



TRANSCRIPT:

November 14, 2008

DEBORAH AMOS: Welcome to the JOURNAL. Bill Moyers is away this week. I'm Deborah Amos.

Only a week ago we were celebrating the election of the first African American to the office of president... But this historic moment was not only about what had ended, but what is ahead.

BARACK OBAMA: Two wars. A planet in peril. The worst financial crisis in a century. Even as we stand here tonight, we know there are brave Americans waking up in the deserts of Iraq, in the mountains of Afghanistan to risk their lives for us.

DEBORAH AMOS: He seemed to be bracing himself for the storms to come. His initiation started with the President's Daily Brief - that ultra-secret assessment of the latest intelligence and threats against the United States. While we don't know the details, there's no doubt about what's in that brief: the worsening situation in Afghanistan, Iran, Iraq, Pakistan, Russia, and North Korea. All complex problems and the list goes on. And if you're thinking the financial crisis is the only crisis that matters, well think again. A wise head in Washington said to me this week, you don't choose to do foreign policy - it's imposed on you.

The war in Afghanistan, often called the 'good war', has also and possibly more correctly, been called 'the forgotten war.' 2008 has been Afghanistan's bloodiest year since the US-led invasion of 2001. And security there has deteriorated so much that it's now considered an even deadlier battleground than Iraq, as shown in the FRONTLINE special, "The War Briefing."

NARRATOR: The company lost two men this week. They are all on edge.

SGT. LUCAS YOUNG: Where's it coming from?

SOLDIER: They got us pinned down in a tight spot. Break. Every time we move, they are shooting at us. So I need a presence here in the Korengal. I just need to push into Korengal.

MICHAEL SCHEUER: The next president will face a situation where in the next year or two, he will have to make the decision that faced the Soviets in 1988, either to massively reinforce and to wage a war very aggressively, or to get out.

DEBORAH AMOS: Here to help us understand the road ahead in Afghanistan and the rest of the world, are Fred Kaplan and Elizabeth Rubin. Elizabeth Rubin is the Edward R. Murrow Press Fellow at the Council on Foreign Relations. She's a contributing writer at THE NEW YORK TIMES MAGAZINE and she's reported extensively on life and politics in Afghanistan.

Fred Kaplan is an award-winning reporter and writes the "War Stories" column for SLATE magazine. He's also the author of DAYDREAM BELIEVERS: HOW A FEW GRAND IDEAS WRECKED AMERICAN POWER.

Welcome to the JOURNAL.

FRED KAPLAN: Thanks. Good to be here.



TALKBACK: THE BLOG

Our posts and your comments

OUR POSTS

November 26, 2008

Do Healthy Options Lead To Healthy Decisions?...

YOUR COMMENTS

"Thank you Bill. We were glued to the tube watching the Michael Pollan interview. The use of pes..." - *mike and Liz Fessler*

DEBORAH AMOS: Elizabeth, this has been the bloodiest year in Afghanistan since 2001. And in your last long article, you went to ask some questions. One, with all of our technology, why are we killing so many Afghans? And, two, why are so many Americans getting killed there? So what's the answer? What went wrong?

ELIZABETH RUBIN: Well, part of the problem is that we have small forces of Americans out in the villages, in the mountains. Or we have small special forces groups that are going out, looking for the Taliban. I mean, the topography is a nightmare. When they get stuck out there, there's no way that, you know, a truck can come with more troops. They've got to fly in. And they drop a bomb from the air. And half the time, the Taliban are in a village shooting from the roof or the window of a friend's house or a village that they've taken over for the day, or the night. And so civilians get killed. It happens all the time. Sometimes it's bad information. Sometimes it's, you know, the bomb - I watched three bombs go off target in one day. One of them was a kilometer off target. One of them almost landed on us. These are 2,000 pound bombs.

DEBORAH AMOS: And did they kill people that day?

ELIZABETH RUBIN: No. They happened to be out in the mountains where we were. They landed on trees and there were fires for the next three days. But it does happen because of all sorts of glitches that can go on. And we rely so much on air power because we don't have enough troops on the ground. So it's just a much more complicated fight. We ignored it for many years and it got entirely out of control.

DEBORAH AMOS: I wanted to ask both of you, there is a math problem that in some ways President-Elect Obama has. Because he says, "Let's focus on Afghanistan." Let's move troops to Afghanistan. But they have to come from Iraq. There's no place else. The math is indisputable.

FRED KAPLAN: Yeah, this is the remarkable thing. You'd think we have a million man army and all the \$700 billion military budget if you include the cost of the war. But we're in a situation where there's really only one spare brigade, combat team in the entire Army. If there was some emergency someplace where we had to take two or three brigades, one or two of those would have to come out of Iraq. So, yeah, and President-Elect Obama wants to put two or three brigades in Afghanistan, as he has said. They're all going to have to come out of Iraq.

DEBORAH AMOS: And that means that Iraq has to be more stable-

FRED KAPLAN: Yes.

DEBORAH AMOS: -to deal with Afghanistan. Simple as that.

FRED KAPLAN: That's right. And, I mean, aside from all other issues, which also play in the same direction, the same conclusion, it's a zero sum game. Yeah.

