
SAFETY FOR INDIAN WOMEN FROM SEXUAL ASSAULT OFFENDERS DEMONSTRATION INITIATIVE

JULY 2009
~DRAFT~





Tribal Law and Policy Institute
Tribal Court Clearinghouse: www.tlpi.org

California Office:
8235 Santa Monica Boulevard, Suite 211
West Hollywood, CA 90046

Minnesota Office:
1619 Dayton Avenue, Suite 305
St. Paul, MN 55104

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A product of the Tribal Law and Policy Institute

8235 Santa Monica Boulevard, Suite 211
West Hollywood, CA 90046
(323) 650-5467

www.tlpi.org

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Primary Authors:

Bonnie Clairmont, *Ho-Chunk*, Victim Advocacy Program Specialist,
Tribal Law and Policy Institute
Jerry Gardner, *Cherokee*, Executive Director, Tribal Law and Policy Institute
Heather Valdez Singleton, Deputy Director, Tribal Law and Policy Institute

Contributors:

April Clairmont, *Ho-Chunk*, Consultant, Tribal Law and Policy Institute
Sarah Deer, *Mvskoke Creek*, Victim Advocacy Legal Specialist, Tribal Law and Policy Institute
Arlene Downwind-White, *Red Lake Band of Chippewa Indians*, Victim Advocacy Assistant,
Tribal Law and Policy Institute
Maureen White Eagle, *Métis*, Victim Advocacy Legal Specialist,
Tribal Law and Policy Institute
Dr. Eidell Wasserman, Consultant, Tribal Law and Policy Institute

Special Thanks:

Jacqueline Agtuca, *Cherokee*, Public Policy Director, Clan Star, Inc.
Jessica Allen, *Apache*, Assistant to the Director, Tribal Law and Policy Institute
Tillie BlackBear, *Rosebud Sioux Tribe*
Gloria Champion, Shiprock Home for Women and Children / Navajo Nation
Terrilena Dodson, *Navajo*, Program Assistant, Tribal Law and Policy Institute
Paula Julian, Office on Violence Against Women
Darlene Lussier, *Red Lake Nation*
Ruth Oja, *Hannahville Indian Community*
Lori Washington, *Red Lake Nation*
Valinda Zephier, *Rosebud Sioux Tribe*

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INTRODUCTION

Background

American Indian and Alaska Native women continue to suffer the highest rate of violent victimization in the nation.¹ The National Violence Against Women Survey indicates that 34.1% of American Indian women will be raped in their lifetime, the highest level reported by any race/ethnicity.

Indian women who are sexually assaulted in Indian country encounter numerous barriers in seeking safety, including jurisdiction, geography, transportation, economic resources, and language obstacles. Tribal governments also face numerous obstacles in holding offenders accountable, including jurisdiction limitations, limited resources, and geographical isolation.

In order to begin to address many of these barriers and challenges occurring in Indian Country, the Office on Violence Against Women, U.S. Department of Justice, sponsored an historic meeting of federal and tribal officials to address the federal response to sexual assault of women in Indian country. This meeting, took place at the Santa Ana Pueblo's Tamaya Hotel outside of Albuquerque, NM, from September 29 through October 1, 2003. The Office on Violence Against Women (OVW) invited representatives from four federal agencies which are tasked with responding to sexual assault in Indian country; the Bureau of Indian Affairs Law Enforcement Services (DOI); the United States Attorney's Office (DOJ); Federal Bureau of Investigation, Indian Country Unit (DOJ); and the Indian Health Services (HHS). Additionally, the Office of Tribal Justice (OTJ); tribal representatives, tribal law enforcement, tribal prosecution, tribal courts, and tribal victims services, and other national experts and academic and non-profit services representatives were in attendance.²

The impetus for the meeting was, in part, the continued findings of extremely high rates of sexual assault experienced by American Indian/Alaska Native women in national research and surveys, and the development of the national recommended sexual assault forensic examination protocol from the Attorney General. The corresponding lack of prosecution and conviction for sex crimes committed against Native women is a cause of concern for the DOJ in particular, due to the legal responsibilities of the FBI and the United States Attorney's Offices in investigating and prosecuting rape and sexual assault occurring in Indian Country.

¹ Callie Rennison, *Violent Victimization and Race, 1993-98* (NCJ 176354); Lawrence A. Greenfeld & Steven K. Smith, *American Indians and Crime* (NCJ 173386); Patricia Tjaden & Nancy Thoennes, *U.S. Dep't of Justice, Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women* (NCJ 181867) – see bibliography for full citations.

