

RELATIONSHIP SCENARIO

Cindy is non-Indian. Rachel is a member of a federally recognized Tribe and lives on that Reservation. Rachel's Tribe does not recognize same-sex marriages. Because of that, Cindy and Rachel went off the Reservation and got married two years ago.

Cindy cheated on Rachel almost constantly since the marriage. Cindy recently met Sylvia, who is a member of a different Tribe than Rachel. Sylvia lives with a cousin on the same Reservation as Cindy and Rachel. Cindy and Sylvia have only gone out twice and have not yet been intimate, although they have kissed and touched each other. Last month, Cindy slapped Sylvia several times and pushed her to the ground.

Sylvia got a Protection Order from the local Tribal Court. Cindy was not to harass, physically assault, sexually assault, threaten, or contact Sylvia.

Last week, Jim had a party at his house on the Reservation. Cindy and Rachel came together. An hour later, Sylvia showed up. She had several drinks before she got to the party and immediately opened a beer and chugged it at the party. She then opened another beer but just sipped it.

Cindy saw Sylvia standing alone in the bedroom hallway. Cindy approached Sylvia. After they exchanged a few words, Cindy grabbed Sylvia and pulled her into a bedroom. Cindy locked the door and pushed Sylvia onto the bed. Cindy then raped Sylvia.

QUESTIONS:

1. Can you prosecute Cindy for the rape? For domestic violence? For violation of the protection order?

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2. Does Cindy have the necessary relationship to the Tribe to be prosecuted?
3. Does it matter that Sylvia is not Cindy's spouse?
4. Prior to the rape, did Cindy and Sylvia have a dating relationship?
5. Does the rape make them intimate partners?
6. Does it matter that the Tribe does not recognize same-sex marriages?