DEBORAH AMOS: Elizabeth, you've been on the ground in both places, both in Iraq and in Afghanistan. Are there transferable skills from soldiers who have served in Iraq who are on their way to Afghanistan?

ELIZABETH RUBIN: All the - most of the soldiers that I was with in Afghanistan had been in Iraq. Many of them have been deployed four times. They've done Afghanistan twice, Iraq twice, or three times. They're totally equipped for that and trained for that and ready for that. What they were not ready for, which I think they will be now, was the fact that Afghanistan was going to be so much harder in a way than Iraq.

Everyone was afraid of the IEDs in Iraq. But in Afghanistan, especially in the northeast where they're concentrated, it's mountain fighting with guerillas who are hiding behind boulders and trees. And this kind of fighting, it wears down on your nerves every day, especially because the whole idea is to have been pushing them out into these little, you know, fire bases.

So they have to be prepared for that. But the transfer is not that difficult. What's difficult is the cultural transfer. These aren't the same countries. And, you know, as much as -everybody's been saying this - but as much as they need a military solution, a military guy, you can't ask a military guy to be an anthropologist, a humanitarian aid worker, a killer, and, you know, and a doctor. And that's what they're sort of asking them to do. They need to have much more civilians working on the ground in these areas.

FRED KAPLAN: I think ultimately what has to happen, and very quickly is to build up the Afghan Army, which I'm told, I mean, I was there about two and a half years ago and the Afghan Army when they were just beginning-

ELIZABETH RUBIN: Yeah.

FRED KAPLAN: -to build it up. I mean, their idea of training was, you know, aiming a rifle, you know, and hitting a target with, not even with a bullet. Just seeing if they can line up the sight. I hear they're actually doing quite well now. But they need to double, maybe even triple the size. The last general, American general who just left said that they need 400,000 troops. I mean, we're not going to get anywhere near a quarter of that, you know?

DEBORAH AMOS: Yeah.

FRED KAPLAN: So it's got to be an Afghan solution.

ELIZABETH RUBIN: I would just say that quite well is really just - it's just not the case. I mean, some of the units are-

FRED KAPLAN: Relatively quite-

ELIZABETH RUBIN: -relatively quite well. And it's not entirely their fault either. They basically have been given tricycles, you know? They're still on training wheels. They're attached to an American unit. They have no way to call air power themselves. They don't have - half the time they don't have enough ammunition. They don't have enough clothing. They don't have enough food.

They have to be given all the resources that a western military would have. We can't expect them to go out there with one helicopter flying around in the air, transporting the intelligence minister.

DEBORAH AMOS: This week the "Washington Post" gave us some hints on where Obama is going. And the headline was "Obama to Explore New Approach in the Afghan War." The report talks about ideas for a regional strategy.

ELIZABETH RUBIN: Uh-huh.

DEBORAH AMOS: Is this a big departure from the Bush administration? And is it where we ought to be going?

ELIZABETH RUBIN: It's a huge departure. I think people have been talking about a regional strategy for some time now. One of the problems that's happened in Afghanistan is you have a proxy war going on there between Pakistan and India, the U.S. and Iran. China has big investment in Afghanistan. The Russians I think have the largest number of intelligence agents in Afghanistan. So everybody is sort of jockeying for power.

DEBORAH AMOS: On the ground, how do you see that? Are there examples where you know that this is what's happening?

ELIZABETH RUBIN: Well, for one thing, for example, a couple years ago you might remember there was a spate of Indian engineers getting executed along the roads. They were building roads. They were building other projects. This, when I would speak to the Taliban in Pakistan, they were given orders by their ISI handlers.

DEBORAH AMOS: ISI?

ELIZABETH RUBIN: Pakistani intelligence. Then you had the Indian embassy explosion. And it was absolutely linked back to Pakistani agents. On the other hand, the Indians have brought in a large number of consulates all over the country. Some say they are supporting the Baluch insurgents, who have an insurgency in southern Pakistan. And certainly the Afghans all prefer the Indians in some way. They're one of the largest investors in the country. So you know, Pakistan and India have been, in one way or another, at war for 60 years. And now they are continuing that war in Afghanistan. China's invested hugely in Pakistan, so Pakistan isn't automatically going to do whatever we say because they also need to listen to China. And we need to be talking to China about Pakistan and Afghanistan.

DEBORAH AMOS: So you're saying that the Pakistani intelligence agency would ask their allies, the Taliban, to assassinate Indians in Afghanistan?

ELIZABETH RUBIN: Absolutely. Absolutely. Yeah.

DEBORAH AMOS: And that's how the proxy war gets carried out.

ELIZABETH RUBIN: That's how the proxy war. The Afghans are, you know, in the middle of the sandwich. They get used by whoever because they're very poor. And they will work sometimes for both sides, sometimes for three sides.

DEBORAH AMOS: But, you know, what we all heard all through Iraq is there's two time clocks. There's Washington's time clock and Baghdad's.

ELIZABETH RUBIN: Right.

DEBORAH AMOS: And now there's Kabul's time clock.

ELIZABETH RUBIN: Right. Which is very slow. Yes.

