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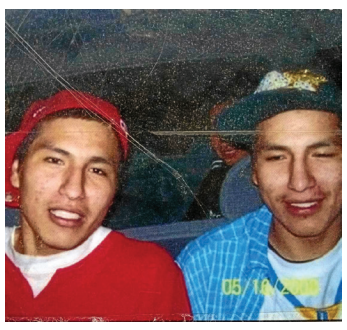
LEE ENTERPRISES SPECIAL REPORT

DEADLY PATTERN

TED MCDERMOTT, PUBLIC SERVICE JOURNALISM TEAM

Weldon Poor Bear stands in the front yard of his home in Parmelee, South Dakota, on the Rosebud Indian Reservation, in May 2023. Five years earlier, Poor Bear was in the same yard, witnessing a police chase that ended with his unarmed son fatally shot by a Rosebud tribal police officer.



Adam Poor Bear, left, and his brother, Arthur, are shown in this 2008 photo. Adam — whose nickname was "Skinny" and whose Lakota name was Mato Ohitika — died after a Rosebud Sioux tribal police officer shot him in 2018. Arthur died by suicide a decade earlier.

COURTESY POOR BEAR FAMILY

Police kill Native Americans at a rate five times that of whites and three times of Blacks. Why?

TED MCDERMOTT | Public Service Journalism Team

PARMELEE, S.D. — Weldon Poor Bear received a powerful gift on Father's Day 35 years ago: the birth of identical twin sons. ¶ He fondly recalls raising them in the traditions of their native Lakota heritage, with sweat lodges, ceremonial pipes and sun dances. There were baseball games and cross-country meets — and his son Adam's ambition to become a police officer. ¶ But memories are all that remain of Poor Bear's biological children. ¶ Near midnight on March 14, 2018, Poor Bear stood outside his house on the Rosebud Indian Reservation and watched, then listened, as Adam was shot and killed by a tribal police officer. ¶ Adam was unarmed, according to official records in the case. ¶ It was a profoundly personal loss for Poor Bear, who had already lost Adam's twin, Arthur, to suicide a decade before. ¶ But Adam's killing is also part of an alarming and rarely discussed trend that has made Native Americans more likely than any other racial group to die in encounters with law enforcement.

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ANNA REED, THE OMAHA WORLD-HERALD

The Rosebud Sioux Tribe Law Enforcement Building on the Rosebud Indian Reservation in South Dakota on Tuesday, Oct. 17, 2023.

Shootings

From A1

Despite witnessing some parts of Adam's fatal encounter — including seeing him run from police and hearing the gunshot that ended his life — Poor Bear remains largely in the dark about why and how his son was killed that night.

While accurate counts and solid information are difficult to come by, one thing is clear: Poor Bear is far from alone in mourning a Native American loved one killed by police — and searching in vain for answers.

A Lee Enterprises Public Service Journalism Team investigation examined deaths of Native Americans in encounters with law enforcement over the past 10 years, with a focus on the on- and off-reservation communities of South Dakota, where such fatal encounters are particularly common.

Interviews with dozens of surviving family members, law enforcement officers, attorneys and others — as well as reporting trips to Native American communities both on and off tribal land and the examination of lawsuits, police records and other documents and data — give new insight about the forces that have been fueling these deaths.

This investigation found:

- Across the United States, Native Americans died at a significantly higher rate than any other racial or ethnic group in police encounters between 2017 and 2020.
- A lack of funding for police in tribal communities contributed to fatal law enforcement incidents both on and off tribal lands.
- Loved ones of those who died in police pursuits, police shootings and jails struggle to access even the most basic information about how these deaths occur.
- A lack of accountability and oversight in the case of such deaths exacerbates distrust between Native Americans and law enforcement.
- Such deaths often go unreported by media.

Excluded from spotlight

According to its most recent data, the Centers for Disease Control and Prevention found that Native Americans died as a result of law enforcement interventions at a rate of 1.6 per 100,000 in 2020. That's more than five times the rate for whites, who died at a rate of 0.3, and nearly triple the rate for Blacks, who died at a rate of 0.6.

Tonia Black Elk, one of the lead organizers of Native Lives Matter, said such fatal police shootings are "so prevalent now" in the relatively small Indigenous community that "we're all related to somebody, or somebody has multiple people in their family" who have died this way.

"The cops are doing this so much, in such a fast-paced way, that we're all becoming related through this," Black Elk said.

Law enforcement officials interviewed as part of this series argued that officers work hard to avoid such deadly outcomes.

In an email response to questions, Robyn Broyles, a Bureau of Indian Affairs spokesperson, wrote that police on tribal land work to "keep Native people safe in their homes and communities."

"BIA and tribal law enforcement officers are not just employees working on reservations. They are most often tribal members themselves, with personal connections and a desire to make Indian Country a safer, healthier, more prosperous place," Broyles wrote. "As such, these officers know the history of their neighbors and are intimately connected to the communities and law enforcement entities that surround reservations. This community relationship is a defining characteristic of what makes working in OJS unique and relevant to tribal communities."

While the deaths of Black Americans at the hands of police have drawn significant media attention and public scrutiny, the fact that Natives are even more likely to die in such encounters has been largely overlooked — even by reformers, Black Elk said.

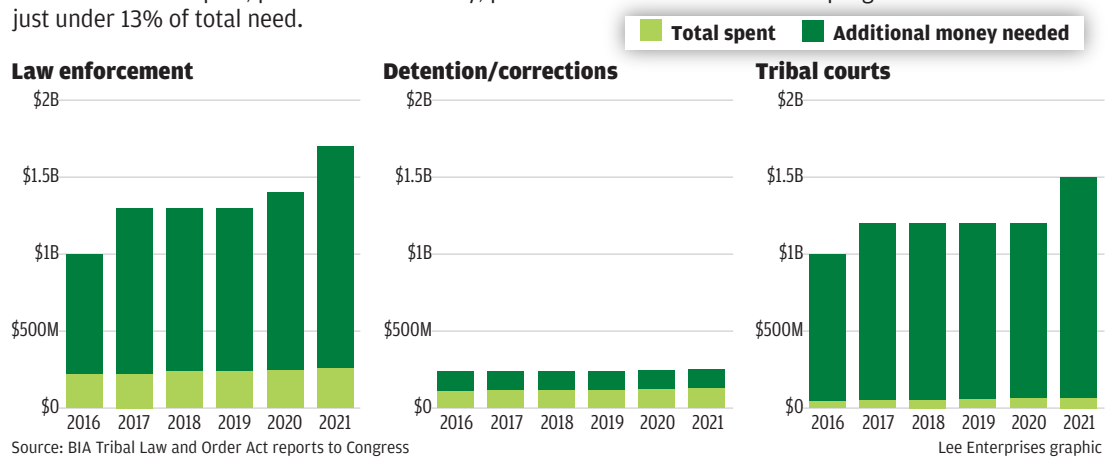
"We get left out of all talks of police reforms," Black Elk said. "We get left out of all talks of community control of the police. We get excluded from everything."

A 2018 report from the U.S. Commission on Civil Rights suggested a lack of attention may be connected to a lack of reporting.

"The best available data suggests that Native Americans are being killed in police encounters at a higher rate than other racial groups, but these killings may be undercounted by federal agencies and are underreported by the media," that report said. The report also found that "undercounting is compounded as tribes often lack media presence on their reservations and lack monetary resources to create and disseminate these public records."

Tribal law enforcement underfunded

In annual reports to Congress, the BIA has consistently found a significant gap between the funding available and the estimated money needed to pay for public safety and justice programs in Indian Country. The most recent report, published in February, pertains to 2021 and found these programs were funded at just under 13% of total need.



Source: BIA Tribal Law and Order Act reports to Congress

Lee Enterprises graphic

About this series

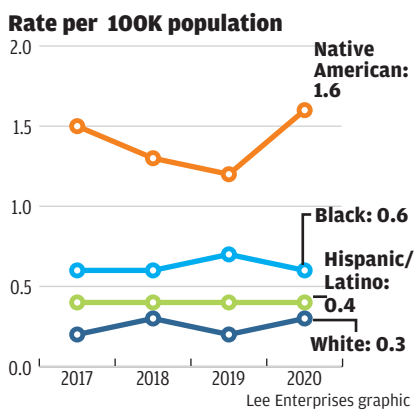
Lee Enterprises' Public Service Journalism team has spent more than a year digging into the causes and implications of Native Americans' disproportionately high rates of fatal encounters with law enforcement.

Through public records requests, dozens of interviews, the examination of lawsuits and multiple reporting trips to Native American communities both on and off tribal land, reporter Ted McDermott has worked to understand the systemic forces that contribute to this trend — and to hear many personal stories of how these deaths have reverberated within Indigenous communities.

Future stories will examine fatal encounters that have occurred on and off tribal lands in South Dakota, where such deaths are particularly common.

Fatal encounters

CDC data indicates that Native Americans die at a higher rate than other racial and ethnic group as a result of "legal interventions," which occur when someone dies in an encounter with "law enforcement and other persons with legal authority to use deadly force acting in the line of duty."



Source: CDC

Lee Enterprises graphic

The CDC used "death certificates, coroner and medical examiner records and law enforcement reports" to produce its data. Public databases that seek to compile such fatal encounters, on the other hand, rely on news reports to produce databases that track law enforcement killings by race, gender and other factors.

A Lee Enterprises analysis of three of those online databases – Fatal Encounters, Mapping Police Violence and The Washington Post's Fatal Force tracker — identified 29 Native Americans killed in such encounters in 2020, while the CDC counted 40 deaths that year. The disparity between their counts appears to confirm the notion that some Native deaths in law enforcement encounters go unreported in media.

Sunny Red Bear, an action organizer with the NDN Collective, an activist group based in Rapid City, South Dakota, said the publicly available data is not merely inaccurate but also "misconstrued."

'Striking' reality

With 324 federally recognized reservations, 574 tribes, and 87% of the 3.7 million people who identify only as American Indian or Alaska Native living off tribal land, it is difficult to generalize about the causes of each of the hundreds of Indigenous people killed by police over the past two decades. Local and individual circumstances vary widely.

In an effort to hone in on the causes and effects of high rates of fatal encounters between Native Americans and law enforcement, Lee's investigation centered on South Dakota, where Native Americans represent about 8.5% of the state's population but were victims of 75% of the fatal police shootings since 2000, according to data compiled by the NDN Collective.

Future stories in this series will focus on fatal police encounters between Native Americans and local police in Rapid City, tribal police on the Rosebud Indian Reservation and Bureau of Indian Affairs police on the Standing Rock Indian Reservation.

South Dakota is one state in a region of the northern Plains where a recent study by the economist Matthew Harvey suggests Native people die in police encounters at an alarmingly high rate relative to whites, when adjusting the data to account for population disparities.

Harvey's paper focused in part on the Ninth Federal Reserve District, which extends from Montana to the Upper Peninsula of Michigan. There, Harvey found that Native American men had 14 times as many fatal encounters with police as white men over the period from 2000 to 2017. Using the same criteria, Native American women had 38 times as many fatal encounters with police when compared to white women.

The numbers are so high that Harvey initially had a hard time believing them.

"I honestly ran the numbers at first, and I'm like, 'This can't be right. This has to be wrong. My code is not good,'" Harvey said. "But then I went back and ran it again, and I'm like, 'No, the code is right. This is just — this is striking.'"

Lack of resources

Municipal and state police departments have jurisdiction outside of reservations. But the federal government plays a major role on tribal land, where the BIA's Office of Justice Services largely funds law enforcement.

In some cases, personnel from OJS police tribal citizens directly, at a tribe's request. But in most cases, tribes contract with the BIA to operate their own police departments. And when someone is shot on tribal lands, the FBI is tasked with investigating.

That's a job the FBI treats with "the utmost seriousness," FBI Public Affairs Specialist Diana Freedman wrote in an email response to questions. Agents, she added, "spare no effort in establishing the facts."

In annual reports produced for Congress, the BIA acknowledged that public safety and criminal justice programs in Indian Country are woefully underfunded.

The bureau's most recent report, which covered 2021, found total law enforcement needs for tribes amounted to $1.7 billion — but that only $256.4 million was spent.

"Overall, Indian country BIA public safety and justice is funded at just under 13% of total need," the report said. It also said that just 3,781 people were employed in these positions as of 2021 and that "an additional 25,655 personnel are required to adequately serve Indian country."

The result is police departments that are seriously understaffed, said Charles Addington, who served as the director of the BIA's Office of Justice Services from 2017 until 2020 and is now chief marshal for the Quapaw Nation's law enforcement department.

Broyles acknowledged that "funding and resource limitations do impact law enforcement programs in Indian Country as it affects a program's ability to hire and retain critical police and correctional programs personnel needed to safely police and staff correctional facilities. It also creates challenges with updating aging police and correctional facilities."

She noted that the BIA is working "on several strategies to support recruitment and retention. "

Festering crime rates

Crime has festered on tribal land, and federal data shows violent crime rates have been found to be more than 2.5 times as high on reservations as off.

