areas of the reservations were opened for white families to homestead.

That migration led to the modern-day reservation, where Indians and non-Indians often live side by side, one farm or ranch home belonging to a white family, the next one belonging to an Indian family. It is a recipe for conflict over who is in charge and who has legal jurisdiction over certain crimes.

“The public safety issues in Indian country are so complicated,” said Deputy Associate Attorney General Sam Hirsch, one of the Justice Department officials who focus on tribal justice issues. “No one would have ever designed a system from scratch to look like the system that has come down to us through the generations.”

Over the past 200 years, there have been dramatic swings in Indian-country jurisdiction and the extent of tribal powers.

In 1978, in a case widely known in Indian country as “Oliphant,” the Supreme Court held that Indian tribes had no legal jurisdiction to prosecute non-Indians who
committed crimes on reservations. Even a violent crime committed by a non-Indian husband against his Indian wife in their home on the reservation — as Brunner said happened to her on the White Earth Nation reservation — could not be prosecuted by the tribe.

The court said it was up to Congress to decide who had that authority.

“We are not unaware of the prevalence of non-Indian crime on today’s reservations, which the tribes forcefully argue requires the ability to try non-Indians,” the court said. “But these are considerations for Congress to weigh in deciding whether Indian tribes should finally be authorized to try non-Indians.”
Congress took no action for 35 years. As a result, native women who were assaulted were often told there was nothing tribal police could do for them. If the perpetrator was white and — in the lingo of the tribes — “not enrolled” in the tribal nation, there would be no recourse.

“Over the years, what happened is that white men, non-native men, would go onto a Native American reservation and go hunting — rape, abuse and even murder a native woman, and there’s absolutely nothing anyone could do to them,” said Kimberly Norris Guerrero, an actress, tribal advocate and native Oklahoman who is Cherokee and Colville Indian. “They got off scot-free.”

In 2009, shortly after taking office, Attorney General Eric H. Holder Jr. was briefed by two FBI agents on the issue of violence on Indian reservations.

They told him about the soaring rates of assault and rape and the fact that on some reservations, the murder rate for native women is 10 times the national average.

“The way they phrased it was, if you are a young girl born on an Indian reservation, there’s a 1-in-3 chance or higher that you’re going to be abused during the course of your life,” Holder said in an interview. “I actually did not think the statistics were accurate. I remember asking, ‘check on those numbers.’”

Officials came back to Holder and told him the statistics were right: Native women experience the highest rates of assault of any group in the United States.

“The numbers are just staggering,” Holder said. “It’s deplorable. And it was at that point I said, this is an issue that we have to deal with. I am simply not going to accept the fact it is acceptable for women to be abused at the rates they are being abused on native lands.”

**Measuring tape**

Diane Millich grew up on the Southern Ute Indian reservation, nestled in the mountain meadows of southwestern Colorado. When she was 26, she fell in love and married a non-Indian man who lived in a town just beyond the reservation.

Not long after they were married, Millich’s husband moved in with her and began to push and slap her, she said. The violence escalated, and the abuse, she said, became routine. She called the tribal police and La Plata County authorities many times but was told they had no jurisdiction in the case.

One time after her husband beat her, Millich said, he picked up the phone and called the sheriff to report the incident himself to show that he couldn’t be arrested, she said. He knew, she said, there was nothing the sheriff could do.

“After a year of abuse and more than 100 incidents of being slapped, kicked, punched and living in terror, I left for good,” Millich said.

The brutality, she said, increased after she filed for a divorce.

“Typically, when you look backwards at crimes of domestic violence, if less seri-
ous violence is not dealt with by the law enforcement system, it leads to more serious violence, which eventually can lead to homicide,” said Hirsch, the deputy associate attorney general.

One day when Millich was at work, she saw her ex-husband pull up in a red truck. He was carrying a 9mm gun.

“My ex-husband walked inside our office and told me, ‘You promised until death do us part, so death it shall be,’” Millich recalled. A co-worker saved Millich’s life by pushing her out of the way and taking a bullet in his shoulder.

It took hours to decide who had jurisdiction over the shooting.

Investigators at the scene had to use a measuring tape to determine where the gun was fired and where Millich’s colleague had been struck, and a map to figure out whether the state, federal government or tribe had jurisdiction.

The case ended up going to the closest district attorney. Because Millich’s husband had never been arrested or charged for domestic abuse on tribal land, he was treated as a first-time offender, Millich said, and after trying to flee across state lines was offered a plea of aggravated driving under revocation.

“It was like his attempt to shoot me and the shooting of my co-worker did not happen,” Millich said. “The tribe wanted to help me, but couldn’t because of the law. In the end, he was right. The law couldn’t touch him.”

Main Street in Mahnomen, Minn. On the nearby White Earth Nation reservation, only 10 percent of the land is owned by tribal members. Mixed ownership of Indian land has led to tangled jurisdiction over crimes committed on reservations.
Section 904

Last year, Millich and other American Indian women came to Washington to tell their stories to congressional leaders. They joined tribal leaders in lobbying for the passage of the 288-page reauthorization of the Violence Against Women Act, which included language proposed by the Justice Department that for the first time would allow tribal courts to prosecute non-Indians who assaulted native women on tribal lands. It would also allow the courts to issue and enforce protective orders, whether the perpetrator is Indian or non-Indian.