DEBORAH AMOS: So do the American, especially in the middle of an economic disaster, have the will, have the patience to stick with what both of you are describing as a very long process where we're still in a moment that you will hear political voices saying, "We're losing. Let's get out."?

FRED KAPLAN: Yeah, you know, one thing, you know, when NATO took over the Afghan operation, there was a big celebration. Okay, "We're taking over from these crude Americans. We're gonna do it right." But at the time they thought it was a peacekeeping operation. They didn't anticipate that there would be a war still going on. So they go down to the south. Taliban come out to play. And they say, "Oh, well listen, I said I'd come. But, no, I'm not gonna fight at night. I'm not gonna fight on the ground. I'll fight in the north but not in the south."

They put 57 I think different caveats on different nations saying what they will not do. Then Secretary Gates comes into office and he's livid because, my god, these NATO countries, they said that they would be helping us but they're not. And it took them a while to realize that, no, they didn't know that this was what they were getting into. They didn't sign on to fight a war.

So, okay, so they don't want to send troops to a war. At least send money then. All of the other countries in the region that don't want to see Afghanistan falling apart again, you know, they need to put - if they're not going to put lives on the line, they've got to put money on the line. 'Cause we can't bear the full cost.

DEBORAH AMOS: And so that puts an extra burden on the American government and the American public at a time that they, in overwhelming numbers, voted for change, voted for ending the Iraq War. And so my question is, is there a political dimension to this that we either don't know yet, or will come to play?

ELIZABETH RUBIN: The political dimension is talking to the Taliban. I mean, and that is going on. And that's the only - I mean, there are people who say there's no way we should. But even the U.S. military started saying we have to. It's never going to end unless there's a political solution. But that's also where, you know, Pakistan comes in and India comes in and Iran. And I do think that Obama will be given, at least for a few months, you know, a lot of goodwill on the part of the world that wants to work with.

DEBORAH AMOS: But let me ask you then, let's widen this one more step. Since 9/11 there has been a war on terror, which has no end that anyone has been able to explain.

FRED KAPLAN: And all terrorists are the same.

ELIZABETH RUBIN: Right.

FRED KAPLAN: And, therefore, we should treat them all as enemies instead of finding cleavages between them and playing them off one another.

DEBORAH AMOS: And so is this idea that we talk to the Taliban one way to - do we need to rethink the war on terror? Or are we in a war without end?

ELIZABETH RUBIN: Clearly they already thought about that in Iraq when they did the whole Sons of Iraq and turned, you know, the Sunnis against al-Qaeda and the tribes - so it's not like this hasn't been happening. They were talking to insurgents and paying off insurgents to stop being insurgents. I mean, that's what Petraeus' whole plan was in Iraq. So I think it's already been reconsidered, redefined. It's just nobody's come out and said, "Okay, the war on terror is over. We're doing something else now."

FRED KAPLAN: Nobody's made the general point. I mean, it's actually very serendipitous that at this time Petraeus is going from being the commander in Iraq to being the commander of Central Command, which controls the entire region, because this is his MO. His first instinct, in other words, going into Afghanistan, was to say, "Well, what forces can be played off against each other here?" It's kind of become a recipe of success for him. And then you also have the sheer problem of scarcity. We don't have enough troops and enough money to go kill and capture every bad guy on earth. So what do you do about this?

DEBORAH AMOS: Fred, you have written in your column that President-Elect Obama is actually catching some breaks. That we still have a President in office, which he has very clearly said is President Bush until January 20th. What are the breaks?

FRED KAPLAN: Well, I don't know if there are any breaks in Afghanistan. But for example, in Iraq, they see Obama as something different. And, therefore, I think - and there are some indications that they're putting an extra effort into getting their act together and coming up with an agreement that can satisfy everybody so that, you know, we can leave by 2011 but, in the meantime, stick around a little bit.

DEBORAH AMOS: And will Obama catch a break with Iran?

FRED KAPLAN: Iran? I mean, some of that's up to the Iranians. But it is nice that the price of oil has gone down by about 50 percent in the last couple of months and that Ahmadinejad seems to be in a little bit of domestic trouble. And maybe Obama can get the Europeans to cooperate a bit more on sanctions against Iran because they don't think that Obama is just practically one breath away from bombing the place, that he really is interested in working out a solution.

Ultimately, we have to work out a deal with Russia, too. And I think there are some possibilities there as well. These reports from the monitors in Georgia which suggest that, well, maybe it wasn't such an unprovoked aggression that Russian did. It doesn't excuse the brutality. But maybe we can overlook that and get things back on course. And get something going where a number of countries have common interests in getting things done. And they might disagree on one point, but they agree with this point. So let's get together and do that.

DEBORAH AMOS: But we are in the middle of a financial crisis, the likes of which we have not seen in our lifetimes. That will take up a certain amount of oxygen, brain cells, whatever you want to say, in the way that Iraq did in the beginning of the Bush administration. It sucked all the air out of diplomacy, as Richard Haass who worked for the White House at that time, has said. You haven't factored that in, in that list.

FRED KAPLAN: Well, I would say one thing. Maybe we'll have a secretary of state who doesn't have to look over his or her shoulder every two minutes to make sure that the vice president isn't sabotaging whatever he's trying to do.