² Tribal Law and Policy Institute staff and consultants were in attendance at the federal/tribal work group.

The federal/tribal work group had several goals, including:

1. Formulate protocol recommendations for sexual assault forensic examinations of Indian women living within federal jurisdictions.
2. Develop a comprehensive understanding of the federal response to crimes of sexual assault against Indian women by federal departments with primary responsibility for handling sexual assault cases.
3. Compile and examine the current law, policies, protocols used by key federal agencies in responding to crimes of sexual assault committed against Indian women.
4. Formulate recommendations for the development of protocols for handling of sexual assault cases of Indian women by the federal agencies.
5. Enhance the federal response to crimes of sexual assault against Indian women by strengthening to federal-tribal partnership in providing justice services to Indian women that are sexually assaulted.

The meeting of the federal/tribal work group culminated in a series of group recommendations, including the creation of this Safety for Indian Women from Sexual Offenders Demonstration Initiative (Safety Project/Demonstration Sites).

Safety for Indian Women from Sexual Assault Offenders Demonstration Initiative

The United States Department of Justice's Safety for Indian Women from Sexual Assault Offenders Demonstration Initiative was an effort of OVW to enhance the response of tribal and federal agencies to sexual assault of Indian women. This initiative began in September 2005 (see OVW Press Release on following page) with OVW grant awards to four tribal demonstration grantee programs and a tribal technical assistance provider.

This initiative was designed to support demonstration sites that would build upon an existing coordinated community response (CCR) to sexual assault of Indian women by strengthening the capacity of tribal justice systems to immediately respond to sexual assault of Indian women, increasing advocacy and services to victims of sexual assault, and strengthening coordination between tribal and federal agencies responding to crimes of sexual assault of Indian women. Tribal justice initiatives that leverage the coercive power of the tribal and federal criminal justice systems and challenge tribal and federal agencies to expand the current response to crimes of sexual assault against Indian women was central to the development and implementation of the local demonstration initiatives. Several criteria went into the selection of the demonstration sites proposed to take part in this demonstration project. OVW wanted variation in populations to be served by the programs, so that development of best practices might be applicable to different tribal populations.

In addition, sufficient tribal infrastructure was desired so that programs would have the internal support they needed. And consideration was to be given to the sites with an existing Sexual Assault Nurse Examiner (SANE) or Sexual Assault Response Team (SART).

OVW selected the following four demonstration sites to receive designated funding:

- Hannahville Indian Community
- Navajo Nation
- Red Lake Tribe of Chippewa Indians
- Rosebud Sioux Tribe

Tribal Law and Policy Institute's Training and Technical Assistance to Demonstration Site Grantees

The Tribal Law and Policy Institute (TLPI) was selected as the training and technical assistance provider to demonstration sites (www.tlpi.org). TLPI, as a premier training and technical assistance provider, was well-suited to provide training and technical assistance to grantees because of demonstrated expertise in many areas including the following: 1) federal Indian law; 2) criminal justice responses to sexual assault of Indian women; and 3) tribal justice and customary responses to sexual assault of Indian women.

As a result of prior training and technical assistance work on sexual assault in Indian Country and the experience of TLPI staff and consultants who have worked on this issue for many years, TLPI identified – at the beginning of this demonstration project - some of the problems and challenges that tribal communities are experiencing when responding to sexual assault of Indian women, including but not limited to:

- Underreporting of sexual assaults;
- Inadequate training for officers on proper response and criminal investigation of sexual assault; inadequate training for nurses to perform exams and photographing injuries;
- Lack of resources identified by all disciplines;
- Transporting victims long distances for rape exams; nursing shortage, lack of proper equipment;
- No uniform sexual assault forensic kit and lack of uniform policies and procedures in place for forensic exams;
- Lack of timely referral of cases to federal law enforcement ;
- Lack of coordination particularly between law enforcement agencies;
- Declinations in cases involving intoxication;
- Challenges identified by health services providers to provide forensic exams due to inability to meet IAFN certification standards for Sexual Assault Nurse;
- Examiners inability of nurses to prescribe necessary drugs for emergency contraception and the prevention of sexually transmitted disease;

- Geographical challenges;
- Clarification of role of criminal investigator;
- Rate of declination of cases; often due to difficulty in proving force or coercion;
- Lack of communication on reasons for declination provided to tribal governments, victims, families; need for training;
- Concerns over lack of confidentiality;
- Lack of coordination and communication between all disciplines; and
- Misunderstanding and negative attitudes about sexual assault that are often inadvertently conveyed to the victim causes re-traumatization and lack of trust in the process.