"I think everything's related to crime rates," Addington said. The more crime, he added, the more you're "increasing the probability that you're going to encounter someone that you may have to have deadly force or any kind of force with."

When those encounters do happen, "the fewer law enforcement officers you have working these reservations, the more dangerous it is for everybody," according to Walter Lamar, who is a citizen of the Blackfeet Nation and a former deputy director and acting director of law enforcement for the BIA.

Having too few officers "puts the officers at much greater risk," Lamar said, and "puts the citizens of the reservation at much greater risk," because when police are outnumbered and overwhelmed "there is a much greater chance there's going to be some level of force used."

Another factor that increases the odds of a deadly encounter, Addington said, is the prevalence of substance abuse on reservations and the fact that there are "very, very, very few" opportunities for treatment near reservations.

"If (a suspect is) under the influence of some type of narcotics and you encounter them," Addington said, "it increases the probability that you're going to have to take some type of force, or they're going to do something that they normally wouldn't do."

And when understaffed and underfunded tribal or BIA police have difficulty keeping up with the calls and emergencies confronting them, Addington said, they don't have time to properly train for such situations.

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Experts: History fuels high Native American death rate at hands of police

TED MCDERMOTT
Public Service Journalism Team

Recent findings that Native Americans are more likely than any other racial group to die in encounters with law enforcement have deep roots, experts say.


Galanda

"I think first you have to put it in historic context, and the reason we're near the top if not atop the list of both police encounters and fatalities must be understood in the context of colonization and, essentially, centuries-old efforts to force Indigenous people away from their homelands, away from their communities, into urban settings where they don't have a safety net or they don't have much of a safety net," said Gabriel Galanda.

Galanda belongs to the Round Valley Indian Tribes of California and is a Seattle-based Indigenous rights attorney who has represented the families of more than half a dozen Native Americans killed by the police.

Over the centuries, Native Americans were pushed against their will onto reservations. Once there, Galanda notes, many young Native Americans were forced to move again into far-flung boarding schools that further stripped them of their culture and language while subjecting them, in some cases, to abuse, neglect and even death.

"Which is to say that if somebody's great-grandparents or grandparents or mom and dad were sent to boarding school or have suffered from some addiction or affliction as a result, that likely contributes to the moment that an Indigenous person finds themself encountering the police," Galanda said. "So that's unique to Indigenous America — that entire history of colonization and displacement."

Municipal and state police departments have jurisdiction outside of reservations. But the federal government plays a major role on tribal land, where the BIA's Office of Justice Services largely funds law enforcement.

In some cases, personnel from the Office of Justice Services police tribal citizens directly, at a tribe's request. But on most reservations, tribes contract with the BIA to operate their own law enforcement departments. The power of tribal and OJS police is limited, however. When major crimes occur, such as homicide and sexual assault, the federal government takes over. And while tribal police can detain people who are not Native, they cannot arrest or prosecute them.

When tribal police or BIA officers shoot a person on tribal lands, the FBI investigates "to determine if there has been a violation of federal law," including "potential breaches of civil rights or color of law," FBI Public Affairs Specialist Diana Freedman wrote in an email response to questions.

All "findings are turned over to the United States Attorney's Office (USAO), which decides whether to pursue charges," Freedman added. "If no charges are filed, the responsibility for further action shifts to the relevant agency's internal processes to address any policy violations."

Attempts to access information for this investigation about broader patterns of the use of force on tribal land and violations of BIA use-of-force policies proved difficult.

Robyn Broyles, a Bureau of Indian Affairs spokesperson, said the bureau reported 51 use-of-force incidents to the FBI between January and August 2023, but she declined a request to interview someone from the department and did not provide more in-depth information about such incidents over time.

The Office of Justice Services' handbook states that an "annual summary report of use of force incidents will be prepared." But in response to a public records request for those reports, the Internal Affairs division said that it "did not locate records responsive to your request."

In February 2023, Lee Enterprises made another open records request for six years of individual or group use-of-force reports as well as reviews, summaries, "findings of policy violations or training deficiencies," disciplinary actions and criminal investigative reports of incidents of use of force. Lee's request remained pending as of press time.

'Set up to fail' because of addiction or affliction

Galanda believes that officers on and off reservations do not always consciously target Native people. But he argues that police are "not set up to succeed" when they encounter an Indigenous person who may be "suffering from addiction or affliction," who "may not have a safety net" and who, by virtue of "intergenerational trauma" and a lack of resources, "may be sort of set up to fail and be killed."

"And that moment, where their (police) biases overcome them and they may be more implicitly than overtly racial and they see a large, brown man in a bad mental state acting in a way that is perceived as violent," Galanda continued, "they don't know what else to do in that moment, other than shoot to kill or choke and kill, rather than de-escalate.

"I believe that's even more the case in tribal country. Because there's even less resources and less training and, candidly, the cops that are being hired in Indian Country may not be qualified to work in cities, towns and counties."

Broyles, however, said that "BIA police officers are trained to use the appropriate amount of force necessary to make a lawful arrest."

Shootings

From AX

"While avoiding all fatal encounters is not a realistic expectation in the law enforcement field, the BIA Indian Police Academy does an excellent job providing quality classroom and role-playing exercises that teach officers safe and effective arrest techniques, use of force, and non-lethal tactics," wrote Broyles, of the BIA.

The dynamics that fuel Native Americans' high rates of fatal encounters with police aren't contained by the borders of reservations.

Though it has not been intensely studied, evidence from Harvey's study suggests Natives die even more often off tribal lands than on them, including in border towns and big cities where Native Americans endure high crime rates and rely on predominantly non-Native police to provide safety.


ANNA REED, THE OMAHA WORLD-HERALD

Adam Poor Bear was fatally shot near the Parmelee rodeo and powwow grounds, shown Monday, Oct. 16, 2023, on South Dakota's Rosebud Indian Reservation.

Hurdles to truth, accountability

When Natives are killed in police encounters, bureaucratic hurdles mean the loved ones of those who die often are stymied in their efforts to pursue accountability — or even receive basic information.

On reservations, this is due in part to a jurisdictional thicket that makes it difficult to know how to request records — or even who to request them from. In interviews for this story, the loved ones of those killed in law enforcement encounters all reported difficulty accessing information.

While he's adamant that he's "not a cop hater," Poor Bear believes that systemic problems like high crime rates, underfunding of law enforcement, poor training, low staffing levels and a lack of familiarity between officers and residents have not only fueled broader dysfunction on the Rosebud reservation but also directly contributed to his son's death.

And law enforcement's lack of transparency, he said, has left him grieving and unable to move on.

Asked about the FBI's process for keeping families informed after a fatal encounter, Freedman wrote that the bureau "typically designates one point of contact within a victim's family to provide updates on the case." She said the bureau's victim specialist program "ensures consistent support and assistance to victims and their families."

None of the families interviewed for this series, however, mentioned being contacted by, or working with, an FBI victim specialist. And nearly all said they had never received documents such as autopsies and police reports, despite efforts to get documents that might address their questions or help them pursue accountability.

Poor Bear has tried to take what action he could. He said he has called "all kinds of numbers" given to him by the FBI without ever getting assistance, answers or basic documents, such as an autopsy report. He even protested his lack of access to documentation before the Rosebud Sioux Tribal Council, the tribe's sole legislative body, to try "to get their attention." He put up a sign demanding justice for his son alongside similar signs for other victims of police violence on the reservation.

Poor Bear believes those documents might help him find clarity and, perhaps, a lawyer who could help him pursue justice.

"Sometimes I ask myself, if there's nothing to hide, give me the paperwork," he said.

Recently, however, the federal government did share some of those documents in response to a Lee Enterprises' public records request.

But after identifying 797 pages of documents and 33 minutes of video that were "potentially responsive" to this request, the FBI estimated it would take 55 months to provide those materials. A Lee Enterprises reporter agreed to the agency's request to narrow the ask to 49 pages, a move expected to shorten processing time to four months.

Instead, in March, after eight months, the FBI provided 19 pages of documents with significant redactions, including blanking out the names of officers and witnesses. The U.S. Attorney's Office for South Dakota also provided a seven-page letter in response to the same records request.

The FBI responded similarly to public records requests for documents related to seven other fatal encounters with law enforcement on tribal lands in South Dakota.

After Lee Enterprises filed those requests in the summer of 2023, the FBI's Information Management Division estimated it would take between 4½ years and 6½ years to provide all documents related to each investigation.

The FBI then offered to provide up to 50 pages from each one in about four months. Though Lee agreed to this expedited approach, the shorter timelines were not met in all but one case; the bureau released fewer than 25 pages in three cases; and no records related to three other investigations had been provided as of press time.

Salomon Zavala, a Los Angeles-based civil rights attorney who has worked with families of Native people killed by the police, said the length of the FBI's response time can preclude families from pursuing excessive force and wrongful death cases, which typically have a two-year statute of limitations. And he said the difficulty in obtaining documents seriously complicates efforts to root out bad cops and pursue broader reforms that might bring down the high rates of fatal encounters between Natives and law enforcement.

Such accountability can't be achieved, he said, without documentation.

"If you don't have documents to evaluate and determine what exactly happened, then how do you hold someone accountable?" Zavala said. "How do you know these agencies, these police officers, these detectives are compliant with the law?"

Unanswered questions

The records related to the killing of Adam Poor Bear offered his father a glimpse of what he has long sought: the official account of what happened near midnight on March 14, 2018.

That account confirmed what Weldon Poor Bear believed: that his son was unarmed when he was shot.

But the documents obtained by Lee Enterprises also left many of Poor Bear's questions unanswered — and raised new ones.

For example, the FBI's summary of an interview with the officer who killed Adam alleges that Adam not only threatened but also "assaulted his father." But in an interview with Lee Enterprises, Poor Bear disputed that assertion.

While he acknowledged his wife called 911 that night to report that Adam had hit the house with a hammer and was threatening to break car windows, Weldon Poor Bear said his son didn't actually break any windows, never threatened him and never assaulted him or anyone else.

"It was just a disturbance call, someone calling on him, saying he was being obnoxious," Poor Bear said of his son.

But when the first tribal police officer arrived, Poor Bear said, he got out of his vehicle "all gung ho and hyped up" and started "running right at" Adam. That, Poor Bear believes, unnecessarily escalated the situation from the start.

The officer told FBI agents, however, that when he approached Adam and "yelled" his name, Adam responded by saying an expletive and then, "You have to catch me first."

A foot chase ensued as Adam led the officer through town and toward the powwow grounds on the edge of Parmelee. Poor Bear and his wife watched it all happen from their front yard, pleading with their son to give himself up. But Adam wouldn't listen.

A second officer approached the scene soon after, FBI files say, but he told interviewers that he was prevented from joining the pursuit because his vehicle got "stuck in the mud."

That left the first officer alone to search for Adam, eventually finding him "laid face down on the ground in the grass" of the powwow grounds. The officer ordered Adam to stay still, the U.S. attorney's letter says, but Adam disobeyed, "moved towards the officer" and asked the officer to "shoot me."

When he was within about 10 feet of the officer, Adam pulled his hands from his pockets and the officer "attempted to fire his weapon," FBI documents say. But no bullet was discharged, because the officer "forgot to load a round into the chamber."

The officer then loaded a bullet, FBI files say, and the officer again yelled at Adam "to stop moving and get down on the ground."

But the FBI FOIA office entirely redacted the officer's description of why he pulled his trigger again, this time with his gun loaded.

The U.S. attorney's letter, however, fills in that blank with a description of what that office says happened: "At one point Adam was 5 to 8 yards from Officer (Redacted), and Adam moved quickly and rushed towards Officer (Redacted) and pulled his hands out of his pockets in an aggressive manner. At that time, Officer (Redacted) fired one shot and struck Adam in the upper chest."

The officer who shot Adam told investigators "he never saw the hammer" or any other weapon, the letter says. Neither did the officer whose vehicle had gotten stuck.

Poor Bear said he was "watching the whole thing" from only about 200 yards away, close enough that he "could hear their voices," and that he didn't hear anyone "giving direct orders to get down or get back or something" to his son.

But there's no way to know what actually happened when the officer encountered Adam that night, as neither of the officers had their body cameras activated at the time of the shooting.

The officer who fired the shot was wearing a camera that "would not turn on," FBI documents state. And the officer who arrived next also had a body camera that was "not operational" when Adam was being pursued and then shot.

And yet, the U.S. attorney's letter states, one of the officers was able to "activate his body camera" immediately after the shooting.

Poor Bear said he was surprised any footage was recorded, even if it only captured the aftermath of the officer firing.

"I wanted footage of the body cameras," he said, "and they were like, 'We don't have body cameras.'"

These kinds of inconsistencies and gaps in the official account have left him baffled about why his unarmed son was shot dead despite having no weapon and harming no one.

"That's what I told the FBI: 'Why'd you guys do that? He didn't hurt no one. He didn't even do nothing,'" Poor Bear recalled. 'I said, 'This was a disturbance call. What's going on? What did he do?'"

And while the documents obtained by Lee were the first Poor Bear has seen, he said the redactions, omissions and discrepancies mean he's still "just living in limbo" six years after Adam was fatally shot.