ELIZABETH RUBIN: That's a really good point.

FRED KAPLAN: You know, even the entry of Bob Gates, the Secretary of Defense, has changed the dynamics of national security decision making in the White House profoundly. You don't have people running in and of the Oval Office trying to be the last person to convince the president of something. No, you have actual debates going on in front of the president. It's much more systematized. You know, I really do think that if that had been going on, even though the Bush administration, even with all the other problems, things would be a lot more manageable at this point.

DEBORAH AMOS: Manageable but the financial crisis does put some constraints on policy.

ELIZABETH RUBIN: Yes and no. I mean, you could look at it another way, which is that if the U.S. is not just money bags then it means that other countries realize they actually have to do some work with the U.S. and with whoever is in the region. So in a way it makes the world much more interdependent. Rather than seeing the U.S. as - the U.S. is either going to do its policy for better or for worse 'cause they've got all the money. It doesn't work that way anymore.

DEBORAH AMOS: When the Bush administration took on Afghanistan and then Iraq, there was this notion that we were involved in a democracy-building operation. And then there was talk even in the campaign about victory, that there would be a way that we would know that it was time to leave, that it was over. Those ideas have really lost currency. So is there a measure of success in these wars, in Afghanistan and in Iraq?

ELIZABETH RUBIN: I think the measure of success is when they're not in the news anymore, you know? When they start to just become countries that are existing on their own. You're not going to have, like, "This is Success Day." When there's a certain kind of stability and a country is being built, it's going to be a lot less newsworthy than when you have, you know, Afghans getting killed every day, Americans getting killed every day, Pakistanis and Indians killing each other in Afghanistan. When the killing subsides and the country's being built. But you're not going to have one day that's going to signify the end. I think these ideas that there's a black and white, "okay, this is victory" day, we pull out. It just doesn't work that way. The world doesn't work that way. That's what I would say.

FRED KAPLAN: Yeah, you know, the Cold War was actually an anomaly in history. I mean, this idea of two pretty stable blocs that faced off. And each of them controlled its half of the world. And that at one point, one of the sides just went poof. And I think the mistake that the Bush administration made at the end of the Cold War was they said, "We won the Cold War; therefore, we control everything and everybody has to bow down. We are stronger than ever. We are like Rome. Everybody has to do what we want."

But what was really going on, we were actually in some ways weaker than we were before because, in the old days, everybody kind of vaguely on our side, would look over to their shoulder and know that, oh geez, the Russian bear's over there. So, okay, I'll go against my interests to go along with this because the alternatives are too dreadful.

Well, now, the bear's gone. These countries, they can go their own way, pursue their own interests without much attention to what Washington says.

So what the next president has to do is really to adjust to America's reduced place in the world and to - how to advance our interests in a world where we actually control much less. And it's very difficult. But it also provides possibilities because there are ways of reciprocal benefits for both countries. And as Elizabeth was saying, you can create diplomatic situations where other countries feel a stake in the matter, too

DEBORAH AMOS: Fred Kaplan and Elizabeth Rubin, thanks very much for joining us.

FRED KAPLAN: Thank you.

ELIZABETH RUBIN: Thank you.

DEBORAH AMOS: At the Justice Department, recent scandals have dragged public confidence to an all time low. A special prosecutor is now digging into charges that former Attorney General Alberto Gonzales put political partisanship ahead of the law.

And the record on the quality of justice - as in 'equal justice for all' - that's also in question. No more so than on the roughly 300 American Indian reservations across the country. This is a scandal that's been going on for decades.

Because of a strange tangle of laws, because of historical precedent, the Justice Department is responsible for investigating and prosecuting major crimes on most reservations. But as the DENVER POST reported in an award-winning investigative series, law enforcement in Indian country has become quote "dangerously dysfunctional." The "Post" depicted a place where terrible crimes are committed, investigations bungled, and prosecutions rare. The result: Indian reservations, already some of the poorest and most crime-plagued communities in America, have become what one Navajo official calls "Lawless Lands." Our colleagues at Expose

bring you that story. It's narrated by Sylvia Chase.

MARLENE WALKER: It was the morning of September 4th, 2004. I was sleeping and the phone rang. And Arthur's girlfriend called me and said, "Marlene, did you hear about Arthur?" And I said, "No, what's wrong?" "He's dead." And I said, "What? No, you're just joking with me. He's not." And she says, "Yeah, he was attacked."

SGT. LIZ GRIEGO: I was called at home about three o'clock in the morning and advised of a homicide call out at this location and I was advised that there were actually two people that were stabbed, one had passed away.

MARLENE WALKER: We took off and went to the scene. And most of my family was already there, I kept asking everybody, "What's going on? What's going on? What happened? What happened?" No one had anything to say to me. And then, finally, the detective came to me and told me what had happened. And with all the chaos, I never knew my son was laying a few feet away from me.

SYLVIA CHASE: Marlene Walker's son, Arthur Schobey, was murdered in 2004 in Albuquerque, New Mexico. He died of a stab wound to the heart. His killer, Leonard Apachito, lived on the nearby Navajo Reservation, in a village called To'hajiilee. And it may be hard to believe, but if Apachito hadn't lived on the reservation, Arthur Schobey might still be alive today.