Moreover, TLPI is vested in the importance of incorporating cultural traditions in the design and implementation of programs addressing violence against Indian women. As a training and technical assistance provider, it was apparent that all four of the selected demonstration sites utilize cultural traditions in their response to sexual assault and how this can facilitate safety, justice and healing for victims and communities. In tribes such as the Navajo Nation, there is a clan system and often victims will utilize clan elders and traditional responses to their victimization. TLPI's staff and consultants are uniquely qualified to work with tribal Nations in facilitating dialogue and helping grantees incorporate the use of cultural traditions in developing culturally appropriate responses to sexual assault.

It was within this background that TLPI designed their targeted training and technical assistance services to project demonstration sites who were developing coordinated community responses to sexual assault of Indian women and as well as assistance to grantees in the development of policies and procedures vital to the safety of Native women. Training and technical assistance was designed to strengthen the capacity of tribal justice systems to immediately respond to sexual assault of Indian women, increasing advocacy and services to victims of sexual assault, and strengthening coordination between tribal and federal agencies responding to crimes of sexual assault of Indian women. The overarching goal of this project was to assist tribal justice initiatives to expand the current response to crimes of sexual assault against Indian women. Additionally, the training and technical assistance provided by TLPI was designed to meet the culturally specific needs of each site in terms of their jurisdictional issues, self-identified problems unique to their community in implementing a CCR; problems within their tribal infrastructure to support this type of project and by incorporating best practice when responding to the needs of Indian women who've been sexually assaulted to include the National Protocol for Sexual Assault Medical Forensic Examinations.

The training and technical assistance provided by the TLPI was designed to meet the unique needs of each demonstration site grantee including:

1. On site meetings bringing together multi-disciplinary service providers from all four demonstration sites for three day training workshops on topics self-identified by the grantees with topics including but not limited to Sexual Assault Advocacy Training, Tribal Law Enforcement Training, Adam Walsh Act Compliance;

2. Individual technical assistance via telephone, email;
3. Conference calls with staff from all four demonstration sites to provide periodic updates and trouble-shooting;
4. Co-training with staff from demonstration sites to discuss the development of their tribal Sexual Assault Response Team and Sexual Assault Protocols for other national trainings being held;
5. Pilot testing of Sexual Assault Resources developed by the Tribal Law and Policy Institute.

Evaluation of the Safety Demonstration Initiative

Evaluation was a key component to the Safety Demonstration Initiative. Each Safety demonstration site was required to participate in a rigorous evaluation of project activities prior to completion of the grant, so that they might use the evaluation findings to address any problems that exist.

The purpose the evaluation was to collect information from the project partners to assess how each partner agency views the project and their role within the project. The hope was that this information would assist in identifying what is working well and areas for improvement, with the idea that all of the grantees would have sufficient time to make any necessary adjustments to the implementation of their projects.

Dr. Eidell Wasserman was chosen as the Safety Project Evaluator. Dr. Wasserman attended three of the four grantee meetings (she was brought onto the project after the conclusion of the first grantee meeting at Navajo). In addition, she performed on-site visits with each project site to interview a variety of project partners that were identified by each Safety Project Director. The key points that were addressed in the interviews included:

1. What is your understanding of the SAFETY program in your community? What is your understanding of the resources to be developed and/or trainings to be provided under the SAFETY grant?
2. How were sexual assault cases handled in your community before the SAFETY program started?
3. What changes have been implemented since the SAFETY program has been implemented? (Including changes for both victims and service providers)
4. What are the challenges, gaps in services, and/or obstacles that have been identified as a result of the implementation of the SAFETY program?
5. Has there been an improvement as a result of the implementation of the SAFETY program? If so, what improvements. If not, why not?
6. Where do you see your community going from here to continuing to improve the response to sexual assault victims?

The evaluator's findings are included in this report under the section headings "Major Accomplishments" and "Major Challenges." In addition, Dr. Wasserman identified several overall issues that are detailed in the conclusion section.