The document he wanted most was his son's autopsy, but it wasn't included in the batch of files turned over in response to Lee Enterprises' public records request. The U.S. attorney's letter did, however, offer a description of the autopsy's findings.

"The trajectory (of the bullet) traced within Adam's body seems to support the theory that Adam was angled forward, or leaning forward, or running forward, at the time the shot was fired by Officer (Redacted)," the letter reads. "THC and alcohol (.195%) was found in Adam's blood."

After viewing the letter and FBI documents, Poor Bear went to the Rosebud Sioux Tribal Law Enforcement building this month to demand yet again to see documents he's sought for six years.

This time, he said, Steven DeNoyer Jr., chief administrator of the Rosebud Sioux Law Enforcement Services Department, and another tribal officer allowed him to view tribal police reports as well as the autopsy. But Poor Bear said he was not allowed to have copies of those documents.

DeNoyer did not respond to requests for comment, and Capt. Iver Crow Eagle declined to comment when reached by phone.

While viewing the autopsy gave Poor Bear some more details about the physical cause of his son's death, it left him wondering if his son was angled forward not because he was running at the officer but because he was complying with the order to get down on the ground.

The U.S. Attorney's Office found that the officer who shot Adam "acted in self-defense" and should not be subject to criminal charges. But Poor Bear believes tribal police unnecessarily turned a minor family disagreement into a deadly encounter: "You should be able to resolve a small issue like that without no one getting killed."

"I'm not against the police," he said. "I just want better relations and better communications and better training."

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LEE ENTERPRISES SPECIAL REPORT

INDIGENOUS DEATHS IN FOCUS

As police shootings of Native Americans off of reservations mount, will feds intervene?

TED MCDERMOTT
Public Service Journalism Team

Trinity Peoples flipped through a three-ring binder, searching for a way to put scraps of information together in a way that might explain the death of her brother, Barney, at the hands of city police officers.

She knew her brother, like her, was a member of the Oglala Lakota Nation who was born and spent his early years on the nearby Pine Ridge Indian Reservation.

She knew he had long struggled with alcoholism and homelessness, as well as diabetes that led to a partial amputation of his foot.

She knew her brother was well known to the police, who'd seen him on the Rapid City streets, off and on, for years.

She knew the state Division of Criminal Investigation had determined that the pair of officers who'd killed her brother were "justified in firing their weapons and using lethal force" on the third floor of a house that wasn't Barney's.

And she knew that her brother died in the early afternoon of March 26, 2022, when a large crowd was gathering on

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SIANDHARA BONNET, JOURNAL STAFF
A woman wears a "Rapid City vs Racism" cloth on the back of her ribbon skirt Oct. 10, 2022, at the fifth annual Remembering the Children Memorial Walk at Sioux Park.

COURTESY PHOTO
Trinity Peoples had several crosses created by Native artists for her brother Barney Peoples' memorial.

A.J. ETHERINGTON, JOURNAL STAFF

The crowd chants during NDN Collective's March Toward Justice on July 4, 2023.

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the other side of town to protest the owner of a local hotel, the Grand Gateway, for announcing she would no longer serve Native Americans.

"We were protesting against racism," Peoples said. "And they were killing him at the same time."

It wasn't the first time a Native American protest has coincided with a Native American dying in a police interaction in the city. In 2014, local police shot and killed Allen Locke, one day after he participated in a protest designed to draw attention to police mistreatment of Native Americans.

While DCI investigators determined that an intoxicated Locke was holding a knife and ignored commands to drop it, warranting the officer's decision to fire five times, Locke's death fueled the concerns about systemic racial bias the protest had been meant to address – and that persist a decade later.

In Rapid City, Native Americans represent about a tenth of the population but nearly 60% of those who have died in fatal encounters with law enforcement since 2007, according to an analysis of reports from DCI, which investigates officer-involved shootings in the state.

Of the seven people killed in such interactions in the city since May 2021, all were Native Americans.

That's a notable disproportion, even considering that the U.S. Centers for Disease Control and Prevention has found that Native Americans died at a significantly higher rate nationwide than any other racial or ethnic group in police encounters between 2017 and 2020.

According to the CDC's most recent data, Native Americans died as a result of law enforcement interventions at a rate of 1.6 per 100,000 in 2020. That's more than five times the rate for whites, who died at a rate of 0.3 per 100,000, and nearly triple the rate for Blacks, who died at a rate of 0.6.

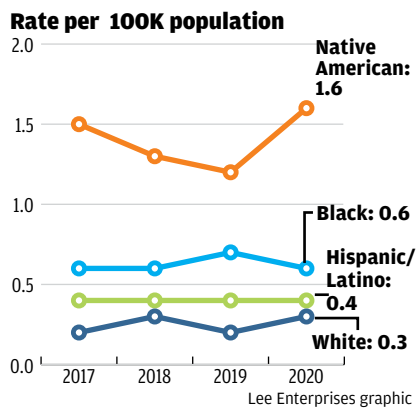
In Rapid City, where the Native American population is approximately 8,000 people, the rate was about 8.9 fatal encounters per 100,000 Native Americans each year for the past 17 years.

This 2023 flyer advertises a rally commemorating Barney Peoples.

Trinity Peoples, photographed in the Rapid City Public Library in May 2023, has struggled to understand the death of her brother, Barney Peoples, in a shooting by local police.

Fatal encounters

CDC data indicates that Native Americans die at a higher rate than other racial and ethnic group as a result of "legal interventions," which occur when someone dies in an encounter with "law enforcement and other persons with legal authority to use deadly force acting in the line of duty."

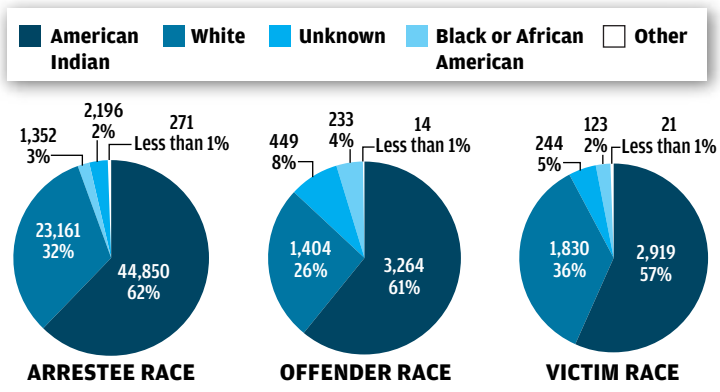


Source: CDC

Lee Enterprises graphic

Rapid City: Victim, offender and arrestee totals by race

Native Americans only account for 8.5% of the city's population, but represent a significant majority of those who were arrested for, victims of, and convicted of crime between 2012 to 2022 in Rapid City, where 78.5% of the population is white, according to the US Census.



Source: Federal Bureau of Investigation Crime Data Explorer

Lee Enterprises graphic

Lack of transparency leaves answers elusive

Brendyn Medina, community relations specialist for the Rapid City Police Department, acknowledged, in an email response to questions, that "Native Americans face adversity at disproportionate levels and have a disproportionate representation in the number of officer-involved shootings across the country." But he said racial bias has never been a factor in RCPD officers' decisions to use force.

When officers in his department pull the trigger, Medina said, they're reacting not to a person's race but rather "to the involved individuals' actions."

"In all officer-involved shootings involving the Rapid City Police Department," Medina noted, "every suspect possessed a deadly weapon and/or posed a direct deadly threat to the responding officer (and, in some cases, an innocent bystander)."

DCI investigators say that group includes Barney Peoples, who they say was aiming a rifle at police when he was shot.

And footage shown to reporters from the Rapid City Journal and other outlets seemed to confirm DCI's finding.

The Journal reported that the video showed Barney Peoples "sitting on the floor holding a rifle with a scope. A freeze-frame of that particular moment shows the gun was pointed at the first officer," who then moved "to the left of the doorway seeking cover while shouting for Peoples to drop the weapon, after which both officers begin firing."

The Attorney General's office responded to a request for this footage and other records for this story by saying such documents are "not subject to disclosure under South Dakota's public records laws."

For Peoples' family and others affected by such fatal encounters with law enforcement, the state's restrictive public records laws make it difficult to gain answers about how their loved ones died.

And that lack of transparency has fueled doubts among relatives and activists that everyone killed by police truly posed a threat. Those critics cite, for example, a 2023 police shooting of a Native American man who had a lighter that resembled a gun but no actual firearm.

As for Trinity Peoples, who couldn't bring herself to watch footage of her brother being shot, she said she still has "a lot of questions surrounding" the officers' decision to use deadly force.

Disproportionate death in police encounters

While questions swirl about the specific incidents, data indicates Native Americans do disproportionately die in police encounters in Rapid City, a growing city of nearly 80,000 in the heart of the Black Hills, an area sacred to the Lakota.

Only about 8.5% of the city's population identify solely as Native American or Alaska Native, according to 2023 U.S. Census data, but Native Americans represent 57% of those killed in officer-involved shootings there over the past 17 years.

Between 2007 and early 2024, 12 Native Americans were fatally shot by officers from the Rapid City Police Department and the Pennington County Sheriff's Department, according to DCI reports. (Rapid City is the seat of Pennington County.) During the same period, city police and sheriff's deputies have shot and killed eight white people.

DCI has determined all of these killings were justified. A spokesperson for South Dakota Attorney General Marty Jackley, whose office includes DCI, declined to comment for this story.

These trends are not confined to Rapid City.

Native Americans also account for 75% of the victims in the 79 police-involved shootings in South Dakota between 2001 and 2023, according to data from the Rapid City-based activist group NDN Collective.

And the CDC found that, between 2017 and 2020, Native Americans died at a significantly higher rate than other racial and ethnic groups in encounters with law enforcement nationwide.

These deaths usually occur in places like Rapid City: off-reservation communities near tribal land.

That's the conclusion, at least, of one of the few academic studies to look at the issue, a 2019 paper by the economist Matthew Harvey that relied on the publicly available but incomplete data from the Fatal Encounters database to look at deaths from 2000 to 2017.

He found that most of these deadly encounters occurred "outside tribal statistical areas" and involved non-tribal police for the period he looked at.

Of 279 fatal encounters identified in his study, 150 occurred outside tribal land, and 195 involved interactions with local or state police, not with the tribal or federal officers who typically enforce laws on reservation land.

In violent encounters, a variety of circumstances

The circumstances and locations of these deaths vary widely.

In 2017, Zachary Bear Heels, a member of the Rosebud Sioux Tribe with a history of mental illness, died after being handcuffed, shocked 12 times with a Taser and punched 13 times while in custody of Omaha police officers, two of whom were charged but not convicted of assault in the incident.

Please see **SHOOTINGS**, Page AX

About this story

Lee Enterprises' Public Service Journalism team has spent more than a year digging into the causes and implications of Native Americans' disproportionately high rates of fatal encounters with law enforcement.

Through public records requests, dozens of interviews, the examination of lawsuits and multiple reporting trips to Native American communities both on and off tribal land, reporter Ted McDermott has worked to understand the systemic forces that contribute to this trend – and to hear many personal stories of how these deaths have reverberated within Indigenous communities.

Future stories will continue to examine fatal encounters that have occurred on and off tribal lands in South Dakota, where such deaths are particularly common.

DARSHA DODGE, JOURNAL STAFF

NDN Collective President and CEO Nick Tilsen addresses the crowd during the March Toward Justice on July 4, 2023.

Shootings

From AX

The same year, in Odanah, Wisconsin, a 14-year-old Ojibwe boy named Jason Pero died after being shot by a sheriff's deputy who claimed he had a knife – a claim the boy's family has disputed.

In 2020, Phoenix police fatally shot Matthew Begay, a suicidal Navajo man approaching officers with a knife in a mental-health facility.

Also in 2020, a Chippewa-Cree man named Cole Stump died from multiple gunshot wounds after police in Billings, Montana, say he pointed a gun at them – a claim his family has disputed.

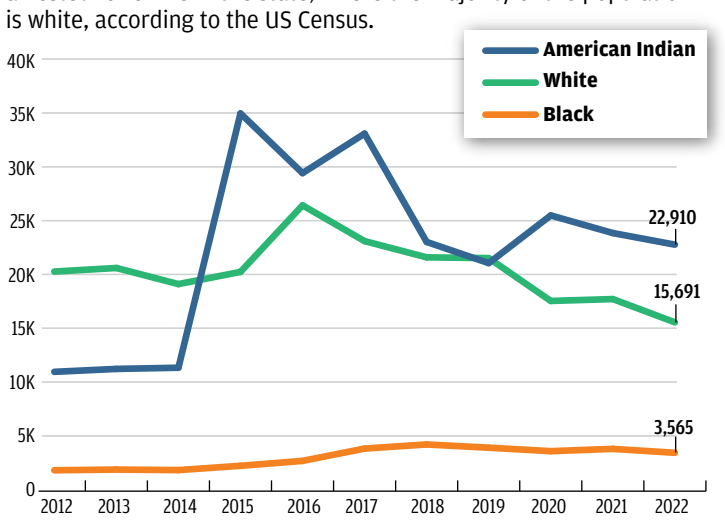
Earlier this year, Cody Whiterock, of the Shoshone-Paiute Tribe, was killed by Bureau of Indian Affairs agents outside of tribal lands, in Riddle, Idaho, while fleeing from an attempted arrest on Nevada's Duck Valley Reservation.