Opponents of the provision, known as Section 904, argued that non-native defendants would not be afforded a fair trial by American Indian tribes. In the case of Alaska, the Senate excluded Native Alaskan women because of especially complicated issues involving jurisdiction.

At a town hall meeting, Sen. Charles E. Grassley (R-Iowa) said that “under the laws of our land, you’ve got to have a jury that is a reflection of society as a whole.”

“On an Indian reservation, it’s going to be made up of Indians, right?” Grassley said. “So the non-Indian doesn’t get a fair trial.”

Sen. John Cornyn (R-Tex.), another opponent, said the Violence Against Women Act was “being held hostage by a single provision that would take away fundamental constitutional rights for certain American citizens.”

The bill passed the Senate last February but was held up by House Republicans over Section 904. They argued that tribal courts were not equipped to take on the new responsibilities and non-Indian constituents would be deprived of their constitutional rights without being able to appeal to federal courts.

“When we talk about the constitutional rights, don’t women on tribal lands deserve their constitutional right of equal protection and not to be raped and battered and beaten and dragged back onto native lands because they know they can be raped with impunity?” Rep. Gwen Moore (D-Wis.) argued on the floor.

Underlying the opposition, some congressmen said, was a fear of retribution by the tribes for the long history of mistreatment by white Americans.

With the support of Rep. Tom Cole (R-Okla.), a member of the Chickasaw Nation, the House accepted the bill containing Section 904 on a vote of 229 to 196. On March 7, President Obama signed the bill with Millich, Holder and Native American advocates at his side.

The Justice Department has chosen three Indian tribes — the Pascua Yaqui Tribe of Arizona, the Tulalip Tribes of Washington state and the Umatilla tribes of Oregon — to be the first in the nation to exercise their new criminal jurisdiction over certain crimes of domestic and dating violence.

“What we have done, I think, has been game-changing,” Holder said. “But there are still attitudes that have to be changed.
There are still resources that have to be directed at the problem. There’s training that still needs to go on. We’re really only at the beginning stages of reversing what is a horrible situation.”

‘Sliver of a Full Moon’

Last summer, several Native American survivors of domestic violence from around the country put on a play, “Sliver of a Full Moon,” in Albuquerque. The play documented the story of the abuse and rape of Native American women by non-Indians and the prolonged campaign to bring them justice.

Using the technique of traditional Indian storytelling, Mary Kathryn Nagle, a lawyer and member of the Cherokee Nation in Oklahoma, wove together their emotional tales of abuse with the story of their fight to get Washington to pay attention.

Millich and Brunner played themselves, and actors played the roles of members of Congress, federal employees and tribal police officers who kept answering desperate phone calls from abused native women by saying over and over again, “We can’t do nothin’,” “We don’t have jurisdiction,” and “He’s white and he ain’t enrolled.”

By that time, Brunner’s intergenerational story of violence and abuse had taken a painful turn. Her youngest daughter, 17, had been abducted by four white men who drove onto the reservation one summer night. One of them raped her, Brunner said.

It was the real-life version of author Louise Erdrich’s acclaimed fictional account of the rape of an Ojibwe woman by a non-Indian in her 2012 book, “The Round House.” In both the real and the unrelated fictional case, the new congressional authority would not give the tribe jurisdiction to arrest and prosecute the suspects, because they were not previously known to the victim.

Last week, inside her home on the frigid White Earth Nation, which was dotted by vast snowy cornfields and hundreds of frozen lakes, Brunner brought out a colorful watercolor she had painted of three native women standing in the woods under a glowing full moon. The painting was the inspiration for the title of Nagle’s play, she said, but it’s also a metaphor for the new law.

“We have always known that non-Indians can come onto our lands and they can beat, rape and murder us and there is nothing we can do about it,” Brunner said. “Now, our tribal officers have jurisdiction for the first time to do something about certain crimes.”

“But,” she added, “it is just the first sliver of the full moon that we need to protect us.”

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A SHIELD FOR THE ‘HUNTED’

Law offers protection to abused Indian women

The law is the frame for a woman's story of domestic abuse, as told by her and the police officer who responded. On the Ojibwe reservation, a woman described how her stepfather beat her mother. She was 4 years old. The police officer wrote in his report that he arrived at the home, found a woman lying on the floor, and heard the sound of a woman screaming.

The woman said she was abused by her stepfather. The police officer wrote that he saw marks on the woman's face and that she had a black eye.

The woman said she had been abused since she was a child. The police officer wrote that he saw the woman's face and that she had a black eye.

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IN REMOTE VILLAGES, LITTLE PROTECTION FOR ALASKA NATIVES

In the tiny Tlingit community of Kake, a child’s murder highlights how help often comes slowly and public safety is in short supply.
KAKE, ALASKA — Her body lay in the back entryway of the church for 11 hours after villagers called the Alaska State Troopers for help. She was a 13-year-old nicknamed “Mack” who wore big red glasses and loved to dance. The native Tlingit girl had been beaten to death.