In this Report

This report contains community background on each of the programs, their grant goals and objectives, major accomplishments made during the grant, and the major challenges they faced in implementing their program. Some of the program information was taken directly from grantee proposals. The accomplishments and challenges sections are summarized from Dr. Wasserman's evaluation report.

The purpose of this report is to document background on the Safety project; project goals and objectives; individual program challenges and accomplishments; technical assistance efforts; and project evaluation. Moreover, the purpose of this report is to identify promising practices that were demonstrated by this Safety for Indian Women from Sexual Assault Offenders Demonstration Initiative so that others can learn from the experiences of these demonstration sites.

Press Release Announcing the Safety for Indian Women from Sexual Assault Offenders Demonstration Initiative

Justice Department Announces Safety for Indian Women from Sexual Assault Offenders, Demonstration Initiative Sites

9/21/2005 7:18:00 PM

To: National Desk

Contact: U.S. Department of Justice, 202-514-2008 or 202-514-1888 (TDD)

WASHINGTON, Sept. 21 /U.S. Newswire/ -- The Justice Department announced today that it is awarding over \$900,000 to four tribes chosen under the Safety for Indian Women from Sexual Assault Offenders Demonstration Initiative. This initiative is the latest effort by the Department's Office on Violence Against Women to enhance the response of tribal and federal agencies to the high rates of sexual assault against Indian women.

A federal tribal working group comprised of representatives from the Attorney General's Native American Issues Subcommittee; several U.S. Attorney's Offices; FBI; the Bureau of Indian Affairs; Indian Health Service; and tribal representatives assisted the Office in developing this initiative. The sites selected are the following: Hannahville Indian Community (Wilson, Mich.); Navajo Nation (Window Rock, Ariz.); Red Lake Band of Chippewa Indians (Red Lake, Minn.); and Rosebud Sioux Tribe (Rosebud, S.D.).

The four demonstration sites will build upon an existing coordinated community response to sexual assault of Indian women by strengthening the capacity of tribal justice systems to immediately respond to sexual assault of Indian women, increasing advocacy and services to sexual assault victims, and strengthening coordination between tribal and federal agencies responding to sexual assault of Indian women. **The Tribal Law and Policy Institute** will provide technical assistance to the four sites, including the training of personnel handling sexual assault crimes and the development of policies and educational materials specific to each tribe's language, values, customs, and traditions. The Justice Department's Office on Violence Against Women will administer this 12-month Initiative.

According to a December 2004 study by the Bureau of Justice Statistics, American Indians are twice as likely to experience sexual assault crimes compared to all other races. In 2000, the National Institute of Justice published a report on the findings of the National Violence Against Women Survey, which revealed that one in three Indian women reported having been raped during her lifetime.

"Native American women continue to be victimized by extremely high rates of sexual assault. Through a coordinated community response to these horrific crimes, sexual violence victims will receive the services they need based upon their individual circumstances," said Diane M. Stuart, director of the Office on Violence Against Women.¹

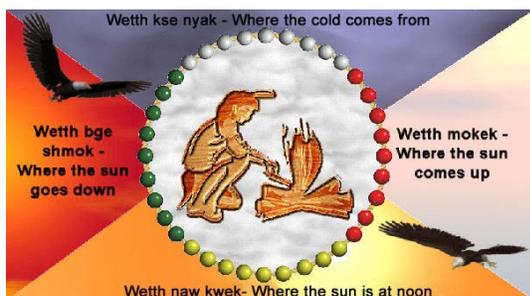
More information about initiatives involving the Office on Violence Against Women is available at <http://www.ojp.usdoj.gov/vawo>.

<http://www.usnewswire.com/>

1. See Appendix Attachment A for Introductory Meeting - Announcement of the Demonstration Initiative by the Honorable Diane Stuart.

Notes

HANNAHVILLE INDIAN COMMUNITY



Community Background

The Hannahville Indian Community is a federally recognized Potawatomi Indian tribe residing in Michigan's Upper Peninsula, approximately 15 miles west of Escanaba. The reservation lies mostly in eastern Menominee County, but a small section is located in adjacent southwestern Delta County.

The people of Hannahville are descendants of those who refused to leave Michigan in 1834 during the great Indian removal. They lived with the Menominee in Northern Wisconsin, and the Ojibwe and Ottawa people in Canada. In 1853, some returned to Michigan. It was at this time they settled along the Big Cedar River, on Lake Michigan.