Monte Mills, director of the Native American Law Center at the University of Washington, said there's strong evidence showing Indigenous people are "the most impacted, in terms of police violence outside of Indian Country."

"I don't think that there's any doubt that police – law enforcement in general – interact with and have more violent encounters with people of color, particularly Indigenous people, than any other group," he said.

South Dakota: Arrestee totals by race

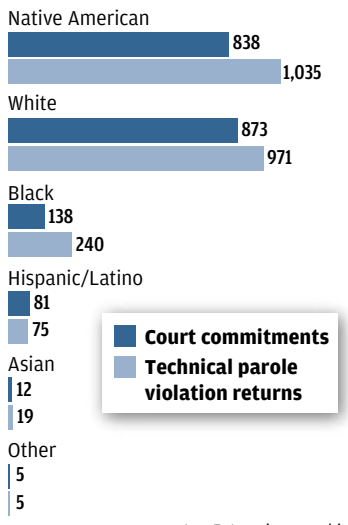
Native Americans account for less than 10% of South Dakota's population, but represent a disproportionate number of those arrested for crime in the state, where the majority of the population is white, according to the US Census.



Source: FBI Crime Data Explorer — Lee Enterprises graphic

South Dakota prison admissions by race

As of 2022, whites, who account for about 84% of the state population, and Native Americans, who account for 9% of the state population, were almost equally represented in offender admissions to the South Dakota Department of Corrections. Those admissions came as a result of both new court commitments to prison and of parole violations from previous convictions.



Source: South Dakota Department of Corrections 2022 Statistical Report — Lee Enterprises graphic

Racial imbalance, harsher treatment

In part, this imbalance may reflect the fact that the vast majority – nearly 90% – of Native Americans live outside of what is now considered tribal land.

Mills notes that Native Americans' movement into predominantly non-Native communities is no accident.

While government policies forced Native people onto reservations in the 19th century, laws like the Indian Relocation Act of 1956 encouraged them to leave and move into nearby cities as part of a broader campaign to compel Indigenous Americans to assimilate.

"A lot of it, in my view, has to do with policies of the federal government, in terms of relocating significant numbers of Native people from tribal communities to cities like Seattle and Oklahoma City and Denver and Albuquerque," Mills said. "So you have significant populations of historically displaced peoples in those communities, which presents higher concentrations of impacts in terms of interactions with police."

Those interactions come not only in the form of violent encounters but also as arrests and incarcerations.

American Indian and Alaska Natives are incarcerated at double the national rate in state and federal prisons, according to the U.S. Bureau of Justice Statistics. And there's evidence they receive harsher sentences than other racial groups.

In South Dakota, Natives also encounter the criminal justice system at higher rates than other groups.

As of 2022, Native Americans accounted for 9.4% of the South Dakota population, while Whites accounted for 78.8%. But Whites and Natives "were almost equally represented in offender admissions" to the prison system, with each accounting for about 45% of those admitted in 2022, according to a South Dakota Department of Corrections report.

The same year, FBI data shows 22,910 Native Americans were arrested, versus just 15,691 white people, in South Dakota.

In Rapid City, the disparity is even more pronounced.

There, Native Americans account for less than a tenth of the city's population but for more than six in 10 arrests between 2012 and 2022, according to the most recent FBI crime data.

Over that decade, local police made 71,771 arrests. Of those, 44,850 involved Native Americans. To put that in perspective, each of Rapid City's approximately 7,500 Native American residents would have to be arrested once a year for six years to reach that number.

Medina, of the Rapid City Police Department, said these "arrests are reviewed by supervisors, prosecutors, and the court system" as well as by an accreditation process that "continually reviews our policies, practices and crime data to ensure we are within the best practices in policing."

"We don't dictate the race of the person who is calling 911 for emergency assistance or to report a crime, nor do we dictate the race of the suspect," Medina added. "We respond to the call for service, investigate, and handle these calls appropriately, regardless of the victim's or suspect's race."

He also noted that the issue of "disproportionate Native American arrests and victimization is much bigger than policing alone," pointing in particular to issues such as "health disparities and poverty" that "disproportionately affect some populations."

Native Americans are also vastly more likely than members of other racial and ethnic groups to be victims of crime in South Dakota and Rapid City.

Despite accounting for only about 9% of the population statewide and in the city, FBI data indicated Native Americans were the victims of 32% of the crimes in South Dakota and 61% of the crimes in Rapid City between 2012 and 2022.

For Native community, racism becomes 'numbing agent'

These disproportionate rates of arrest, incarceration, victimization and fatal encounters have produced a palpable and ever-present feeling of racism in Rapid City's Native community, said Sunny Red Bear, associate director of organizing for the Rapid City-based activist group NDN Collective.

"Living here in Rapid City, it's really intense," Red Bear said. "A lot of people that I talk to have moved here from other states or from other cities within South Dakota or even east (of the Missouri) river, it's such a different mentality here, and I think we get used to it. We get used to mistreatment. We get used to discrimination, racial profiling. We get used to racism. And it becomes like a numbing agent for us to start accepting the misconduct and mistreatment of Native people. So I think Rapid City has created that culture here, but it's not the only place that it exists."

> **"It's such a different mentality here, and I think we get used to it. We get used to mistreatment. We get used to discrimination, racial profiling. We get used to racism."**
>
> **Sunny Red Bear,** associate director of organizing for the Rapid City-based activist group NDN Collective

Disparate arrest, sentencing, crime victimization and fatal encounters rates are not uncommon, especially in cities with large Native American communities.

After a fatal police shooting exacerbated long-standing distrust of law enforcement among Native Americans in Riverton, Wyoming, for example, the Casper Star-Tribune found that seven out of 10 arrests made by local police over a 10-year period were of Indigenous people, who make up only about 10% of the population.

Walter Lamar, a longtime FBI agent as well as a former deputy director and acting director of law enforcement for the Bureau of Indian Affairs, said he has a "very difficult" time deciding whether racism is at the root of high rates of fatal encounters in Rapid City and other off-reservation settings.

"Because I am Native, I have an infinite love for our Native people and my relatives," Lamar says. "And as a former police officer, I also have a love for people who are willing to go out and strap on a gun everyday and provide peace and order in their communities. So it's a hard question to say."

In the case of an armed suspect, for example, Lamar says the response from law enforcement can differ greatly depending on whether the officer works on a reservation or in a community where Native Americans are a relatively small, marginalized part of the community.

Please see **SHOOTINGS,** Page AX

DARSHA DODGE, JOURNAL STAFF

Local activist Natalie Stites Means speaks during a press conference in Rapid City on Monday, Nov. 20, 2023.

DARSHA DODGE, JOURNAL STAFF

NDN Collective action organizer Sunny Red Bear speaks in February 2023.

Shootings

From AX

On a reservation, he said, an officer who "understands where this person comes from and what they've lived through and what they are living through … may not be as quick to exercise deadly force," Lamar said.

Off tribal land, a non-Native officer may "have a whole different perception," Lamar said.

"Sadly," he said, "there's going to be some implicit bias that factors in."

Police training calls for lethal force

An officer's training also factors in, Lamar said. And that training tells police that "action beats reaction every time."

"What that means is, if someone's armed with a knife and they come at you, they can close a distance of 21 feet or whatever it is, and before you can get a gun out, they can stab you," Lamar said. "So that's why law enforcement is trained, if a person won't drop a knife, to shoot and kill them."

Medina, of the Rapid City Police Department, acknowledged that officers have a "trained reaction to meet lethal force with lethal force." And he noted that the stakes are high for police as well. In 2011, a report of people drinking alcohol in public turned into a shootout that left two Rapid City police officers and one Native American man dead.

"When presented with such lethal force by an offender, police officers are trained to stop the threat using lethal force," Medina wrote, "and unfortunately, officers have to make a decision to defend their lives or the lives of others in a split second. And in cases like these, officers are not provided an opportunity to de-escalate the situation."

He also said the department trains officers in other areas, including "the historical trauma some members of our Native American community experience," and noted that the department "has created a number of specialized units and programs geared toward disparities with our city's Native American population."

SIANDHARA BONNET, JOURNAL STAFF

Rapid City Police Department Asst. Chief Scott Sitts and Chief Don Hedrick talk to the media May 5, 2022, at the police department about body camera footage from a March 26 police shooting. Two officers shot and killed 51-year-old Barney Leroy Peoples, Jr. during a home burglary call.

MATT GADE, JOURNAL STAFF

Hundreds came out in support of rally and a march on March 23, 2022, that started at Memorial Park and ended at Rapid City's Andrew W. Bogue Federal building, where it was announced that a federal civil rights lawsuit was filed against the Grand Gateway Hotel for denying services to Native Americans.

'There's not a history of trust there'

Brendan Johnson, a former U.S. Attorney for South Dakota, said the fraught dynamic between Rapid City's Native American community and law enforcement is felt most acutely on the north side, where a large share of the Native American population lives in an area with high rates of crime.

"Those are really tough neighborhoods, tough communities," said Johnson, who is also the former chair of the U.S. Department of Justice's Native American Issues Subcommittee. "So you've got police trying to police them. There's not a history of trust there. There's not a history of good feelings.

"I am not at all unsympathetic to the situation the police department in Rapid City is in," Johnson said.

But, he adds, "I'm also sympathetic to the frustration that has to exist within the (Native) community. If there is an example of bad policing, of brutality, the challenge to try to get justice in a case like that in a place like Rapid City would be exceptionally difficult, exceptionally difficult."

Johnson knows that difficulty firsthand.

In 2014, Johnson's office brought charges of using unreasonable force and assault against an Oglala Sioux tribal police officer who was caught on video using a Taser some 28 times on an intoxicated tribal citizen who was slumped on the ground.

Though the incident occurred on the nearby Pine Ridge Indian Reservation, the trial was held in Rapid City, where a federal jury found the officer not guilty on all counts.

Natalie Stites Means, a Rapid City-based organizer for Native rights and executive director of the Community Organizing for Unified Power Council, argues that a similar lack of accountability exists when it comes to fatal encounters with local law enforcement, noting that the Division of Criminal Investigation has invariably found that the killings were justified.

"People need to see justice," she said. "They need to see it. How can you have 100% of the shootings upheld by the command all the way up the state 100% of the time? That is impossible. And there's never any sort of public accountability for it."

Native advocates voice concerns about 'dual system of justice'

The sense among Native Americans that the law is not fairly applied in Rapid City and in South Dakota has been building for decades.

In March 2000, the South Dakota Advisory Committee to the United States Commission on Civil Rights issued a report entitled "Native Americans in South Dakota: An Erosion of Confidence in the Justice System."

"Many Native Americans in South Dakota have little or no confidence in the criminal justice system and believe that the administration of justice at the federal and state levels is permeated by racism," the report said. "There is a strongly held perception among Native Americans that there is a dual system of justice and that race is a critical factor in determining how law enforcement and justice functions are carried out."

But as the authors of that report noted, these concerns were nothing new. In 1977, the same committee published a similar report that included many of the same concerns – a fact the authors of the 2000 report described as "both remarkable and disconcerting."

"Despair is not too strong a word to characterize the emotional feelings of many Native Americans who believe they live in a hostile environment," the report said, adding: "Racial tensions in South Dakota are high and require the careful attention of federal civil rights officials."

Stites Means and other Native activists said those tensions still have not been resolved – and have not caught enough attention from federal officials.

"I always feel like there's an edginess here in Rapid City, especially in the summer months," Stites Means said. "I'm like, 'Gee, Rapid City could just go up in some crazy riot.' And the feds in DC will be like, 'How did that happen? We only got four complaints in writing last year or whatever.' There's a disconnect."

Despite this perceived disconnect, Stites Means acknowledges that the federal government hasn't entirely overlooked claims of racial bias in Rapid City.

The U.S. Department of Justice sued the owners and operators of the Grand Gateway Hotel and Cheers Sports Lounge and Casino over alleged discrimination, after the NDN Collective filed similar litigation in 2022.

While the justice department and the hotel's owners reached an agreement in November that requires the owners to apologize, implement an anti-discrimination policy and market to Native Americans, the owners continued to "deny that they engaged in, or attempted to engage in, discriminatory conduct," the settlement said.

And late last month, the U.S. Department of Education's Office of Civil Rights released the findings of a compliance review of the Rapid City Area School District. That review found "persistent, and statistically significant, disparities in discipline for Native American students compared with white students over all the years OCR reviewed, across all the schools OCR reviewed." It also found that "the Superintendent and multiple school administrators relied on biased stereotypes regarding Native American people, including a perception that particular tribes do not value education …."

In response to these and other findings, the Rapid City school district agreed to make numerous changes, including "(e)xamining the root causes of racial disparities in the District's discipline and advanced learning programs and implementing corresponding corrective action plans."