MICHAEL RILEY: I think as Americans, that we have a strong expectation of the way our justice system ought to function; that we live in a society where, if you commit a crime, especially a serious crime, people will investigate that crime, people will arrest you and people will try and convict you. What happens actually on reservations doesn't look at all like that picture.

SYLVIA CHASE: Indian reservations operate nearly autonomously within the United States. Many, like the Navajo Nation, have their own police forces, courts, and jails. But the tribes have severely limited powers.

And the major investigation by the DENVER POST would show that the people living on reservations are subject to severely limited justice.

MICHAEL RILEY: You commit serious crimes and many of them aren't investigated or they're under investigated. If they are investigated and sent to prosecuting attorneys, many times the prosecuting attorney simply declines to prosecute the case, so when you combine lots and lots of those kinds of examples, what you've got is a level of impunity that most Americans, I think, would be shocked at.

Take the case of Leonard Apachito. Four months before he killed Arthur Schobey, he was involved in another violent crime. This one occurred on the reservation. The victim was his cousin, Alex Apachito.

ALEX APACHITO: It was about four years ago, we were walking home from a party, and we met up with another one of my cousins, Leonard. And he invited us over to his house for a couple of beers.

SYLVIA CHASE: Although they were related, Alex and Leonard had a history of tension. And on that night, Alex says, they fought.

ALEX APACHITO: He just walks around me and grabs me, and cuts me across the neck. And I turned, once he grabbed me, and I just felt that cold slice. I pushed him. And I don't even remember how I made it home, or - but I remember being in the ambulance and telling them what happened. And I think that's when I just passed out.

SYLVIA CHASE: When a crime is committed on an Indian reservation, the tribal police and prosecutor are the first to review the case.

CHUCK MURPHY: The local tribal prosecutors are doing the very best they can in order to try and find some justice for victims out there when others maybe don't care, don't have time, don't understand - whatever the issue may be.

SYLVIA CHASE: But if a crime is serious enough to be considered a felony, as Leonard Apachito's slashing of his cousin was, most often the tribal authorities are nearly powerless. And local and state police, and state district attorneys are entirely without authority.

That's because in most of Indian country - the legal term for Native American lands - the federal government has the sole authority to investigate and to prosecute almost all felonies.

After Alex Apachito was slashed, an FBI agent interviewed him.

ALEX APACHITO: : He came and took pictures of me at the hospital, and I really couldn't talk at the time, at the hospital, but he just wanted me to say the name - Leonard's name. And like, I think the next day I got released, and he came to my house and - yeah, he got the whole report, what happened. And he said that - yeah, he was gonna do everything he could to see that I got justice.

SYLVIA CHASE: But, the DENVER POST would report, even though Alex, the victim, had identified Leonard Apachito as his assailant, it wasn't Leonard who was arrested.

MICHAEL RILEY: Despite Alex's ID of Leonard as the person who stabbed him, the FBI arrests the wrong person. After that, after they discovered that they arrested the wrong person, they then dropped the case.

SYLVIA CHASE: A free man, Leonard Apachito would go on to kill Arthur Schobey in Albuquerque.

MARLENE WALKER: I didn't find out 'til Mike Riley told me, that Leonard had stabbed someone before, and I was shocked.

SYLVIA CHASE: The FBI declined to discuss the case with the DENVER POST. But as Riley discovered, it's common for justice to go un-served in Indian country. Why? Because of the strange quirks in a justice system that treats Native Americans differently from other Americans.

MICHAEL RILEY: It's the only place in the U.S. where the race of the victim and the race of the perpetrator determines who has jurisdiction, whether it's the state government, whether it's the tribal government or the federal government.

SYLVIA CHASE: Riley learned that if a felony in Indian country involves two non-Indians, it is tried in state court. However, if either the assailant or the victim is an Indian, neither the state nor the tribe has jurisdiction. The crime must be tried in federal court. To better understand an extremely complex system, Riley turned to the U.S. attorney for Colorado: Troy Eid.

TROY EID: I have seen people over the years face a level of despair over this situation that I've not seen elsewhere in the United States, with any other group of people. And in some cases, these reservations are the land that time forgot.

SYLVIA CHASE: Eid has prosecuted hundreds of felonies committed in Indian country. He has also published articles in favor of giving tribes greater legal authority.

TROY EID: Why can we drive around a reservation and have 160 acres that's in tribal jurisdiction, with the federal prosecutors doing the major crimes, and then suddenly you're on state jurisdiction, with the state D.A., the local D.A., doing the crimes? It's mind boggling, and so, when you get out into the field and you deal with it, you find often times very good people struggling to make this system work.

VERNON ROANHORSE: Crime always occurs minute by minute. We deal with domestic violence, we deal with problems involving firearms...

SYLVIA CHASE: Vernon Roanhorse is the tribal prosecutor for the village of To'hajiilee.

VERNON ROANHORSE: The police are primarily the, the people that investigate these crimes. And they turn over their reports to us. But we have to look to the federal government for support and for prosecution of major crimes when they occur.

SYLVIA CHASE: Roanhorse has one Assistant: Racquel Hurley.