Methodist Church records report that Peter Marksman was sent to the area as an assistant. During this time, he was credited with finding a parcel of land and moving the Potawatomi people to the current location. Some church records also report the Potawatomi people were very fond of Marksman's wife, Hannah, and named their community after her.

Hannahville Indian Community has an enrolled membership of 755 people with approximately 100 additional members living nearby and accessing services on the Reservation. The 12-member Tribal Council is an elected body that has been empowered by the community, through the election process, to act on behalf of the tribal members. Throughout the past ten years, the Tribe has been committed to developing environmental protection programs to ensure a healthy and safe environment for current and future generations.

They have an estimated reservation population of 548 with an estimated 100 people living in the counties that border the reservation. For purposes of this demonstration initiative they identified 177 Indian women, aged 16 and above, who were at risk of sexual assault on the reservation, excluding any number of Indian women who may be on reservation property for a multitude of reasons at any given time. As one of the federally recognized tribes in Michigan, their territorial boundaries are located within the federal jurisdiction of the Office of United States Attorney, Western District of Michigan.

*We' We' Netth e ge'
Potawatomi translation
for "To Do Right"*

*"To best begin the process of building safety for Indian women assaulted on the Hannahville reservation, it is important to develop the protocols, policies and practices that promote coordination between our tribal responders and the federal responders."
- From Hannahville Grant Narrative*

Project Overview



We' We' Netth e ge' (Potawatomi translation for "To Do Right") the Victims Assistance Program, acted as the lead agency for this initiative under the leadership of the Tribal Victim Advocate, Ruth Oja and We' We' Netth e ge' staff working closely with their existing Indian Women's Advisory Committee, the STOP Violence Against Indian Women Grantee Team, tribal leadership and members of a federally created team as designated by the then United States Attorney, Margaret Chiara. The Hannahville Indian Community's leaders were in strong support of this initiative, as evidenced by a Tribal Resolution (see Appendix). As another indication of the support of tribal leadership, on December 2, 2002, the Hannahville Indian Community Tribal Council adopted the first comprehensive Criminal Sexual Conduct Code in a vote of 11 for, 0 against, 0 abstaining. This action was taken because of the number of sexual assault cases that were not being prosecuted on the federal level.



The Hannahville Indian Community indicated that they had already done extensive work in improving response to sexual assaults to Indian women in their community. This response involved the Hannahville Tribal Police Department; the tribal prosecutor; the STOP Violence Program office; the U.S. Attorney's office under the leadership of Margaret Chiara and the Special Prosecutor for Violent Crime in Indian Country, Ms. Leslie Hagen, the Federal Bureau of Investigation, the Victim Witness office of the U.S. Attorney's office and the tribally based advocacy program We' We' Netth e ge'. In general, the Hannahville Indian Community grant application indicated that the funding would enable them to enhance current work they were doing to improve response to sexual assault in their community.

Grant Goals and Objectives

- Development of a Sexual Assault Response Team.
 - The demonstration project planned to work in close collaboration with the Women's Advisory Committee as the nongovernmental group that promotes safety for victims of sexual assault. Under the guidance and on the advice of the Advisory Committee they planned to develop a volunteer Sexual Assault Response Team (SART).
- Development of Sexual Assault protocols.
 - The Hannahville Indian Community also planned to develop sexual assault protocols and policies as part of their grant goals and objectives. They identified protocols as the best way to ensure a consistent and expeditious response. They indicated that protocols provide the roadmap to both safety of Indian women and accountability to the victim that responders will ensure that their right to be informed is a cornerstone of the response. They believed that the protocol will enable them to enhance the project activities they were already working on and create activity areas that they had not yet implemented.
- Training for SART and all responders.



Major Accomplishments

As Cited in Evaluation Conducted by Dr. Eidell Wasserman

- Development of the Sexual Assault Response Team has resulted in improved communication between tribal agencies.
- A change in how the community views sexual assault, holding the perpetrator accountable rather than blaming the victim.
- An increase in a victim-centered approach to services.
- Role clarification that has resulted from work on the protocol (See revised sexual assault protocol in Appendix) has led to improved services for victims.
- Increased communication between agencies (and between tribal and federal partners) has resulted in better services because the players involved all know each other.
- Completion of the sexual assault protocol and implementation and “institutionalizing” the process for responding to sexual assault victims is very important so that the response to these victims is consistent, not person-dependent.