Stites Means said she's happy for the federal government's efforts to intervene in these instances but also argued that the Justice Department and other agencies have failed to "get to the heart of the police issues" in Rapid City.

That has left the local Native American community to push for reforms on its own.

Signs of these efforts were literally posted all over town earlier this year, hanging from light poles and plastered on billboards. They read "Rapid City vs. Racism" and were put there by the NDN Collective.

'There is going to be a reckoning'

Red Bear said the racism her group is fighting manifests itself perhaps most painfully when Natives die at the hands of police.

"Our relatives are taken from us by people who are sworn to protect us," Red Bear said, "and they just continue to uphold the system that is causing harm to our community."

That harm doesn't end with a death, according to Red Bear. It continues with how these deaths are handled.

"We went to a funeral a couple days ago, and we went to the mom and asked her what can we bring?" Red Bear said. "She goes, 'No, I just want to tell you my story. I want to tell you what happened.'

"And all of these people are coming to us to say, 'The police never took my statement. The police never listened to me, and I was there and I saw it.' So we see all these voices are just going unheard. And they're just mourning their loved ones.

"So we're trying to step in to be that place holder of being able to listen to people and documenting these things because eventually there is going to be a reckoning. And people are going to want to create change. And we're here for it."

RCPD's Medina said his department has worked hard to "build trust among the Native American" and pointed to a department-contracted study that indicated those efforts are "yielding positive results."

But Stites Means and others in the city's Indigenous community said local efforts have not been enough.

"I think there's just a huge disregard for Native people, and that disregard means, you know, split-second decisions way in favor of racial bias," she said. "They're quick to draw their guns, quick to escalate, and there's very little practices around de-escalation, which I think is really important when you have white cops policing Native people, for the most part."

Red Bear, of the NDN Collective, said her group is pushing for change but that the barriers are high.

"I think what bothers me the most is that we don't always have privilege and the ability or the resources to be able to hold people accountable," she said. "And it's sad that's what it takes. It's sad that it takes money to have transparency and accountability."

Stites Means believes real progress will only come as a result of outside pressure.

And there are signs such intervention may be coming.

Late last year, Red Bear said she and others from the NDN Collective arranged a brief meeting with Department of Justice officials to demand an investigation into the RCPD.

The group then put a "call out to the community" and began gathering "stories and experiences of violence, harassment, retaliation" at the hands of local police and presented that information to the DOJ at a two-hour follow-up meeting earlier this year, Red Bear said.

The department declined to comment on whether it has opened such an investigation, but the RCPD's Medina said that police Chief Don Hedrick and Pennington County Sheriff Brian Mueller "proactively contacted the South Dakota U.S. Attorney's Office last summer to let the DOJ know both agencies would be open to any review from their offices. At this point, neither agency is aware of a DOJ investigation."

While Red Bear said the department has not indicated to her group whether it plans to formally probe racial bias in the RCPD, she said NDN Collective will continue to collect allegations of police mistreatment and push for accountability and change.

As wait for change continues, so do tragedies

While Rapid City's Native American community waits for something to change, Trinity Peoples has not only continued to struggle to move on in the aftermath of her brother's death in an encounter with local police. She also had to face another, similar tragedy.

On Nov. 22, 2022, Rapid City police shot and killed Peoples' ex-husband, James Mathew Murphy.

A DCI investigation found that the incident began when a caller "reported that Murphy was hearing voices and thought that the cops were trying to kill him."

It ended, investigators found, after Murphy lunged with a knife at an officer, who shot him in the arm and then the head.

DCI and the South Dakota Attorney General determined the use of lethal force was justified.

In the time since, three other Native Americans have been shot and killed by Rapid City police: Ira Wright, Eric James Wright and Kyle Whiting.

During the same time period – between late 2022 and early 2023 – two Native Americans died in, or after being found unresponsive in, the Pennington County jail: Floyd Joseph Slow Bear and Abbey Steele.

Rapid City Journal

SATURDAY, JULY 20, 2024 | rapidcityjournal.com

LEE ENTERPRISES SPECIAL REPORT

SEEKING ANSWERS

TED MCDERMOTT, LEE ENTERPRISES

Van Dean Scott believes law enforcement officers killed his son Derrick in the Rosebud tribal jail, but he has struggled to get answers about what happened. He is shown in front of his home in Mission, South Dakota, on the Rosebud Indian Reservation, on May 13, 2023.

As police kill Native Americans on Rosebud, families left afraid, in the dark

TED MCDERMOTT
Public Service Journalism Team

MISSION, S.D. — Van Dean Scott couldn't believe what the Rosebud tribal police were telling him.

"The cops came to my house from across the road," he recalled, "and said, 'Do you have a son named Derrick Scott?' And I says, 'Yeah.' He says, 'He walked into the police department and had a heart attack and dropped over dead.' I said, 'No.'"

And when he saw his son's dead body all beaten, bruised and "busted up," Scott said he knew immediately that there was more to the story.

In the five years since, Van Dean Scott has been trying to figure out the truth behind his son's death. But even after enlisting a lawyer, Scott said he still doesn't know.

"They won't give me no records at all," he said. "I asked the police department, and they wouldn't give me no records."

While Lee Enterprises was able to obtain a small batch of FBI documents through a public records request, the results only furthered Scott's confusion.

According to the unfinished report of a tribal officer, Derrick Scott was "placed in the restraint chair" and was "actively resisting" after assaulting an elderly inmate. The report says a redacted source told the officer that "medics showed up" for unstated reasons and that Scott "was still awake and talking and that he just went limp and stopped breathing."

"I then went into the emergency room and made contact with the nurses and," the officer's report says, trailing off mid-sentence.

Please see **ROSEBUD,** Page AX

ANNA REED, THE WORLD-HERALD

The sun sets in St. Francis, S.D., on the Rosebud Indian Reservation on Monday, Oct. 16, 2023.

Rosebud

From A1

While the FBI file includes mention of an autopsy, surveillance videos and "photos of the scene and the restraint chair," the bureau did not include those items in its 22-page response to Lee Enterprises.

The response does, however, include a determination that agents found "no evidence of a federal crime" and that "no federal violation or subject exist (sic) to further investigate or charge."

Meanwhile, Scott has been investigating on his own, asking inmates, correctional officers and others what they knew about his son's death on May 19, 2019.

"One of the (correctional officers), he came to my house crying, twice," Scott said.

What that officer admitted, according to Scott, is that law enforcement put his son in handcuffs and "beat him up."

"They beat the hell out of him," Scott said.

While Scott can't prove these allegations, he can take cold comfort in the fact that a yearlong Lee Enterprises investigation found that allegations of mistreatment and malfeasance by law enforcement are widespread on Rosebud.

The loved ones of those killed in interactions with tribal law enforcement are not alone in alleging misconduct.

In over a dozen interviews, residents, former tribal officials and even ex-law enforcement officers said repeatedly that police use force unlawfully, selectively enforce the law, harass residents and violate their civil rights.

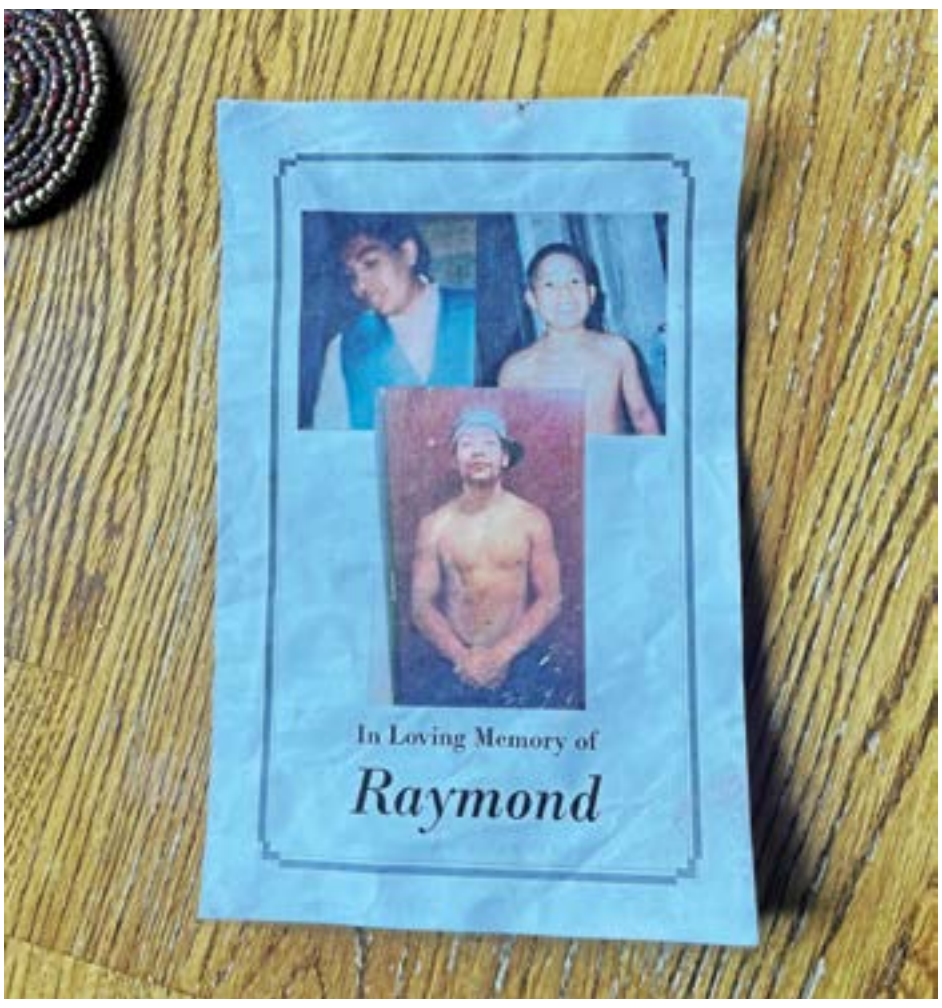
And soon after a previous story in this series probed police conduct in one of those deaths — the 2018 shooting of Adam Poor Bear in the reservation town of Parmelee — the chief administrator of the Rosebud Sioux Tribal Law Enforcement Services department, Steve DeNoyer, resigned his position.

Neither DeNoyer nor Robert Sedlmajer, the department's interim chief, responded to requests for comment for this story. Efforts to reach Melissa Eagle Bear, facilities administrator of the Rosebud Sioux Tribe Adult Correctional Facility, and Scott Herman, the Rosebud tribe's president, also were not successful.

The Bureau of Indian Affairs' Office of Justice Services, which refers to itself as the "exclusive federal entity charged with maintaining law and order on Indian reservations," was offered more than two weeks to respond to a list of questions but did not do so by press time.

ANNA REED, THE WORLD-HERALD

Painted memorial signs for people who were killed are posted alongside Sioux Boulevard in Rosebud, S.D., on the Rosebud Indian Reservation on Monday, Oct. 16, 2023.



TED MCDERMOTT, LEE ENTERPRISES

This flyer is from Raymond Gassman's 2016 funeral. He was killed by a Rosebud tribal police officer.

Significant numbers

Though some 33,000 Sicangu Lakota people are enrolled in the Rosebud tribe, the U.S. Census says the reservation population is only about 10,000. At least eight people have died in encounters with tribal law enforcement over the past decade on Rosebud Sioux tribal lands.

That's a significant number, even considering that Native Americans died in law enforcement interactions at a rate of 1.6 per 100,000 in 2020. That rate was five times greater than it was for whites and three times greater than it is for Blacks that year. At Rosebud, the rate is 8 per 100,000 every year for the past 10 years.

On the Pine Ridge Reservation, which borders Rosebud to the west and has nearly double the population, roughly 47,000 enrolled members and major issues with crime, three people have died in encounters with the Oglala Sioux police over the same time period, according to an analysis of three public databases that track such deaths: Fatal Encounters, Mapping Police Violence and The Washington Post's Fatal Force tracker.

Rapid City — where a previous story in this series found that police killings of Indigenous people have led the Department of Justice to meet with local activists about their allegations of racial bias in law enforcement — has a similar rate of Native American deaths in law enforcement interactions.

It's not just the number of deaths at Rosebud that stands out, though.

This Lee Enterprises Public Service Journalism Team investigation found that in every fatal encounter on Rosebud, unanswered questions about what happened and why have festered into fears of law enforcement — and suspicions about their conduct.

Deaths and suspicions

After Feather Colombe — a 20-year-old woman with no criminal history — died in a high-speed chase on May 1, 2014, her family was left searching in vain for answers to a number of fundamental questions, such as why tribal police were chasing her in the first place. As for why she was fleeing, her grandmother has reportedly said that Colombe was "terrified" of the police.

After tribal police fatally shot a halfway-house escapee named Raymond Gassman on the Rosebud reservation on Feb. 2, 2016, his family was also left wondering why. They sought reports from the police and FBI, but never received the documents or answers they were looking for, his brother Lowell Gassman said.

And when Lee Enterprises made a public records request for the FBI investigation into Gassman's death, the bureau provided 44 pages that included no police narratives or reports about what tribal police say occurred, or what the FBI uncovered.