No one knew who killed Mackenzie Howard that cold February night last year — and people were terrified that the killer was still in their midst. But in the remote community of Kake, only accessible by air or boat, there was no law enforcement officer. That meant no police to protect the community, cordon off the crime scene, preserve the evidence and launch an investigation. The villagers had to wait for state troopers in Juneau, 114 miles away, to get there.

“They have the capability of flying at night now ... but still nobody came,” said Joel Jackson, a local wood carver who helped gather villagers to guard Mackenzie’s body and the crime scene that night. “And that upset me greatly. When there’s any fishing violation or hunting violation, they’re here in full force — over a dead animal. To have one of our own laying there for [so long] was traumatic for everybody.”

With no police and few courts of their own, most Alaska Native villages instead are forced to rely on Alaska State Troopers. But there is only about one trooper per every million acres. Getting to rural communities can take days and is often delayed by the great distances to cover, the vagaries of the weather and — in the minds of many Alaska Natives — the low priority placed on protecting local tribes.

Rural Alaska has the worst crime statistics in the nation’s Native American communities — and the country. Alaska Native communities experience the highest rates of family violence, suicide and alcohol abuse in the United States: a domestic violence rate 10 times the national average; physical assault of women 12 times the national average; and a suicide rate almost four

“There are places in rural Alaska that if a woman is raped or a child is beaten, that victim might not get any help whatsoever.”

— Associate Attorney General Tony West
times the national average. Rape in Alaska occurs at the highest rate in the nation — three times the national average.

These trends, according to Bruce Botelho, a former Alaska attorney general and a member of the Alaska Rural Justice and Law Enforcement Commission, are “exacerbated, in part, because of the enormous geographical size of Alaska, the remoteness of these communities, the skyrocketing costs of transportation, the lack of any economic opportunity and the enormous gaps in the delivery of any form of government service, particularly from the state of Alaska.”

There are at least 75 remote Alaska Native villages with no law enforcement, according to a report last fall by the bipartisan Indian Law and Order Commission, created by Congress to study ways to make tribal communities safer. Of the nation’s 566 federally recognized tribes, 229 of them are in Alaska, most in tiny villages with no access by roads.

“Unfortunately, there are places in rural Alaska that if a woman is raped or a child is beaten, that victim might not get any help whatsoever,” said Associ-
ate Attorney General Tony West, who recently visited Alaska. “It can take a day and a half before responders show up to the scene of a crime or to a call for help. Imagine if you were a victim of violence and you can’t get help because weather conditions don’t allow you to get out of your village. Where are you supposed to go? You have nowhere to go.”

A spokeswoman for the Alaska State Troopers said that delayed response time “has no relationship to the priority given to respond to remote Alaskan villages.”

“The overriding factor considered ... when establishing case priority for a response, whether on the road system or off, is the nature of the crime,” spokeswoman Megan A. Peters said. “Crimes in rural areas ... can take additional time to respond to depending on logistical issues such as distance, terrain and weather.”

In some remote villages in the Alaska
bush, townspeople say they have to place a suspect in a locked closet until troopers come. In one, villagers handcuffed a suspect to an anvil in a hut while they waited for help.

‘It can be terrifying’

Nestled in the Tongass National Forest, Kake (which means “mouth of dawn” and is pronounced “cake”) overlooks the serene waters of Frederick Sound and the distant snow-capped mountains of Baranof.

Most Alaska Native villages rely on state troopers for law enforcement, but there is only about one trooper per every million acres. Travel to Alaska Native communities can take days and is often delayed by vast distances and the vagaries of the weather.

In May, two Alaska state troopers were shot and killed in Tanana after they responded to a report of a man with a gun.

*Note: Not all crimes are reported by detachment areas. There were 10 homicides, 619 assaults, 95 sexual assaults and 287 reports of sexual abuse of a minor in addition to those shown in the chart.

Source: 2012 Alaska State Troopers annual report, U.S. Census Bureau
Island. It is home to one of the world’s largest totem poles.

Bald eagles fly above, humpback whales are seen offshore and black bears wander into town, especially when the salmon start running in Gunnuk Creek. A close-knit and mostly peaceful community, the 559 villagers live off the land, hunting moose and deer and fishing for salmon and halibut. As an alternative to the traditional justice system, magistrate Mike Jackson, the brother of the local carver, created a “circle peacemaking” program to resolve minor disputes and misdemeanors.

But Kake is also struggling with 80 percent unemployment and, like other communities around America, the attendant alcoholism, drug abuse and domestic violence. The village’s once-booming logging industry is dead. The commercial fishing business has long been in decline. The salmon hatchery closed last month. And Kake does not have enough funds for a police officer.

“It can be terrifying,” said Teresa Gaudette, who chairs Kake’s public-safety committee. “When something happens, like someone breaking and entering, we have to call 911 to get a state trooper to come in. Then, it can take a few hours to a day or two, depending on their availability and the weather. By the time they get here, sometimes nothing can be done because there’s no evidence. People can just get away with it.”

Or, as Kake City Council member Marla Howard, the mother of the slain girl, put it: “People don’t really fear the law here.”

The Justice Department’s relationship with Alaska Native villages is different than it is with tribes in the lower 48 because the state — rather than tribes or the federal government — generally has jurisdiction over criminal matters involving tribes.