Major Challenges

The biggest problem by far (from a tribal perspective) was the lack of federal involvement in the protocol development process. Almost all service providers cited recent changes in the U.S. Attorney's Office (specifically, the appointment of a new U.S. Attorney and the detailing of Leslie Hagen to Washington, D.C.) as a major challenge.



One gap identified was that medical examinations were not available through the tribal health clinic. Options for such exams are somewhat limited due to limited resources. If women do not want to use the local hospital, they must travel to another facility. The Hannahville Indian Community Safety project originally intended to work to get a SANE trained within their community. However, further examination revealed that the certification requirements precluded a local healthcare provider from being able to maintain SANE certification due to the low numbers of sexual assault victims in the community.

There is no representation from the tribal health clinic on the program team nor is there representation from the community hospitals where sexual assault exams are currently performed. At some future point it may be helpful to include the medical component in the protocol.

Another gap identified was little involvement of the ancillary agencies in the actual development of the protocol. Such agencies include the medical providers, substance abuse treatment personnel, mental health providers, etc. The Hannahville Indian Community protocol has a prosecution-based focus, so these programs have not been involved in the protocol development. While the main players dealing with sexual assault are working on the protocol, the team may want to bring in the other providers.

Hannahville Participant List



Carol Berquist, PhD.
Director of the Visions Program
906-466-2959 ext. 15

Dawn S. Duncan
Tribal Attorney
906-466-2932 ext. 102

Audrey Gamez
Court Administrator/Tribal Magistrate
906-466-7363

Robin R. Halfday
Chief of Police
906-466-2911 or 7441

Rob LeMire
Tribal Prosecutor
906-466-7363 ext. 104

Elaine Meshigaud
Tribal Vice Chair, Project Director
906-466-2932 ext. 119

Ruth Oja
Victim Advocate/ STOP Program Supervisor
906-466-2342 ext. 115

Kim J. Pepin
Lieutenant 2- Hannahville Police Department
906-466-2911 or 7441

Nora Van Enkevort
STOP Violence Coordinator
906-466-2342 ext. 145

Henry Williams
Tribal Court Probation
906-466-7363

Leslie Hagen
SMART Office
United States Department of Justice
Bicentennial Building
600 E Street, N.W.
Room 7600
Washington, D.C. 20530
202-616-6459

Janet Strahan
Victim-Witness Coordinator
United States Attorney's Office
Western District of Michigan
P.O. Box 208
Grand Rapids, MI 49501
616-456-2504

Jay Johnston
FBI- Marquette Office
NO CONTACT info available

Margaret M. Chiara NO LONGER AVAILABLE
United States Attorney
Western District Attorney
Western District of Michigan
P.O. Box 208
Grand Rapids, MI 49501

Notes

NAVAJO NATION



Community Background

In 1923, a tribal government was established and reorganized in 1991 to form a three-branch system (executive, legislative and judicial) into the largest and most sophisticated form of American Indian government since its inception. The Navajo Nation Council Chambers hosts 88 council delegates representing 110 Navajo Nation chapters. While the Council is in session, delegates carry on the tradition of speaking in Navajo, providing a perfect example of how the Navajo Nation retains its valuable cultural heritage while forging ahead with modern progress.¹

Prior to the arrival of the Spanish (1598) and the Anglos (1846), Navajos governed themselves and resolved disputes in their own way. They lived in family groups and clans, and resolved disputes by "talking things out." The judges were the hozhoji' Naat'aah, or peace chiefs. They were leaders, chosen by community consensus, because of their wisdom, spirituality, exemplary conduct, speaking ability, and skill in planning for community survival and prosperity. They mediated disputes by encouraging people to fully talk out their problems, in order to reach agreed settlements and restore harmony in the community. Unlike European law, traditional Navajo law was not based on power but based on relationships, respect, and mutual need.²

The Navajo Nation operates a two-level court system: the trial courts and the Navajo Nation Supreme Court. Cases begin in the trial courts. Appeals of trial court decisions and quasi-judicial administrative bodies' decisions go to the Navajo Nation Supreme Court, which sits in Window Rock. The Navajo Nation courts handle over 75,000 cases per year.

The Navajo Nation courts presently consist of ten judicial districts based on the use of Chapter boundaries. There is a District and Family Court in each judicial district. The judicial districts further support community-based peacemaking services.