Without answers about what happened that day, Lowell has come to believe rumors that the tribal officer did not follow protocols and that the bullet wound an officer suffered in the incident was actually self-inflicted.

After Adam Poor Bear was fatally shot by Rosebud police on March 14, 2018, his father, Weldon, spent years trying to get documents that would help him understand what happened. But after Lee Enterprises obtained a heavily redacted fraction of the FBI's investigative file earlier this year, Weldon Poor Bear remained confused about why an officer killed his unarmed son while responding to a disturbance call.

After police shot and killed Jacob Archambault on Jan. 27, 2019, an FBI investigation uncovered allegations that police had assaulted him and threatened his life. A Lee Enterprises investigation identified five witnesses who claimed to know of such threats. While the U.S. Attorney for South Dakota ultimately determined that officers' actions were justified, Archambault's loved ones have continued to question what happened — and why.

After Zechary Arizona died on Sept. 16, 2021 on Rosebud off-reservation trust land, a death certificate said he was "shot by law enforcement officer (sic) on a disturbance call." But the killing was not reported in the media, and no further information about what happened has ever been publicly disclosed in the years since.

In July 2023, the FBI estimated it would provide up to 50 pages of public records related to Arizona's death within four months. In June, however, the bureau estimated those records won't be provided until December of this year.

After Matthew Haukaas was found dead on Dec. 3, 2021 in a creek at the bottom of a ravine, near where he was pulled over by tribal police nine days earlier, his sisters and mother began to wonder if his death was truly an accidental "drowning with methamphetamine abuse being a contributory factor," as the U.S. Attorney's Office for South Dakota determined. Their suspicions mounted after they say police began harassing and stalking them as they questioned the police account publicly.

After Michael Lee Wright died May 16, 2023, in a high-speed chase with tribal police, his mother, Verna Larvie, heard that police pursued him at speeds of up to 100 mph on a gravel road before putting down a spike strip that caused his fatal crash. But she said she's never received information from the FBI or tribal police.

In response to a public records request, the FBI declined to provide any documents due to a "pending or prospective law enforcement proceeding." Without documents or answers from law enforcement about why they were pursuing her son and how he died, Larvie began to believe police targeted her son.

"They're out of control," Larvie said of Rosebud tribal police. "They just do what they want. It's all criminals. It's all covered up."

'Failing the people'

Waycee His Holy Horse said he joined the Rosebud police force in 2019 with big ambitions.

"I was ready to change the world," he said.

But his perspective quickly changed: "It was probably around like six to eight months when I started to get burnt out."

What wore him down, in part, he said, was that law enforcement "just didn't have enough resources."

That's a problem that tribal law enforcement faces across the country, and His Holy Horse says it left Rosebud law enforcement with an almost impossible task: "patrolling an area of a million square acres and policing roughly around 39,000 enrolled members for Rosebud" with a police force of about 25 officers, only four or five of whom, "if that," were working each shift.

But His Holy Horse said the Rosebud Tribal Law Enforcement operated in ways that made a difficult job even harder.

Please see ROSEBUD, Page AX

About this series

Lee Enterprises' Public Service Journalism team has spent more than a year digging into the causes and implications of Native Americans' disproportionately high rates of fatal encounters with law enforcement.

Through public records requests, dozens of interviews, the examination of lawsuits and multiple reporting trips to Native American communities both on and off tribal land, reporter Ted McDermott has worked to understand the systemic forces that contribute to this trend — and to hear many personal stories of how these deaths have reverberated within Indigenous communities.

Rosebud

From AX

"The first thing was, the chief administrator was never a certified police officer at any time ever — and he still isn't," he said.

While chief administrator, DeNoyer was, indeed, a former tribal councilman with "very little" law enforcement experience, according to Rodney Bordeaux, who was the tribal president when the tribal council hired him. Though Bordeaux said he "had no say in the selection," he had "some concerns" and wanted DeNoyer to attend the U.S. Indian Police Academy and get certified.

"But then I got beat out, and he didn't do that," Bordeaux said, referring to what he said was the tribal council's decision to allow DeNoyer to lead the law enforcement department without such qualifications.

While everyone else in the department was subject to training and background checks "to make sure we had integrity and weren't going to lie" and knew proper protocols, His Holy Horse said, DeNoyer wasn't held to the same standard.

"It makes absolutely no sense on why we should have to go through all of it, and the very person that's overseeing us doesn't have to, solely because of the title," His Holy Horse said. "But behind the scenes, he had access to computers, he had access to sensitive information, he had access to informants. He had access to just about anything."

His Holy Horse, who left the department after about two years on the job, said that distrust soured his initial optimism about tribal police work.

"Throughout the time of it, you start to see how the system works," he said. "And from my perspective, the judicial system — the entire system — was failing not only us as police officers, but it was also failing the people that we serve."

'Abuse of power'

Calvin "Hawkeye" Waln served for years in the Rosebud Sioux Tribal Law Enforcement Department, as well as tribal government. During that time, he said, he was witness to a variety of failures and misconduct that the police "don't want known."

"I've seen individuals pepper sprayed while they were handcuffed," he said. "I've seen closed-fist punches. There's a police officer who was off duty who broke his hand assaulting someone but nothing happened to him. They were reported, but nothing happens. Nothing happens."

Waln is now running against DeNoyer, the former chief, in a crowded primary for tribal president.

He said the department hired an officer who had been found by the Internal Affairs Division of the Bureau of Indian Affairs, which provides funding and oversight to tribal police departments through its Office of Justice Services, to have used excessive force.

"So how are you still working in law enforcement? Tell me that. How do you get promoted within law enforcement?" Waln said. "I have firsthand knowledge of that stuff because I seen the document when I was the captain. I was his supervisor. So I know about this stuff firsthand. It's not hearsay."

In February 2023, Lee Enterprises Public Service Journalism Team filed an open records request with the BIA's Office of Justice Services, seeking six years of individual or group use-of-force reports as well as reviews, summaries, "findings of policy violations or training deficiencies," disciplinary actions and criminal investigative reports of incidents of use of force.

Justice Services funds and oversees law enforcement on Rosebud and other tribal lands.

Nearly a year and a half later, the Lee Enterprises request for records remains pending.

The Public Service Journalism Team also requested a copy of what the OJS handbook describes as an "annual summary report of use of force incidents." In response, the Internal Affairs Division said that it "did not locate records responsive to your request," suggesting no such summary report has been produced.

The team also sought relevant tribal records, but Rosebud Sioux Tribal Law Enforcement did not respond to a records request for citizen complaints; investigations and reviews of officer misconduct; and allegations of excessive force and civil rights violations made against law enforcement.

While he remains adamant that there are "some good officers" in the department, Waln argues what tribal police are doing at Rosebud is "highly unethical."

"You can't arrest a girl and then add her on social media when she gets out of jail and be with her," he said. "You can't sit there and say, 'Well, I found a little bit of meth on you, but I'll let you go if you perform oral sex on me or have sex with me.'"

Waln said he heard such allegations from multiple women in 2021, after he was no longer part of tribal law enforcement. He said he encouraged the women to report their experiences but noted that they were "absolutely afraid."

"They have the mentality that because they have an addiction, nobody's going to believe them," Waln said. "And second of all, they're afraid that there's going to be retaliation against them by law enforcement. That's their biggest fear."

Waln first went public with his concerns about Rosebud police in 2012, when he told CNN about alleged civil rights violations and excessive use of force. The remarks came as part of a story that reported the Rosebud tribal council had "fired two police chiefs amid corruption charges," that years of police files were "missing or destroyed," and that Rosebud tribal police were targeting residents.

Waln said that his efforts to expose such "internal corruption" within the department led police to target him.

Rosebud police officials did not respond to requests seeking comment about allegations of police misconduct from Waln and others.

He said he was fired just before the CNN story appeared, then returned to the force in 2016. He left again in 2018. After an FBI investigation into bad checks he had written, Waln was charged with wire fraud in 2019 and pleaded guilty a year later.

Court documents allege Waln fraudulently passed nine checks totalling $2,525 after inheriting — and depleting — his mother's more than $8,000 life-insurance policy. While Waln called the incident "an absolute innocent mistake," he also acknowledged that "the law is the law, so I accept" the conviction.

Travis Leading Cloud spent 12 years working for the Rosebud tribe's correctional services department, supervising jail staff and working to help open a new correctional facility on the reservation.

During that time, Leading Cloud said, he not only saw but also reported a wide variety of police misconduct.

He said he saw inmates detained without being charged with any crime, in violation of their civil rights. He said he reported a police officer who "slammed" a handcuffed man's face into a wall in the jail's booking area, leaving him with "fractured bones in his face." He said he reported an officer for carrying out extramarital affairs while on duty. And he said he knew of multiple officers — including some still employed with the department — who were on what's known as a Giglio or Brady list, which means they have a track record of not being truthful and should not be called as witnesses in criminal trials.

Kevin Swalley, a former chief of the Rosebud police and the current safety and security coordinator for the school district that encompasses the reservation, doesn't mince words when it comes to the conduct of his former department.

Led until recently by a chief without significant law enforcement experience, the department lacks cohesion, direction and discipline, he said, and officers are prone to "bullying" and other misapplications of power.

"Right now they have no leadership," Swalley says. "So they're running amok."

"This is abuse of power," he added. "This is gangster. … This is a mafia."

Swalley claims he attempted to root out bad cops while he was still the chief, even opening "a couple of cases on a few officers." He said he took those cases to the FBI's Northern Plains Drug Task Force in 2015. Among Swalley's allegations, he said, was a law enforcement employee's involvement in "distribution of methamphetamine."

FBI Public Affairs Specialist Diana Freedman declined to answer questions about whether the agency has investigated or substantiated reports of misconduct among Rosebud law enforcement. The "FBI's longstanding policy is to neither confirm nor deny if we are conducting an investigation," she wrote in an email.

As for closed investigations, Freedman said that if "no charges are filed, the existence of an investigation will not be made public, unless through the standard Freedom of Information Act process."

But in response to a FOIA request for documentation related to Swalley's assertion that he reported allegations of misconduct to the FBI, the bureau said it could "neither confirm nor deny the existence of such records" because they pertained to "one or more third party individuals."

Bordeaux, however, said he heard these kinds of allegations during his 10-year stint as Rosebud tribal president — and that he finds them credible.

"When you have someone like Hawkeye (Waln) or someone else like that saying that it's happening, it is," he said. "It's not news out here in Indian Country.

"But who's going to investigate? Well, they have someone come down from the FBI to check you out or someone from the Internal Affairs Department of the BIA come down, and next thing you know, they don't do nothing. Nothing happens."

'Bad reputation'

While accusations of police threats and misconduct may sound extreme, they aren't unusual on the Rosebud Indian Reservation.

After Weldon Poor Bear's son Adam was killed by tribal police in 2018, he alleged, the police stalked, intimidated and "harassed" him and his family.

"If I would go to Rosebud for groceries, they would tailgate me all the way down there, and then when I come back," Poor Bear said. "And then they'd be waiting, and they'd be sitting out here, out by my house, like watching me that whole month."

Even at his son's wake, Poor Bear said, officers were "parked there, like watching us."

The intimidation continued at his son's funeral, Poor Bear said, when the police started "pulling cars over" as everyone was leaving.

"And I got mad about that," Poor Bear said. "I told the tribal president, I said, 'Why are they pulling people over from a funeral?'"

After Matthew Haukaas was found dead near the site of his past traffic stop, his sisters Julie, Sara and Addie Haukaas all say the police harassed them, repeatedly driving by their home, pulling them over for minor infractions and even showing up at the cemetery when they where visiting their brother's grave, which Julie filmed.

Their mother, Leta Brandis, said that "because of how outspoken these girls were, concerning what happened with my son, (the Rosebud police) really watched us after that."

Brandis recalled the time Addie called to tell her she was being pulled over by a tribal officer and was afraid. Brandis left her job at the Todd County School District, where she works as a community liaison for the public schools on the reservation, and went to help.

"I drove and I pulled up and I just asked (the officer), 'What's going on?'" Brandis said. "He had my daughter bent over on the car hood, and he was trying to get her phone.

"I told him that he needed to treat us better," Brandis said. "Because I told him, I said, 'Behind that badge,' I said, 'you're nothing but a man.' You know, 'Why are you doing this?' And I told that girl officer that was with him — I said, 'You know, you cops have a bad reputation.'"

Ultimately, Brandis said, the police released her daughter at the scene. Rosebud police haven't responded to Lee Public Service Team inquiries regarding alleged police misconduct.

The erosion of trust in law enforcement can be felt across the Rosebud reservation.

On a recent morning, Julie Haukaas carried her infant son to the ravine where her brother Matthew's body was found — the same ravine where Jacob Archambault's body was found — and lamented how she too, like all the other families, had to live with so many unanswered questions and suspicions.

"That FBI, I really do think they're covering it up for them," she said. "Whether it's them covering up my brother's (death) or even Jake (Archambault)'s."

Freedman, the FBI public affairs specialist, pushed back on such claims.