In the lower 48, there is a long history of treaties to provide services to Native American communities that the government moved onto reservations. But in Alaska, which became a state in 1959 long after the American Indian treaties, there are no reservations. And a series of court rulings has determined that there is almost no “Indian country” in Alaska, as defined by federal law, which has led to a tense and complicated relationship between the tribes and the state government.

“The strongly centralized law enforcement and justice systems of the state of Alaska … do not serve local and Native communities adequately, if at all,” concluded the Indian Law and Order Commission. “Devolving authority to Alaska Native communities is essential for addressing local crime.”

‘The world just changed’

On Feb. 5, 2013, villagers in Kake gathered for a memorial ceremony for a widely respected elder. Scores of relatives and friends from other towns descended on the tiny village in Southeastern Alaska for the Tlingit tradition of “potlatch,” an event with large offerings of food and other gifts.

Mackenzie and her parents, Marla and Clifton “Kip” Howard, spent the day prepar-
ing for the funeral. The Howards have eight children from previous marriages. Mackenzie was the one child they had together.

A villager snapped a photograph as Mackenzie set out with a boatload of flowers to Grave Island, right across the water from Kake. Wearing her signature red-framed glasses, the junior high basketball player flashed a big smile. It is one of the last images of her alive.

Later, as the village-wide memorial dinner wound down in Kake, Mackenzie told her father, who is the village fire chief, that she would meet him at home. When Kip Howard arrived shortly afterward, she wasn’t there and he sensed that something was wrong. Grabbing a hand-held spotlight, he started looking for her and called other villagers to help.

About 11 p.m., the pastor’s wife called him. She had found Mackenzie’s unclothed body in the back of the Memorial Presbyterian Church, directly across the street from Mackenzie’s house.

“I opened up the church’s back door and there she was,” said Kip Howard, fighting back tears. The assailant “bashed her head in with a rock bigger than a basket-
“I opened up the church’s back door and there she was. [The assailant] bashed her head in with a rock bigger than a basketball. And I just ...

that’s when the world just changed for me.”

Clifton “Kip” Howard, Mackenzie’s father, left

Grave Island, across the water from Kake, is where the village’s elders are buried and where Mackenzie was laid to rest.
ball. And I just … that’s when the world just changed for me.”

Joel Jackson, the local carver whose studio is next to the church, called the state troopers in Juneau. He gathered other villagers to help him cordon off the lawn outside the church, guard the girl’s body and protect the village while they waited for investigators. Thirty-five years ago, Jackson was the village’s police chief. The village eventually shut down the one-person department because of a lack of funds.

“There were probably 12 to 15 men,” said Liz Medicine Crow, president of the nonprofit First Alaskans Institute who had come in from Anchorage for her uncle’s potlatch. “And [Jackson] told them, ‘If you’re going to help, go home and get your warm clothes on because you’re going to be out here all night. If you can’t handle this, don’t come back.’ They all came back.”

As daylight broke — and the troopers were still not there — people who had come in for the potlatch began leaving the village.

“There was a group of us all leaving in the morning on the early ferry,” said Medicine Crow. “And there was kind of a ‘What do we do?’ moment. ‘Can we leave? Are we allowed to leave?’ There was no trooper there to tell us what to do. So, we left.”

“The fastest way to get law enforcement here is to shoot a moose,” she added, reflecting a widespread sentiment in the village.

But Peters, the spokeswoman for the Alaska State Troopers, said crimes against people always get first priority.

In the wake of the murder, villagers were angry. “People were scared,” Jackson said. “They still hadn’t figured out who did the crime. People were on edge, people had guns out, which I don’t blame them. It was pretty intense.” The murder of a child was unheard of in Kake.

A trooper arrived later that morning, followed several hours later by investigators who came from Anchorage, more than 1,000 miles from Kake. The school was shut down for two days and in lockdown in the days afterward. “I told the lead trooper, ‘You need to solve this and solve it quick,’ because you could feel the anger in the town,” Jackson said.

Ten days later, the villagers prepared to bury Mackenzie on Grave Island. “They sent her to Anchorage to try and fix her up,” her mother said. “But they couldn’t fix her up for us to be able to see her again.”

The family was only able to touch her hand to say goodbye.

“That’s about it,” Marla Howard said.

At 11 a.m. the morning of the funeral, state troopers made an arrest after collecting several key pieces of evidence and executing search warrants, according to state trooper Lt. Rex Leath, who oversaw the investigation.

The suspect was one of Kake’s own, the 14-year-old son of villagers who were friends with the Howards. The boy, who has not been publicly named because he is a juvenile, was flown to a juvenile facility on an island more than 100 miles away where he is still detained. A court hearing is set
for the fall to determine whether he will be tried as a juvenile or an adult.

Juneau’s assistant district attorney, Nick Polasky, declined to comment on the case. John Bernitz, the attorney representing the boy, said he would not confirm or deny there even is a juvenile case. Mayor Henrich Kadake said he did not want to discuss the murder because he is related to the families of both the victim and the accused.

Village’s safety problems

It has been about a year and a half since Mackenzie was killed. From their living room window, the Howards look out at the church where their daughter’s body was found. A piece of yellow crime scene tape left by the troopers still blows in the wind. “It’s a nightmare,” Marla Howard said. “And I’m awake.”