RACQUEL HURLEY: It'll most likely come to our office first. And if it's really bad, it will be referred to the criminal investigator. We'll give him the police report; we'll give him the names. If we have photos, we'll give it to him. FBI agents will usually

come out and conduct their interviews also and I rarely see them.

SYLVIA CHASE: Why is the justice system on Indian reservations so different from that of the rest of the country? The answer lies in American history.

TROY EID: It used to be that the tribes could punish their own members. If an Indian tribe got into a conflict with another tribe, or if say two tribal members got into a fight, whatever it might be, the tribes would work that out. But, starting in 1885, Congress took that power away.

SYLVIA CHASE: It had all begun in 1881, in the Dakota Territory, when many believed a Sioux Indian named Crow Dog literally got away with murder.

Crow Dog had shot and killed a Sioux Chief. In U.S. District Court, in the Dakota town of Deadwood, he was convicted and sentenced to hang.

But he appealed, and the case went all the way to the U.S. Supreme Court. The court ruled that because Crow Dog was an Indian, the Dakota Territory had no jurisdiction over him. In fact, the ruling went, tribes, like the Sioux, retained exclusive jurisdiction over their own affairs.

According to Sioux custom, Crow Dog's punishment was having to make a payment, so-called "blood money" to his victim's family. There was a public outcry, and in 1885, largely in response to the Crow Dog case, Congress passed the "Major Crimes Act."

Major crimes committed by Indians in Indian country would now have to be tried in federal court, meaning Native Americans would be subject to American style justice. Ironically, the DENVER POST's Michael Riley would show, the result has been just the opposite. He found an example in the story of a 12-year old To'hajiilee girl who had been babysitting for a neighbor.

Racquel Hurley Vernon took her into the conference room. And they spoke for a long time. Vernon came back out. He told me, "Racquel, call the criminal investigator. We have a sexual abuse case that needs to be investigated."

SYLVIA CHASE: But no one came that day. Or the next day. The girl's mother wondered when investigators would come.

RACQUEL HURLEY: And she would call every, like maybe every other day wanting to know what was going on. And it got frustrating because I didn't know what to tell her.

MICHAEL RILEY: Almost a year later, neither she nor her daughter had been interviewed, either by the tribal police or by the FBI; the case just wasn't going anywhere. As far as we know, all there was a police report and then nothing.

SYLVIA CHASE: The mother would tell Riley, "It's hard for me to explain to her why nothing is happening. If this had happened in Albuquerque something would have been done."

MICHAEL RILEY: For almost a year, the 12-year old stayed virtually locked up in her house, her personality turned very dark, from being a pretty vivacious child; and from her bedroom, you could see the house of the neighbor where all these assaults allegedly occurred.

SYLVIA CHASE: The failure to investigate an alleged child molester still troubles Racquel Hurley, not just as a prosecutor's assistant, but as a neighbor.

RACQUEL HURLEY: You can see his house from my house and I don't ever let my son ride his bike up there, it's really disturbing to know that somebody that did that to a child is still free.

SYLVIA CHASE: During his investigation, Riley would hear similar stories over and over again in Indian country. To'hajiilee resident Ben Francisco was brutally assaulted in 2007. He suffered a fractured cheekbone and chips off his vertebrae. When he spoke with Exposé, chewing and speaking were still painful for him.

BEN FRANCISCO: I remember somebody pulling me out of the vehicle, then hitting

me with a bat, then after that that was it, I don't remember nothing after that. My cheekbone was broken, so they told me that they needed to put some plates in there.

DOLLY FRANCISCO: We were told that it was gonna to be in the FBI's hand. But nothing have been said or come by at the house yet. Nothing.

BEN FRANCISCO: They don't get things done the way they do in places, in the cities and other places. Nobody did nothing about it. After a year passed I just gave up on it.

SYLVIA CHASE: The DENVER POST would learn that in the past decade Congress has actually increased the FBI's Indian country funds. Between 1998 and 2004, Congress "more than doubled the agency's budget" for Indian country investigations. The increase included money for 30 new agents who "would focus solely on reservation crime."

In a written statement, the Bureau told the paper it did assign 30 new agents in fiscal year 1999, but after the 9/11 terrorist attacks, "staffing levels changed." By late 2007, the "Post" would report, the number of agents had increased by only 12.

On some reservations the Bureau of Indian Affairs or tribal police have the authority to investigate felonies along with the FBI.

But no matter who investigates, the case is handed over to a federal prosecutor. As he was digging further into the story, Michael Riley would learn that's where the process can break down again.

MICHAEL RILEY: It became pretty clear, pretty fast that there was a large failure on the part of the federal government to prosecute many, many serious crimes on reservations. Our first task was to try and come up with some statistics about the rate at which they declined cases, 'cause we heard over and over again that U. S. attorneys typically just decline large percentages of cases. The first thing we were told by the Justice Department is that those statistics aren't kept; and it turns out, in fact, they are kept, they're just not published.

SYLVIA CHASE: Unable to get the rate from the Department of Justice, the DENVER POST team set out to crunch the numbers itself.

The POST got Department of Justice data from a Syracuse University Research Center which had obtained it through Freedom of Information Act requests.

The paper cross-referenced that information with crime data from the FBI, as well as the Bureau of Indian Affairs.