"The FBI remains steadfast in our commitment to conducting thorough investigations," Freedman wrote in an email response to questions. "Each case is treated with the utmost seriousness, and our agents and other personnel spare no effort in establishing the facts."

But Julie Haukaas said that, absent the information and answers her family has sought, something else has filled the vacuum: rumors and fear.

"I constantly live in that not feeling safe," she said. "It's really, I guess, messed with me mentally a lot. My anxiety, the thought of death. … The fear of dying, but also the fear of not being saved."

ANNA REED PHOTOS, THE WORLD-HERALD

Julie Haukaas wipes away tears while holding her infant son, whom she named after her brother, Matthew Haukaas, whose body was found in December 2021, nine days after he was pulled over by tribal police.

The Rosebud Indian Reservation spans an area of more than a million square acres in south-central South Dakota.

Rapid City Journal

FRIDAY, AUGUST 2, 2024 | rapidcityjournal.com

LEE ENTERPRISES SPECIAL REPORT

TARGETED BY POLICE?

ANNA REED, THE OMAHA WORLD-HERALD

Charlee Archambault's walls are covered in photos and memories of her son, Jacob Archambault, at her home in St. Francis, S.D.

Loved ones allege cops threatened reservation man before fatal encounter

TED MCDERMOTT | ted.mcdermott@lee.net | Public Service Journalism Team

ST. FRANCIS, S.D. – Charlee Archambault says she knew the Rosebud Sioux tribal police were going to kill her son.

They told her as much, she said.

One day, not long before he was killed, officers came to the door of Archambault's house on the Rosebud Indian Reservation, she said, searching for her only child, who had been repeatedly arrested, wanted and chased by tribal police over the years.

"The cop had — it wasn't a pistol," she said. "It was what I would consider a high-powered rifle, and (the cop) made the comment that those bullets were for Jacob. When you say that to a mother, that will never leave you. So I knew all along, for some reason, they wanted him dead."

She said police threatened to shoot her son and then, on Jan. 27, 2019, they did.

Fifteen times.

Six of those bullets struck his body, an autopsy found.

Archambault's allegation that police targeted her son Jacob is unproved, but she's not the only one making it.

In addition to Charlee Archambault, four other people claimed in interviews to know of threats tribal officers made against Jacob Archambault before the 25-year-old ended up dead, at the bottom of a ravine, in an SUV riddled with police bullets.

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Rosebud

From A1

Three of those people said the threats came from Officer Josh Antman, who was named along with Officer Jay Romero in a lawsuit alleging they were the officers who shot Jacob Archambault. Romero has not been accused of threatening Jacob.

A federal judge dismissed some elements of that lawsuit in 2022, while pausing the claims against the tribal police officers to allow them to first be brought in tribal court, which hasn't yet happened.

The lawyer who represented Romero in that lawsuit declined to comment. But Antman responded to an email request for comment by adamantly rejecting such claims.

"In response to allegations that I threatened anyone," Antman wrote, "completely utterly false. Quite the contrary, I was always trying to do the best I could to help people any way I could, as the evidence reflected when this incident was investigated by the FBI."

That FBI investigation was subsequently referred to the then-U.S. Attorney for South Dakota Ronald Parsons, who found that the tribal officers' "actions were justified" and declined to charge them with wrongdoing.

Robert Sedlmajer, Rosebud Sioux Tribal Law Enforcement Services' interim chief, did not respond to inquiries about Archambault's death or whether Antman and Romero are still employed with his department. But he did write that "when there is an incident involving use of deadly force, officer misconduct and civilian complaints," Rosebud police have always "followed the correct processes."

Those processes, Sedlmajer wrote, "include immediately notifying an outside agency to be the lead of the criminal investigation. In these cases the lead investigation agency is the Federal Bureau of Investigations. We also notify the Bureau of Indian Affairs Internal Affairs Division to investigate any policy violations of the employee. We assist and cooperate fully with both agencies. The results of their independent investigations are exactly that, their investigations."

While a spokesperson for the FBI, which investigated Archambault's death and other officer-involved deaths on Rosebud, responded to a request for comment, she did not directly say whether the bureau has "investigated and/or substantiated allegations of misconduct, including potential breaches of civil rights or color of law, among Rosebud Sioux Tribe Law Enforcement Services personnel."

In response to a list of questions about allegations of misconduct by Rosebud police, including in the death of Jacob Archambault, Robyn Broyles, a spokesperson for the BIA's Office of Justice Services, offered few answers.

When asked whether OJS has investigated claims of police misconduct, Broyles did not say whether any such investigations had been completed and wrote that she was "unable to provide comment on any ongoing investigations."

But when asked if OJS was planning a review or audit of Rosebud police, she wrote that "at the request of the Tribe, the BIA Office of Justice Service will conduct a law enforcement Program Monitoring Review." That review began in July, Broyles said.

Efforts to reach Scott Herman, the Rosebud tribe's president, and Steve DeNoyer Jr., who served as chief administrator of tribal law enforcement until recently, were not successful.

But many tribal residents, including former tribal officials and law enforcement personnel, spoke on the record as part of this yearlong Lee Enterprises Public Service Journalism Team investigation into officer-involved deaths on the Rosebud Indian Reservation.

They repeatedly alleged that police have used force unlawfully, selectively enforced the law, harassed residents and violated their civil rights.

Murky history

Charlee Archambault has had more success than many in Rosebud in accessing documentation of the FBI's investigation into her son's officer-involved death.

That's in part because she filed a lawsuit against the officers who shot her son, seeking damages, in part, for what her complaint claimed was the use of "excessive, unreasonable and unwarranted force during the pursuit."

While elements of that lawsuit were dismissed and others were paused, she was provided a redacted portion of the FBI investigative file into her son's death.

Lee Enterprises' Public Service Journalism Team obtained additional documents as part of this investigation.

Heavy redactions mean large sections, key details and all names have been concealed. What remains sketches a murky picture of Jacob's history with tribal police, including those who shot him.

It's a history that began as a "cordial" and casual relationship between Jacob Archambault and one of the officers who ultimately shot him, FBI files indicate.

That changed in 2017, the officer said, after he and members of the local drug task force "heard that Jacob Archambault might have been involved in drugs on Rosebud" and that he "carried a gun."

But the police interactions described in the unredacted portion of the FBI files paint a picture of Jacob as a small-time meth user who was charged with various tribal offenses but who was never convicted of a felony.

A year before Jacob's death, in January 2018, he was found with a pen containing methamphetamine.

Around the same time, he reportedly "fled" tribal police in a truck, which was found to contain a pistol when police searched it. But police were told it was the vehicle owner's "personal weapon."

While the owner's name was redacted in FBI documents, Charlee Archambault told Lee Enterprises that the truck and the gun were hers — and that her son was never convicted of a gun-related offense.

In fact, it appears Jacob was never convicted of any crime.

A Lee Enterprises search of federal and state court records also did not turn up any criminal history for Jacob Archambault.

And while a Rosebud Sioux Tribal Court clerk said that Jacob had four pending cases at the time of his death for a range of charges — including failure to appear, discharge of a weapon in a public place, possession of a dangerous weapon while intoxicated, burglary, huffing, possession of a controlled substance and simple assault — she said he was not convicted of any of them because the cases had not gone to trial when he died.

Those tribal court charges stemmed from a series of run-ins Jacob Archambault had with tribal police in the months before his death, according to tribal law enforcement records and other documents that were part of the FBI report .

In September of 2018, a Rosebud officer who reportedly heard gunshots coming from a house in St. Francis found Archambault inside, "asleep and heavily intoxicated." When police interviewed Jacob Archambault at the tribal jail, records indicate, he admitted to "firing some of the rounds ... but not all of them" after he saw "an unknown man standing outside ... with a knife."

Documents do not indicate anyone was injured by the gunfire.

Soon after, in November of 2018, a person whose name is redacted requested that officers come to her house because Jacob was "high on methamphetamines and was trying to fight," the FBI reports state. Police responding to that call could not locate Jacob.

Officers searched an apartment for Jacob later the same month, but he reportedly fled on foot and was not immediately apprehended.

The unredacted portions of the documents also do not say why officers engaged in multiple vehicle pursuits of Jacob, first when he was driving his mother's truck and then, a few months later, when he was on a motorcycle.

But the FBI documents do include something else about Jacob Archambault's interactions with tribal police: allegations that law enforcement assaulted him — and threatened his life.

'Threatened to kill'

While Archambault was incarcerated in the Rosebud Sioux tribal jail in September 2018 — four months before his death — an interviewing officer noticed "a black eye on his face, which Archambault attributed to a corrections officer," FBI files say.

In a contemporaneous report, a tribal officer indicated that there was more to this incident, writing: "I asked (Jacob) about the black eye and said that he had been assaulted and stated that there was a video of Jacob being assaulted and shot at by a correctional officer with the Adult Corrections Facility."

The unredacted portion of the documents do not indicate whether this incident was investigated.

In addition, a redacted source who appears to have been one of Jacob's family members or friends told FBI agents five days after his death that a tribal officer "supposedly beat Archambault up when he was arrested after" fleeing in his mother's truck about a year before.

Another redacted source also told an FBI interviewer that a tribal officer "previously threatened Jacob Archambault prior to the incident that resulted in Jacob's death."

The agent wrote that this redacted source "had never seen the messages and was not aware of any of the details of the messages, only that (the source) had seen them on Jacob's phone." In them, the source claimed, the officer "threatened to kill Jacob."

FBI agents wrote that a redacted source presented a special agent "with a series of screenshots ... that purported to be a text or Facebook Messenger exchange between Jacob and (redacted) at an undisclosed time."

In those messages, one person "described fleeing from the other and getting away from them," FBI documents say. The other person responded: "Not very many people that can say they got away from me or (redacted)."

The agent wrote that the FBI conducted a "cursory review of the account of Facebook Messenger username 'Jake Archambault'" for other messages, but they "did not find any other messages in the conversation pertaining to (redacted)."

While extensive redactions make it impossible to know who the FBI interviewed or what else they discovered, numerous witnesses told a Lee Enterprises reporter that Rosebud police threatened Jacob Archambault.

'You got away ... Lol'

Brianna Clairmont "grew up" with Jacob Archambault, she said. They dated for years, then became friends.

He was fun-loving and outgoing, she said, and "had a lot of friends, knew a lot of people."

But over the last few years of his life, Clairmont said, the police repeatedly "messed with him," "pulling him over all the time for any little thing," searching his car and accusing him of dealing drugs, in part, she suspected, because he drove nice vehicles on a reservation where poverty is endemic. Those vehicles, however, were gifts from his grandparents and mother, Charlee Archambault said.

Then, one day, Clairmont said, Jacob came to her house and told her a tribal officer "is messaging me on Facebook."

Clairmont said that officer was Antman.

She provided a Lee Enterprises reporter with what she said were those messages.

The exchange includes the message quoted in the FBI file, as well as others.

While the content of the messages make it clear that they pertain to a series of police chases in which the person Clairmont identified as Jacob successfully eluded pursuing officers, the seemingly casual, even lighthearted, tone of both parties makes them difficult to interpret.

"The bike one was fun too," wrote the person Clairmont identified as Jacob, referring to the chase in which he had eluded officers on a motorcycle.

"Lol," the person Clairmont identified as Antman responded. "You got away twice!"

Elsewhere, the same person wrote:

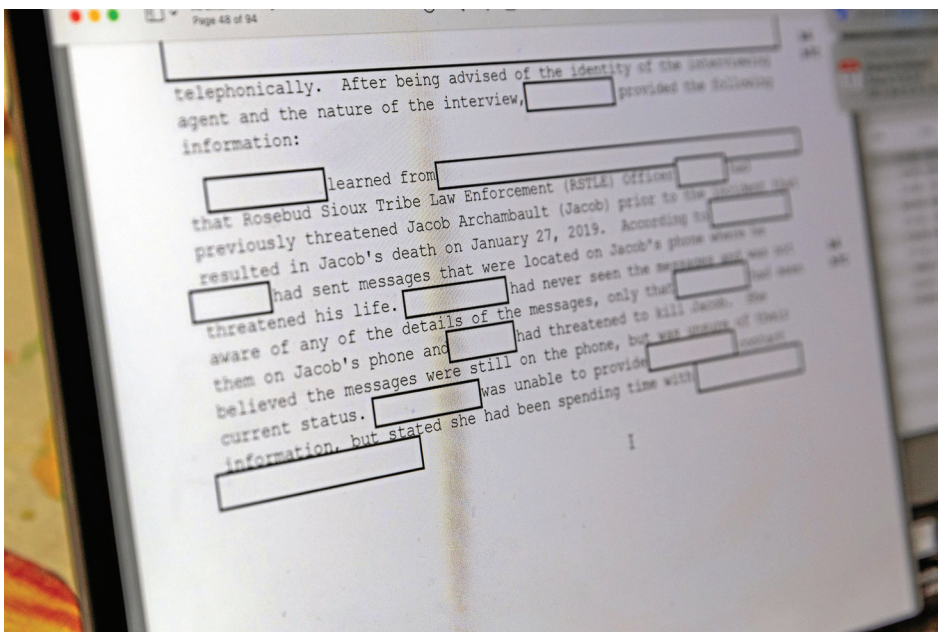
"You got away
One of the few
Lol
That was awhile ago."