After the murder, Kake was sent a village public safety officer known in Alaska as a VPSO. Throughout rural Alaska, about 100 VPSOs are used as substitutes for police. These officers, who have limited training and authority, are paid by nonprofit regional corporations with state funds. But they are not directly accountable to the community where they work, instead reporting to Alaska State Troopers.

Even though Alaska is one of the top gun-owning states per capita, public safety officers have not been allowed to carry firearms. A VPSO was shot and killed in a Southwest Alaska village in March 2013. Last month, the Alaska governor signed a bill that would allow VPSOs to carry firearms. But the gun training won’t begin until January, and VPSOs aren’t expected to be armed until the end of 2015.

In most cases now, only one unarmed officer is responsible for the safety of the village around the clock. When a VPSO leaves for training or to patrol another village, the community is left with no backup.

A Washington Post reporter visiting Kake in mid-June found a handwritten note taped to a window of the small building where the VPSO works, indicating he was gone. “If you have any reports to make, please call Ketchikan Dispatch. Thank you,” the note said. Ketchikan is 143 miles away from Kake. A dispatcher said the officer would be gone for the week. He was attending a training program.

“It’s nerve-wracking when the village public safety officer leaves the island,” said Kake City Administrator Rudy Bean. “Everyone pretty much hopes that nothing serious happens.”

Back to Grave Island

Many mornings, Kip Howard gets up at 3 a.m. to go fishing before heading to his jobs as fire chief and operator of the village water treatment plant.

“I cannot get through the day without thinking of Mackenzie half the day,” he said. “It’s very, very hard when you have to bury your baby. It should have been the other way around.”

He and his wife have thought about moving away from Kake. “But Kake is
home,” Howard said. “My wife grew up here and lived here all her life. I’ve got all my work here. My pleasure comes in going down to my boat in the morning and being able to put my line in the water and probably catch a fish within five minutes.”

On the way back, Howard does not come straight home. He steers his boat out toward lush, green Grave Island where the village elders are buried, as is his daughter.

“I want to let Mackenzie know I’m passing by,” Howard said. “I want her to know I’m thinking about her.”
IN REMOTE VILLAGES, LITTLE PROTECTION FOR ALASKA NATIVES

For the tiny community of Kake, a child's murder highlights how help eludes rural Alaska, and public safety is a shell game.

A close-knit and mostly peaceful community, Kake villagers live off the land and use a “circle peacemaking” program to resolve minor disputes and misdemeanors.

"Indian country," where tribes live outside the jurisdiction of state and federal authorities, exists for the Alaska Native community. The government moved villages that were thought to be unsuitable for habitation.

The government was concerned about public safety. But Kake is also struggling with racism against Natives because it applies only to Alaskan Natives living in 14 villages in Alaska.

"That's about it," Marla Howard, the mother of Mackenzie Howard that way of the church for a memorial dinner wound down in memorial for a widely respected man.

Rudy Bean, the man at center, helped with the wood carving that victim might not get any help whatsoever."

There are at least 75 remote villages in the United States. They are accessible only by boat or air, and the government moved villages that were thought to be unsuitable for habitation.

"I told the lead trooper, 'You need to Alaska Native communities' relationship between the tribes that government moved villages that were thought to be unsuitable for habitation."

Bruce Botelho, a former Alaska attorney general and a member of the Alaska Rural Justice and Law Enforcement, according to a recent study, rape and a suicide rate almost four times the national average. Rape and domestic violence rate 10 times the national average; in 2012, the Alaska Native suicide rate was 45.2 per 100,000 people, compared with the national average of 10.5.

But Kake is also struggling with racism against Alaskans Institute who had come in from Anchorage for her uncle's funeral. The Howards have eight children from previous marriages. Mackenzie was the one child. Kake City Council member Marla Howard, the mother of Mackenzie Howard, looked at the church where her daughter, Mackenzie, was found dead in February 2013. Across the street, the state troopers made an arrest.

"Those civil protective orders can be granted in any other tribal communities in the United States, this provision is unique to Alaska. It applies only to Alaskan Natives living in 14 villages in Alaska because it applies only to Alaskan Natives living in 14 villages in Alaska.

"And I'm awake."

On Feb. 4, 2013, villagers in Kake, only accessible by air or boat, had guns out, which I don't get it. We don't have guns. Back to Grave Island. I told the lead trooper, 'You need to Alaska Native communities' relationship between the tribes that government moved villages that were thought to be unsuitable for habitation.

"And there was kind of a 'What do we do?' moment. 'Can we leave?"

"Well, we can't."

"And there was kind of a 'What do we do?' moment. 'Can we leave?"

"Well, we can't."
DARK SIDE OF THE BOOM

North Dakota’s oil rush brings cash and promise to reservation, along with drug-fueled crime

by Sari Horwitz
ON THE FORT BERTHOLD INDIAN RESERVATION, N.D.

Tribal police Sgt. Dawn White is racing down a dusty two-lane road — siren blaring, police radio crackling — as she attempts to get to the latest 911 call on a reservation that is a blur of oil rigs and bright-orange gas flares.