Research librarian Barry Osborne helped create the post's database. It showed how many felonies had been reported and/or investigated, and how many of those cases U.S. attorneys had declined to prosecute.

BARRY OSBORNE: In this case we had to do a lot of due diligence and checking and double checking and triple checking. You go row after row, hundreds of rows, manslaughter, manslaughter, murder, murder, murder. These are hundreds of individual lives and it's sometimes stark just to see that just in text, in these little boxes and brackets, but from that you start to see just some patterns emerging. And here we have declination after declination.

CHUCK MURPHY: 65% of the complaints that are filed are just rejected out of hand by federal prosecutors. That's an astounding number. What would we do if the district attorney for Denver, if we learned that he was declining 65% of cases? Well, it would be an outrage, it would be enough to send the citizenry into the streets.

SYLVIA CHASE: Sometimes there are good reasons why attorneys refuse to bring a case in Indian country, according to Troy Eid.

TROY EID: You gotta look at what is actually brought to the prosecutor in terms of a case that provides a viable prosecution. We, ethically, can't do anything that is not brought to us that establishes probable cause in a court. So, if we don't get a quality investigation, you know we're not gonna be able to do anything.

SYLVIA CHASE: Quality investigations can be hard to come by for several reasons.

MICHAEL RILEY: It's a triage situation where the FBI has a certain amount of resources, so they depend on the tribal police investigators to do a lot of the investigation, which creates some problems because the tribal investigators are not as well trained, often make mistakes. They can contaminate evidence. It creates a problem for the U. S. attorneys, who will complain that many of the cases they receive simply are poorly investigated and part of it has to do with that combination between the duties of tribal police and the FBI and how those are split.

SYLVIA CHASE: For all those investigative limitations, the paper's Chuck Murphy notes, several former prosecutors told the post that the problem often lies with the prosecutors themselves.

CHUCK MURPHY: There are a handful of assistant U.S. attorneys and U.S. attorneys who are really committed to working these cases. But I think a lot of times it's just, "Don't bother me with this."

SYLVIA CHASE: Former U.S. Attorney Margaret Chiara said: "I've had [Assistant U.S. Attorneys] look right at me and say, 'I did not sign up for this'... they want to do big drug cases, white-collar crime and conspiracy."

CHUCK MURPHY: These are prosecutors with first-rate law degrees, exceptionally smart people, men and women who have gone into the Justice Department who didn't think they would be prosecuting rapes. They are there to take on Enron. They are interested in going after white-collar crimes, and the Gambino family. And suddenly, this whole other part of American jurisprudence from the Indian reservations gets dumped on their desk, and they don't wanna deal with it.

SYLVIA CHASE: The tribal prosecutors told the "Post" they often aren't even informed of the U.S. attorneys' decisions to decline cases.

VERNON ROANHORSE: We don't get the declinations that we should have from the federal government. And all these cases are in limbo. We have cases that have been pending with their office like, three-to-five years.

SYLVIA CHASE: If a tribal prosecutor, like Vernon Roanhorse, is officially informed of a declination, he can lower a felony charge - like murder or rape - to that of a misdemeanor and bring the case before a tribal court. But to Troy Eid, the Colorado U.S. attorney, that option just adds insult to injury.

TROY EID: On the federal side, we can prosecute all the way up - in fact, if it's homicide we can seek the death penalty. But, if it's a tribal government that prosecutes, the most they're allowed to seek is a year in jail, and a \$5,000.00 fine. Congress does not let them seek anything above that ceiling.

SYLVIA CHASE: After a six-month investigation examining dozens of cases from more than 20 reservations, Michael Riley published a four-part series called "Lawless Lands." It would reveal that a shocking number of crimes simply go unpunished in Indian country.

In a recent three-year period, U.S. attorneys declined to prosecute over half of the serious assault cases brought before them, almost half the murder and manslaughter cases, and over 70 percent of child sexual abuse cases.

The most recently available FBI arrest numbers are just as staggering. In fiscal 2006, on reservations where the federal government handles felony prosecution, 658 rapes were reported, only 7% led to arrest. For aggravated assault, the figure drops to less than 4%.

Lesser crimes are "virtually ignored altogether." Of 4,565 burglary cases just 16 were referred for prosecution.

MICHAEL RILEY: The overall result is that this system of justice functions very, very badly, to the extent that many Native Americans just don't expect it to work at all.

MARLENE WALKER: It makes you sad - kind of makes you feel like Native Americans don't deserve justice. So, it's kinda hurtful to see all those cases that are pretty much put on the back-burner, so. And I hope everyone gets their day in court,

too.

SYLVIA CHASE: Marlene Walker did get a day in court. Her son, Arthur Schobey, recall, had been killed by Leonard Apachito, a man who had eluded justice after committing a brutal crime on the reservation, months earlier. But the Schobey murder happened in Albuquerque, where local police, not the feds, had jurisdiction.

MICHAEL RILEY: The Albuquerque police, after a year long investigation, in which they left practically no stone unturned to find Leonard, eventually tracked him down.