¹ <http://www.navajo.org/history.htm>

² <http://www.navajocourts.org>

In 1988, judicial districts in the Navajo Nation had numbered seven -- Chinle, Crownpoint, Kayenta, Ramah, Shiprock, Tuba City, and Window Rock. The satellite courts of Alamo and To'hajiilee, that had earlier been included in the Ramah Judicial District, became the distinct Alamo/Tó'hajiilee Judicial District effective April 4, 2006. The Dilkon Judicial District was also added at that time. The tenth judicial district, Aneth, was created by the Judiciary Committee on August 10, 2007, serving the northern portion of the Navajo Nation.

The Navajo Nation judiciary has 3 appellate judges who sit on the Supreme Court. One appellate judge is the Chief Justice and two are Associate Justices. Seventeen trial judges preside in the district and family courts, assisted by four Judicial Hearing Officers. There are 214 personnel to support the work of the justices, judges, and judicial hearing officers. In the judicial districts, the judges administer the courts through the court administrator. The Chief Justice supervises the judges and judicial hearing officers and heads the Judicial Branch. The Chief Justice directs the preparation of the budget, sets and implements policies, and oversees Judicial Branch operations.

The Navajo Nation is the largest federally recognized tribe in the United States. The Nation extends into Arizona, New Mexico and Utah and covers over 27,000 square miles, including all or parts of 13 counties in those states. 255,543 are enrolled tribal members, 180,000 reside on the Navajo Nation, and 80,000 live in surrounding border towns. As a federally recognized tribe in New Mexico, their territorial boundaries are located within the federal jurisdiction of the Office of United States Attorney in four different states.

Project Overview

The original proposal for a sexual assault project in the Shiprock community of the Navajo Nation was prepared by the Home for Women and Children (HFWC) in conjunction with the Sexual Assault Nurse Examiner (SANE) program at the Northern Navajo Medical Center in Shiprock, New Mexico. This collaboration would strengthen the region's capacity to immediately respond to sexual assault of Indian women. They stated that intervention would increase advocacy and services to such victims, and strengthen the coordination between tribal and federal agencies in responding to sexual assault crimes involving Indian women in the vicinity of the Four Corners Region of the Navajo Nation.

Grant Goals and Objectives

The Nation will look to provide immediate relief for victims of sexual assault and their families with the collaboration of providers on the Navajo Nation.

- Provide an advocacy program that promotes safety for victims of sexual assault which will provide immediate outreach and services to victims of sexual assault after the crime is committed, assist with accessing healthcare services and assist in working with tribal justice agencies.
- Develop a multi-disciplinary team to include advocates, law enforcement, prosecutors, Judges, Probation and Parole Officers, Chapter Officials, tribal social services, legal services (DNA), schools, and traditional medicine healers. One role of the multi-disciplinary team will be (in conjunction with Home For Women and Children) to create policies and procedures that will enhance tribal response to sexual assault of Indian women.
- Presentation of trainings on sexual assault issues utilizing outside and community experts.

Major Accomplishments

The Ajooba Sexual Assault Services has provided advocacy, resources and referrals to assist the survivor of these crimes. Services are provided through the Sexual Assault Victim Advocate Coordinator and Sexual Assault Project Educator along with two full time Sexual Assault Victim Advocates. The Victim Advocates and Volunteer Victim Advocates take turns with the 24-hour on call rotations. Advocates are available for crisis interventions which include accompanying survivors to SANE exams, scheduling SANE exams, meeting with the client at the hospital/ER, providing assistance in completing and filing of legal documents, providing emotional support to the survivor, assisting with transportation issues, providing support to survivors and law enforcement in crisis situations and assisting survivors in obtaining information regarding court dates, hearings, etc. The on-call advocate responds within 10 minutes to a hotline call when notified that a sexual assault has occurred and within 30 minutes to a sexual assault when an examination is required. In an attempt to lessen the trauma of victimization, the advocate provides advocacy and support services.

During the first year, from November 2007 to December 2008, the Ajooba Sexual Assault Services had 38 clients from across the Navajo Reservation and Jicarilla Reservations. Clients ranged in age from 2 years old to 65 years of age. The Ajooba Program has been working collaboratively with Northern Navajo Medical Center and the Sexual Assault of North West of New Mexico.

They had difficulties working with Law Enforcement within their own Nation, but they are working out the issues with the Navajo Nation.

A Multidisciplinary Team (MDT) was also developed. This team included the Project Coordinator and at least one of the Victim Advocates, the Tribal Prosecutor, the federal Victim/Witness Coordinator, the FBI Victim Witness Specialist, tribal Criminal Investigator, and Domestic Violence Victim Witness Advocate (Navajo Nation Social Services).