“Move! C’mon, get out of the fricking way!” White yells as she hits 102 mph and weaves in and out of a line of slow-moving tractor-trailers that stretches for miles.

In just five years, the Bakken formation in North Dakota has gone from producing

Tractor-trailers employed in oil production are seen everywhere on the reservation.
about 200,000 barrels to 1.1 million barrels of oil a day, making North Dakota the No. 2 oil-producing state, behind Texas, and luring thousands of workers from around the country.

But there is a dark side to the multi-billion-dollar boom in the oil fields, which stretch across western North Dakota into Montana and part of Canada. The arrival of highly paid oil workers living in sprawling “man camps” with limited spending opportunities has led to a crime wave — including murders, aggravated assaults, rapes, human trafficking and robberies — fueled by a huge market for illegal drugs, primarily heroin and methamphetamine.

Especially hard-hit are the Indian lands at the heart of the Bakken. Created in 1870 on rolling grasslands along the Missouri River, Fort Berthold (pronounced Birth-Old), was named after a U.S. Army fort and is home to the Mandan, Hidatsa and Arikara Nation — known as the MHA Nation, or the Three Affiliated Tribes.

“It’s like a tidal wave, it’s unbelievable,” said Diane Johnson, chief judge at the MHA Nation. She said crime has tripled in the past two years and that 90 percent is drug-related. “The drug problem that the oil boom has brought is destroying our reservation.”

Once farmers and traders, the Mandan was the tribe that gave Lewis and Clark safe harbor on their expedition to the Northwest but was decimated in the mid-1830s by smallpox. Over many years, the 12 million acres awarded to the three tribes by treaty in 1851 has been reduced to 1 million by the United States.

The U.S. government in 1947 built the Garrison Dam and created Lake Sakakawea, a 479-square-mile body of water that flooded the land of the Three Affiliated Tribes, wiped out much of their farming and ranching economy, and forced most of them to relocate to higher ground on the prairie.

“When the white man said, ‘This will be your reservation,’ little did they know those Badlands would now have oil and gas,” MHA Nation Chairman Tex “Red Tipped Arrow” Hall said in an energy company video last year. “Those Badlands were coined because they’re nothing but gully, gumbo and clay. Grass won’t grow, and horses can’t eat and cattle or buffalo can’t hardly eat … but there’s huge oil and gas reserves under those Badlands now.”

The oil boom could potentially bring hundreds of millions of dollars to the tribes, creating the opportunity to build new roads, schools, and badly needed housing and health facilities. But the money is coming with a steep social cost, according to White, her fellow tribal officers and federal officials who are struggling to keep up with the onslaught of drugs and crime.

“We are dealing with stuff we’ve never seen before,” White said after leaving the scene of the latest disturbance fueled by drugs and alcohol. “No one was prepared for this.”

The 20-member tribal police force is short-staffed and losing officers to higher-
paying jobs on the oil fields. Sometimes, there are only two tribal officers on duty to cover the whole reservation, including part of the North Dakota Badlands. There is only one substance-abuse treatment center, with room for only nine patients at a time, to help the soaring number of heroin and meth addicts.

TOP: Miles of pipeline for natural gas wait to be welded along a rural stretch on Fort Berthold Indian Reservation. ABOVE LEFT: Three Affiliated Tribes officer Jacob Gadewoltz takes tribal member Troy Yazzie into custody on a federal warrant. ABOVE RIGHT: Tribal police Sgt. Dawn White removes an open bottle of whiskey during a traffic stop.
Over the summer, the White House Office of National Drug Control Policy singled out drug trafficking in the Bakken oil patch as a “burgeoning threat.” Violent crime in North Dakota’s Williston Basin region, which includes the reservation, increased 121 percent from 2005 to 2011. The Bakken is also experiencing a large influx of motorcycle gangs, trying to claim “ownership” of the territory and facilitating prostitution and the drug trade, according to a federal report.

“Up until a few years ago, Fort Berthold was a typical reservation struggling with the typical economic problems that you find in Indian Country,” said Timothy Q. Purdon, the U.S. attorney for North Dakota, whose office prosecutes violent crime on the reservation.

“But now, boom — barrels of oil mean barrels of money,” Purdon said. “More money and more people equals more crime. And whether the outsiders came here to work on a rig and decided it would be easier to sell drugs or they came here to sell drugs, it doesn’t make any difference. They’re selling drugs. An unprecedented amount.”

Operation Winter’s End

Hall, the longtime chairman of the Three Affiliated Tribes, called it the “worst tragedy” on the Fort Berthold reservation in his memory.

On a November afternoon two years ago, an intruder burst into a home in New Town, the largest town on the reservation, and shot and killed a grandmother and three of her grandchildren with a hunting rifle. A fourth grandchild, a 12-year-old boy, survived by hiding under his slain brother’s

Jurisdiction for crimes committed in Indian Country

It will not always be clear at the outset of a criminal investigation where jurisdiction ultimately lies for prosecution, but once the status of the defendant, victim and land has been determined, here’s who’s in charge of what:

<table>
<thead>
<tr>
<th>TRIBE</th>
<th>STATE</th>
<th>FEDERAL</th>
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<tbody>
<tr>
<td>Indian</td>
<td>No jurisdiction</td>
<td>For most major felonies, but not misdemeanors</td>
</tr>
<tr>
<td>Non-Indian</td>
<td>No jurisdiction</td>
<td>Felony and misdemeanor crimes, unless the tribe has already punished the defendant</td>
</tr>
<tr>
<td>Victimless crime (such as prostitution, illicit drug use)</td>
<td>No jurisdiction</td>
<td>Felony and misdemeanor crimes</td>
</tr>
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*For the first time, this year some tribes are allowed to prosecute certain crimes of domestic violence committed by non-Indians in Indian Country.