SGT. LIZ GRIEGO: He was living in Albuquerque at the time, which was good for us, so I grabbed my partner, we went up there, knocked on the door, he came to the door and I said we were investigating an incident that occurred, and he looked at me, and I said, "you know why I'm here?" And he said, "Yes."

Leonard Apachito was arrested, tried and convicted in New Mexico State Court of manslaughter in the killing of Marlene Walker's son, Arthur Schobey.

For his crime, he was sentenced to six years. The punishment could have been more severe if he had already been a convicted felon. But he was never even arrested, let alone tried, for slashing his cousin's throat on the reservation. Michael Riley says everything could have been different.

MICHAEL RILEY: Had the FBI arrested Leonard Apachito within that four months, he would have been in jail and he wouldn't have been in Albuquerque and Arthur Schobey would still be alive.

RACQUEL HURLEY: There's no justice out here. And I feel for the victims. I feel, my, it breaks my heart to know that nobody cares.

CHUCK MURPHY: Indians are not getting the same justice system that you or I get in Denver, or in New York, or in Boston, or Kansas City, or anywhere else. That, to me, is the most egregious element of this. Is that an entire class of people, based on where they live, is not getting the same services that you and I get.

DEBORAH AMOS: It was Veterans Day on Tuesday and thousands of soldiers, young and old, came to New York City for the celebration. President Bush was here too, for what will be his last Veterans Day ceremony in office.

Right now, there are just under 200,000 soldiers on active duty in Iraq and Afghanistan. But over one million soldiers are now veterans of those two wars. As an ongoing stream of studies and reports prove, many of those soldiers return from the Middle East badly wounded, both inside and out. Thanks to better protective gear and improved battlefield medicine, soldiers today are surviving traumatic injuries at a remarkable rate. But many of the wounds they suffer will linger long after they've returned home.

An estimated one in five soldiers come back with symptoms of post-traumatic stress disorder or major depression. Of those, only half had even asked for treatment. For many, there is a stigma attached. That same study said that 19 percent of Iraq War veterans may have sustained traumatic brain injuries as well - the type of injury that could impair these young people for the rest of their lives.

President Bush said that we have a "moral obligation" to support our veterans when they return home. But what, exactly, does that mean? How should the rest of us who don't serve in the military honor the service of those who do? With those thousands of veterans in town this week, we thought it best to ask them that question.

JOHN CAMPBELL: Once the parades are over, then what happens? How do you fill in? How do you really continue to bring support for people that feel, in a lot of ways, so isolated? That's what we really think we're missing is this sense of community.

ANDREW ROBERTS: Putting the yellow ribbon in the window is great, but that's not supporting the troops. Right now- you know, if you look at World War II, there was all sorts of different things that were going on. There were little kids were running around collecting the rubber off their pencils to contribute to the war in some way. To support the troops in some way. And you just don't see that going on right now.

CARLOS LEON: First thing they could do is go to your local VA's and volunteer, or just go to say "hi" to a veteran. For a guy that's laying, or for a woman, that's laying

in bed and can't really do much, and a total stranger comes by and says "I just wanted to come by and say good afternoon or good morning," that's a big deal.

DREW BROWN: Even just a handshake. Just "hey man, welcome home, and thank you for your service." That usually is enough. That warms my heart more than you know. And it's a huge thing, because veterans always feel this sense of separation from the society that they protect.

MARIA CAVALES: If you just take that little bit of time, you know, to just write a letter or, you know, get a care package or put little things in like, you know, a comic book for some of the guys or, you know, a magazine, that's more than enough. And it's very well appreciated.

KRISTEN ROUSE: A really important lesson that I learned in the military, is that you have to help people where you can. If you can do something for somebody, then do it. Whether that be, you know, serving the public in one way or another, military service, community service, political service, medical ser--, you know, whatever it is that you can do to help other people in this country and in other countries too.

ANDREW ROBERTS: There are many organizations out there that really work very hard, every single day, to support the troops in some capacity.

Sometimes just being a member of those organizations makes them more powerful. That's supporting the troops. That's actually doing something.

GENEVIEVE CHASE: The best thing people can do is be aware. Pick up the newspaper and read about what's going on.

ROMAN BACA: So many children are uneducated about the military, and I have kids walking up to me all the time and say "You're in the military? What's it like? What'd you do? Did you shoot somebody?" Parents need to get involved and educate their kids about a lot more.

ANDREW ROBERTS: I mean, I haven't even heard a call to service to join the military at all. So I think that that's an important first step to help galvanize the American population.

DON BUZNEY: I know when I came back from Vietnam, I was told that I could not be hired because I'd spent four years in the military. And my civilian counterparts had more civilian-type experience.

So, overcome that. Recognize the talent, the skills, the training that the men and women in uniform have and they bring back to. So, find a veteran. Give them a hug, and find them a job.

GENEVIEVE CHASE: I really encourage Americans who can to take a minute to write a letter to their congressman or to their senator, and say, "Can you please remember our vets?"

ANDREW ROBERTS: We just have to continue to remind our leaders that these are our veterans, and they've made tremendous, tremendous sacrifices for our nation. They ask for very little in return. But we owe it to them to make sure that we get them what they need when they come back.

DEBORAH AMOS: That's it for the JOURNAL. I'm Deborah Amos, I'll be back next week.

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