Please see ROSEBUD, Page AX

ANNA REED PHOTOS, THE OMAHA WORLD-HERALD

Charlee Archambault visits the site where her son's body was recovered after tribal police shot at him 15 times on the Rosebud Indian Reservation in January 2019. Ribbons with the colors of the four directions mark the location in Rosebud, S.D., on Tuesday, Oct. 17, 2023.

A photo shows Jacob Archambault and his mother, Charlee, at his high school graduation.



Redacted portions of an FBI report on the January 2019 death of Jacob Archambault are shown on a computer screen in his mother's home in St. Francis, S.D.

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Through public records requests, dozens of interviews, the examination of lawsuits and multiple reporting trips to Native American communities both on and off tribal land, reporter Ted McDermott has worked to understand the systemic forces that contribute to this trend — and to hear many personal stories of how these deaths have reverberated within Indigenous communities.

How to report concerns

To report concerns about misconduct by Rosebud tribal police, contact the BIA's Internal Affairs Division at (855) 469-7456 or the FBI at (605) 224-1331.

Rosebud

From AX

Clairmont said there was no doubt Jacob interpreted this exchange as "threatening."

"He was real like — I don't want to say scared," she said. "But he, like, couldn't believe it. He was real excited, kept saying, 'Look at. See? I told you he was bothering me. Look, he's messaging me.'"

Brandi King, who was dating Jacob at the time of his death, said she saw more directly threatening and harassing messages from tribal police, including from Antman.

"Josh Antman would message Jake and be like, 'I'm going to look for you,' and 'I'm going to shoot you,' and basically stuff like that," King said. "I felt like he was their main target," she added. "They obviously wanted him dead. There were messages."

She said Jacob showed her the messages but that she did not receive copies of them. After Jacob's death, King pleaded guilty to assaulting, resisting and impeding a federal officer for spitting on Officer Romero while he was arresting her for public intoxication and an open-container violation.

Travis Leading Cloud, a former tribal correctional officer who alleges police misconduct, said he, too, knew of the messages between Jacob and Antman.

He and Jacob became close friends near the time of his death, and Leading Cloud said he knew of communications on an app "like Snapchat, where the messages would be erased."

"He said that they were going to get him and that he was in trouble," Leading Cloud said. "And he had even said something to the fact that if anything had ever happened to him, that it would be Antman."

Then, about four months before Jacob was killed, Charlee Archambualt said, tribal police came to her house and arrested her son in relation to the September incident in which gunshots were fired at a St. Francis home.

That was when one of those officers showed her a gun and told her the "bullets were for Jacob," she said. She said the officer who said this was not Antman. Lee Enterprises is not naming this officer because he is not named in any court documents.

Fremount Menard, Archambault's first cousin, claims he was there when this happened.

"That cop came up to us and said that he had a bullet with (Jacob's) name on it," Menard said.

"We told him that was wrong; he shouldn't be talking like that," Menard added. "But it ended up happening anyway."

ANNA REED PHOTOS, THE OMAHA WORLD-HERALD

Painted memorial signs for Jacob Archambault and others are posted alongside Sioux Boulevard in Rosebud, S.D.

A wooden cross marks Jacob Archambault's gravesite on the Rosebud Indian Reservation.

Inconsistencies

Tribal police told investigators the sequence of events that led to Jacob's death began with a phone call to tribal dispatch on Jan. 27, 2019.

Redactions make it impossible to know who law enforcement claims made that call, but Charlee Archambault is adamant that it wasn't her and that her son did none of the things that are alleged in FBI documents.

Charlee said her son didn't commit an "assault," cause "property damage," break windows, throw a telephone or take her Chevrolet Tahoe "without permission," as redacted sources allege in the FBI documents. And she said she didn't make a "call to 9-1-1 tribal law enforcement ... regarding the assault incident," as those documents describe an unnamed person doing.

"These are all lies," she said.

While she did suspect her son was intoxicated and knew he was wanted on a tribal warrant for leaving jail to attend a funeral and not returning, Charlee Archambault said, these were reasons she insisted that her son's friend, Brianna Clairmont, take the wheel when she allowed them to borrow her car to celebrate Clairmont's recent birthday.

Clairmont remembers it the same way.

She remembers borrowing the Tahoe, putting her infant daughter in her carseat and driving across the reservation that day.

As she drove with Jacob, she recalled, they passed multiple tribal police officers, which made Jacob increasingly nervous.

None of the three officers they passed, however, pulled them over, Clairmont said. It was only when they had gone through the town of Rosebud and looked back to find a blanket for her baby that they saw police lights on a pickup truck driven by Antman, she said.

"And then he was like, 'Go, Brianna, go,'" Clairmont said. "And I was like, 'No. What? No, we're not going nowhere. There's a cop behind us.' And he was like, 'Go, go, go.' ... He was freaking out."

Before she knew it, Clairmont said, she was outside the car and Jacob was handing her her baby. She didn't know what would happen next or why, but she said Jacob's fear of the police was palpable.

"When he hands me my daughter the day he died, he looks at me and just the look on his face and the way he looks at me and the way he was saying it, I knew there was something more, because he was like, 'I'm so sorry, Brianna. I'm sorry,'" she recalled. "And I was just looking at him like, 'Sorry for what?'"

Afterward, Clairmont said she was "scared" that the police were going to come and question her.

"I thought the cops were going to come look for me, because I was in the driver's seat," she said. "I thought they would've said something about me driving and then jumping out with my daughter."

She's adamant that never happened, though, and said she "was never interviewed by nobody."

A May 2019 letter from Ronald A. Parsons, the then-U.S. Attorney for South Dakota who decided not to pursue charges against the officers who shot Jacob, suggests investigators did speak with Clairmont.

Though names are redacted, his letter indicates the person who "agreed to drive" Jacob that day did so in order to help "calm him down" after he punched someone and "broke multiple windows in the house" — an account Clairmont and Charlee Archambault also strongly dispute.

"When the FBI came that night with the Rosebud cops," Archambault said, "they wanted to know what windows he broke. And I said, 'He never broke no windows.'"

The shooting

What happened after Clairmont exited the Tahoe with her baby, FBI files say, is that an officer in an "unmarked police pickup truck equipped with lights and siren" and an officer in a "marked police car" initiated a pursuit of Jacob Archambault, Parsons' letter says.

While the BIA Office of Justice Services handbook states that unmarked vehicles "may be used in pursuits," it stipulates that their use can only occur "if the fleeing vehicle presents an immediate and direct threat to life or property and no marked vehicle is immediately available."

"As soon as a marked vehicle becomes available," the handbook says, "the unmarked vehicle will withdraw from the pursuit and serve in a support role."

It's unclear if that happened in this case.

When asked whether the officer pursuing Jacob in the unmarked vehicle violated policy, Broyles, the OJS spokesperson, wrote, "Violations of policy are generally addressed through personnel actions. Because the disclosure of specific personnel actions may violate federal law, BIA cannot comment on personnel matters pertaining to individual employees, including law enforcement officers."

After the unmarked pickup and marked police car chased Archambault's Tahoe through the town of Rosebud and to the top of a hill, he turned off onto a steep dirt trail, lost traction and began to slide backward, FBI documents say.

When they arrived at the dirt trail, the officers "exited their vehicles and aimed their service weapons at Archambault" and "yelled for him to stop," Parsons' letter says. But Jacob allegedly "ignored" them and "attempted again to drive up the incline."

When he couldn't, Jacob allegedly put the vehicle in reverse.

One of the tribal officers told the FBI that he saw the SUV's reverse lights going on as the driver "'gunned' the accelerator back." The officer said the Tahoe slammed into a police cruiser and "began pushing it backward and to the side."

In explaining why he decided to use force, the officer said he "both felt and saw the police cruiser getting pushed close to his own leg" and was concerned about the officer who was "behind his own police cruiser that was being pushed."

The other officer who fired his weapon at Archambault told the FBI a very similar story, saying he had to "'back-step' out of the way to avoid getting run over." After he fired twice, he said, "the Tahoe started accelerating away from his car."

A pair of South Dakota Highway Patrol troopers who were called to the scene of the shooting described the same sequence of events.

"At some point when the vehicle was traveling backwards toward the officers," reads the primary narrative of one of the troopers, "they fired at the driver and vehicle to stop it."

"At an unknown point when the Tahoe was backing toward the officers and their patrol vehicle," reads a supporting narrative from a second trooper, "both officers fired their weapons at the vehicle and driver to stop the vehicle from hitting them."

But an FBI analysis of the bullet holes in the vehicle appears to contradict the claim that they fired "when the Tahoe was backing toward the officers."

Of the 10 exterior impact bullet holes identified in that analysis, five "were on the front of the vehicle," four "were located in the front passenger side door," and one "was located on the front driver side door."

"The aforementioned information is consistent with the vehicle having been shot from the front and passenger sides of the SUV," the FBI report says.

Parsons' letter stated that Jacob had meth and alcohol in his system at the time of his death and found that the tribal officers "acted in self-defense" and that their "actions were justified."

Parsons wrote, "Archambault, through his action, escalated this incident into a life-threatening encounter. If Archambault had survived, it would be appropriate to charge him with Assaulting, Resisting and Impeding a Federal Officer and Assault With a Dangerous Weapon."

But Parsons' letter also offers a description of the officers' actions that disputes the notion that they fired when the car was backing toward them, without explaining why.

"Officer (Redacted) was positioned to the right of Archambault's vehicle and was generally firing in the direction of the front passenger door," Parsons wrote. "Officer (Redacted) was positioned in front of Archambault's vehicle and was generally firing in the direction of the windshield."

Parsons' letter doesn't describe how the officers ended up beside and "in front of" the Tahoe, but Charlee Archambault's lawsuit does.

In court documents, her lawyers described Jacob Archambault's attempts to crest the "snowy incline" and escape the pursuing officers.

After the second attempt, the complaint says, the officers "shot at Archambault through the passenger side door of the Tahoe as it was reversing perpendicular to and past the officers. The Tahoe continued past (one of the officer's) vehicle, and the officers continued to fire bullets at Archambault through the front windshield of the Tahoe as it was driving away from the officers."

One of their 15 bullets "went through the left side of Archambault's chest," the complaint reads. After the Tahoe "continued down a steep embankment and crashed into a ravine," it says, Archambault was "partially ejected" but "was alive when (the officers) went to check on him."

The officers "did not render any medical aid to Archambault," the complaint alleges. "Archambault died waiting for help."

In an FBI interview, one of the officers expressed his frustration at what he said was the "slow process of reaching Archambault" and "in particular, the slow response of the ambulance, which didn't have its lights on when it arrived ...."

As the Tahoe began to "smoke," that officer said, he "tried to rip the windshield off (the Tahoe) in order to reach and help Archambault."

The other officer told FBI investigators he "hit the windshield with his baton in order to create an opening that would allow him to turn off the car and assist Archambault. He eventually opened a small line in the windshield that he was able to reach through to put the car in park and turn the engine off."

Both officers said they heard Jacob say, "I can't breath (sic)" as they waited for help to arrive.

An autopsy found that the manner of death was homicide and that the cause of death was dislocation of the joint that connects the base of the skull to the top of the spine "due to motor vehicle crash due to gunshot wound of chest."

'He was scared'

Charlee Archambault didn't want the mortician to fix the wound from the gunshot that grazed her son's nose.

"I said, 'I want the people here to see what they did to him. I want them to see it. No trying to hide it. Don't try to hide it all.'"

But five years later, she believes that much about her son's death remains concealed.

And Archambault believes in the same kind of widespread police misconduct that some former tribal law enforcement officers and others allege has persisted for a decade or more on the Rosebud reservation.

Clairmont said she thinks Jacob was afraid of police because he suspected the police were engaged in misconduct. While she said Jacob "never gave (her) the specifics" about what he said he knew, Clairmont believes "he was ready to tell on them."

"I think that's why they threatened him so much," Clairmont said, "because somehow he knew things that they didn't want him to know. Because he was scared. You could tell he was scared."

When Leading Cloud heard what happened, he, too, thought back to those threats, thought that the cause was Archambault's "knowledge, and his involvement, with those that were authority figures in law enforcement."

Such suspicions and fears have made it difficult for Jacob's mother to move on.

"Because it's too hard on me," she said, "because he was my only child, and every breath I took, I took for him. It didn't matter if he was drinking or on meth. I was looking at ways of trying to help him get over it. And I told him, 'It doesn't matter what you know on the cops. I can help you. You can leave the area, and I can help you.'"

That she couldn't help him has left Charlee Archambault reliving that day in 2019, searching for some glimpse of solace for herself — but more so, for her son.

"I still have dreams — nightmares, I guess you would call them — about my son being shot, about me being shot," she said. "In one of my dreams, somebody will knock on that back door, and I'll open it. And those police officers that shot my son shoot me. In that dream, though, it doesn't hurt to be shot. It don't hurt. And I pray that's the way that my son left."