Source: Federal law enforcement officials
body and pretending he was dead.

The young man responsible for the killings slit his own throat hours later in a nearby town. He was high on meth, according to federal officials.

On the same day, in an unrelated incident, Sgt. White stopped a motorist who was wanted on an outstanding warrant. As she grabbed the handle of his car door, the driver, who had drugs in the vehicle, took off, dragging her on the ground for half a block and sending her to the hospital with a concussion.

It seemed as though big-city drug violence had arrived like a sudden storm.

“We wanted to find out, immediate top priority, what happened here,” Purdon said. “Who was this shooter? Where did he get the meth? Who was he involved with? And what can we do about it?”

Purdon and the FBI teamed up with White and other tribal officers, focusing on a large-scale drug-trafficking ring led by two brothers from Wasco, Calif. — Oscar and Happy Lopez. In the summer of 2013, in an investigation dubbed Operation Winter’s End, Purdon indicted 22 people, including the Lopez brothers as well as members of the tribes, for dealing heroin and meth on or around Fort Berthold. The drugs came from Mexico through Southern California, officials said.

One suspect, Michael Smith, was wanted on a warrant for drug trafficking in Colorado. He holed himself up in a reservation house with a gun for more than 12 hours before police knocked down the walls with a front-end loader.

“The ‘wow effect’ was pretty strong,” said Assistant U.S. Attorney Rick Volk, who oversaw the case. “That’s not something that happens every day in a small town like New Town.”

Since then, Purdon has indicted more than 40 other people who have all pleaded guilty to felony drug charges in the ongoing Winter’s End case, with a large amount of the meth and heroin also coming from gangs in Chicago or dealers in Minneapolis.

Investigating crime on Fort Berthold is more difficult than most places because the reservation sits in six different counties each with its own sheriff — some of whom do not have a good relationship with the tribe, according to tribal members. If the victim and suspect are both Native American, the tribal police or the FBI handles the arrest. But if the suspect is not Native American, in most cases the tribal police can detain the suspect but then have to call the sheriff in the county where the crime occurred. Sometimes they have to wait several hours before a deputy arrives to make
TOP: Native Americans dance at the Little Shell PowWow hosted by the Three Affiliated Tribes. ABOVE LEFT: Rachelle Baker, a former user of meth and heroin, has the names of her two children tattooed on her arms to cover up needle scars and to serve as a reminder to stay sober. ABOVE RIGHT: Three oil wells and the flaring of natural gas are seen on the reservation, at the heart of the fracking and oil boom.
the arrest. In a murder case, the state or the FBI might be involved, depending on the race of the victim and the suspect.

“The there are volumes of treatises on Indian law that are written about this stuff,” Purdon said. “It’s very complicated. And we’re asking guys with guns and badges in uniforms at 3:30 in the morning with people yelling at each other to make these decisions — to understand the law and be able to apply it.”

In the quadruple murder, for example, all four victims were white. But police didn’t immediately know if the perpetrator was white or Native American, so there was initial confusion among law enforcement officials about who was in charge of the investigation.

“Can you imagine the idea that we didn’t know the race of the shooter, so we didn’t know at first who had jurisdiction over the homicide?” Purdon asked. “That’s not something your typical county sheriff has to deal with.”

The killer was later identified as a 21-year-old Native American.

‘I helped bring that heroin’

In the front seat of her cruiser, White, an Army veteran who grew up in Fort Berthold, carries an eagle feather and a photograph of the rodeo-champion grandfather who raised her.

Volk calls her “the eyes and ears of the reservation,” a cop who is able to find anyone. Her fervor to save her people from the ravages of heroin and meth gives White the fortitude to arrest even tribal members she knows well.

“I put the uniform on,” White said, “I have no family. I have no friends.”

Before she sets out on patrol, she lights the end of braided sweet grass, a tradition of the Plains Indians to drive away bad spirits. White, a mother of three, places it on her dashboard for protection.

White also carries a set of pink handcuffs, a personal signature that she says represents “girl power.” One night last year, White slapped the cuffs on one of her relatives, Rachelle Baker, a 29-year-old former Fort Berthold teacher who became addicted to heroin shortly after it arrived on the Bakken.

“I was in the back of her cruiser, cussing her out, telling her to get away from me, ‘you don’t know what you’re doing,’” Baker said in a recent interview. “I was bawling my eyes out. I was sweating, my hair was sticking to my face. She took my hair and pushed it back and she said, ‘Rachelle, I don’t want to see you like this anymore. I don’t want to see you live like this. You need to get better for your kids, Rachelle.’ And she closed the door.”

Three years ago, Baker’s boyfriend at the time got heroin from an oil rig worker who had brought it with him from Boston. “That was the first time in my life I ever saw it,” Baker said.

Soon, she was hooked on heroin, buying from a dealer who came from Minneapolis and shooting up, along with her friends, on a reservation where she said “there’s no
other recreation.”

“There’s not a movie theater here,” Baker said. “There’s not a swimming pool. There’s nothing. There’s nothing to do here.”

She became pregnant and was using when she had her son.

“I just couldn’t stop,” Baker said. She shot up so many times that she couldn’t find an easy vein and inserted needles into her neck, legs, ankles and toes. One time, she shot up in her forehead.

By last fall, Baker was also using meth. In January of this year, social workers took away both of her children, now ages 3 and 1.

“That was the lowest point in my life,” Baker said. She said she tried to kill herself by swallowing 200 Tylenol pills. Baker was transferred from the hospital to a mental-health facility and then jail, where lying in the bunk she said she felt a sense of peace for the first time in years.

“Because it felt like the nightmare I had been living was finally over,” she said.

When she was released, Baker enrolled in a treatment program; she’s now been drug-free for nearly eight months. She’s in counseling and finished parenting classes. She is tested for drugs every week and is one step away from regaining custody of her children. She’s helping to start two Narcotics Anonymous groups at Fort Berthold, where there was none.

But in a few months, Baker goes to federal court, where she said she faces 56 months in prison. She pleaded guilty to distribution of heroin after being caught in Purdon’s drug sweep.

“It is so sad because I am finally getting my life back together,” Baker said. “But I helped bring that heroin here. I sold it to people here on the reservation. I gave it to family members. And if I have to pay that price, then I will.”

**An unsafe community**

Responding to another call, White pulls up to the reservation’s 4 Bears Casino and Lodge to check on a call about a small child who was left inside a car while her mother went inside to gamble.

Lined up outside the casino’s hotel are four other police cars. They are not the cruisers of officers who have come to investigate the child. They belong to several new recruits who have no place to live. The housing shortage has forced officers to move with their families into casino hotel rooms until homes are built for them.

Three Affiliated Tribes Police Chief Chad Johnson said he needs at least 50 more officers.

“I get a lot of applicants from all over,” Johnson said. “The first thing they ask is if we have housing available. We’ve been putting them up in the casino, but some of them have families and they don’t want their families living in a casino.”

Johnson, the judge, has the same problem recruiting prosecutors. “We can’t get them to come to the MHA Nation because of the lack of housing and the community is becoming so unsafe,” she said. “It is extremely dangerous to live here now.”
While Fort Berthold needs more police officers, housing for recruits, more tribal prosecutors and judges, and additional drug treatment facilities, some residents say their leaders have made questionable purchases, including a yacht. Just behind the casino on the lake sits a gleaming white 96-foot yacht that the tribe purchased last year to be used for a riverboat gambling operation.

While some federal officials have questioned the tribe’s financial priorities, tribe members have called for an investigation into their leader’s business dealings.

Earlier this year, the seven-member tribal business council led by Hall voted to hire a former U.S. attorney to examine Hall’s private oil and gas business dealings on Fort Berthold — including his relationship with James Henrikson, a man who was arrested on felony weapons charges and was indicted two weeks ago on 11 counts, including murder-for-hire of an associate.

Hall, who served as chairman for 12 years, lost his reelection bid the same week. In a statement, he has denied “affiliation with any gangs” and said he is cooperating with federal investigators in the Henrikson case.

Another member of the tribal council, Barry Benson, was arrested this year on drug charges.

Federal officials have sent more agents and resources to the Bakken, tripling the number of prosecutions in what Purdon calls a “robust response” to the crime wave.

But, he added, “it’s not for me to talk about what the appropriate response is by the state of North Dakota, or these counties and the tribe.”

This month, Sen. Heidi Heitkamp (D-N.D.) created a task force of North Dakotans to focus on the increase in drug-related crime and human trafficking in the Bakken, including Fort Berthold.

The state “could absolutely do more,” Heitkamp said in an interview, pointing to the need for more mental-health services, drug treatment facilities and drug courts.

“We are blessed with a growing economy and the country’s lowest unemployment rate, but there was a 20 percent increase in drug crimes in North Dakota last year,” Heitkamp said. “A better-coordinated response from the state would be helpful. The lack of roads, housing and law enforcement has stretched this small rural reservation to the max.”

‘The last of the last’

Earlier this year at a tribal conference in Bismark, N.D., which Purdon and Attorney General Eric H. Holder Jr. attended, White was presented with an award for her work trying to eradicate drug trafficking at Fort Berthold.

She choked back tears as she walked to the podium, where she dedicated her award to her Native American grandparents who raised her. She spoke about the time she has spent away from her three children because of her job.

“I sacrifice because this is the only place I’m going to be a cop, the Fort Ber-
thold Indian Reservation,” White said, her voice cracking.

“This is the last of what my people have,” White said. “Our people have survived so many things in history. The methamphetamine use, the heroin use, is just another epidemic like smallpox and boarding schools. And the last of the last are going to have to survive. And I want to be in the front lines because that was my vow — to protect my people.”

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