Major Challenges

In the course of the project, IHS de-funded the SANE program. This situation left the HFWC as the sole entity to provide on-reservation services to sexual assault victims. There was a temporary suspension of grant activities that resulted in some challenges for the HWFC while project activities continued there was some delays in accomplishing some of the goals and objectives.

A barrier in the Navajo Nation's dealings with jurisdiction has been identified as the State of New Mexico, Colorado, Utah and Arizona. When temporary restraining orders are issued within the Navajo Nation, the State courts request that the tribal court order be domesticated, and will not respond to the victims call for help. The issue comes back to the Navajo Courts, stating the order has to be domesticated if the order comes from a State Court. The Navajo Nation law enforcement will not respond to cases if it is not domesticated.

Other issues are the service of temporary restraining orders to be served to respondents, lack of process servers, and victims unable to pay fees for process servers. Another issue is the victims need of transportation to the nearest SANE unit for an exam because most clients come from the rural area of the reservation.

Navajo Nation Participant List



Dinah A. Begay

Children & Family Services- Shiprock Region
Administrative Assistant

John H. Billison

Program Supervisor II/Victim Assistance Program
Navajo Nation Division of Public Safety

Norman B. Brown

Writer, Director, Producer
Navajo World Productions

Gloria Champion

Shiprock Home for Women & Children

Deborah Charles

Shiprock Home for Women & Children
Child Victim Advocate

Penny Emerson

Medical Transport
President

Jefferson Joe

Criminal Investigator
Navajo Department of Criminal Investigations

Daryl Junes

Navajo Nation Prosecutor's Office

Lucinda Morris, MSW

Ft. Defiance Regional Office
Department of Social Services

Elarina Nakai

Community Involvement Specialist
Family Violence-Shiprock Division of Social Services

Priscilla Otero

Shiprock Home for Women & Children
Financial Officer

Louis St. Germaine

Criminal Investigator

Roger Shirley

Chief Prosecutor

Vikki Shirley

First Lady of the Navajo Nation
MADD Navajo Nation Chapter

Arlene Shorty

Executive Staff Assistant
MADD Navajo Nation Chapter

GloJean B. Todacheene

Navajo Nation Shiprock Chapter
Shiprock Chapter Vice President

Edna Scott Williams

Navajo Nation Division of Social Services
Child Care Development Fund Program

Notes

RED LAKE NATION



Community Background

The Red Lake Indian Reservation is located in the northwest region of Minnesota. It is a “closed” reservation, meaning all of its land is owned in concert by all enrolled tribal members and cannot be sold outside the tribe.

The reservation’s elected government, the Red Lake Tribal Council, is the sole governing authority on the reservation. The Council is made up of two representatives from each of the four reservation districts - or communities, plus a treasurer, a secretary, and a tribal chair. Red Lake Reservation has its own police force, court system, social service agency, hospital, and fire department. Because Red Lake is a federal-jurisdiction reservation, the FBI and the U.S. Attorney’s Office maintain a primary law-enforcement presence there.

The reservation land mass is 1,259 square miles and encompasses forests, lakes, and scenic countryside. Two vast, connected, fresh-water lakes, known collectively as Red Lake, are central to life on the reservation, providing food, livelihood, and great spiritual meaning. Along the southern shore of the lower lake are the reservation communities of Little Rock, Red Lake, and Redby. North, on the peninsula between the two lakes, lies the reservation community of Ponemah.

The people of the Red Lake Reservation are Ojibwe Indian. Reservation residents maintain their traditional language, religion, customs, and traditions, while, at the same time, functioning in modern America. The population of the Red Lake Reservation stands at approximately 6,000. Sixty percent of reservation households earn less than \$12,000 a year. According to the Red Lake Tribal Police Department, reports of domestic violence or sexual abuse totaled 262 in calendar year 2004.

Red Lake consistently resisted all attempts at allotment of their land, whenever they were able to do so, using formal rejections and informal methods such as running off surveyors, social workers, lawyers, missionaries. Other Minnesota Ojibwe tribal bands failed to do this and as a result, although boundaries are drawn around their reservations, their lands are very heavily checker boarded by non-Indian ownership. Red Lake was the only Minnesota tribe to successfully reject Public Law 280.

As one of the federally recognized tribes in Minnesota, their territorial boundaries are located within the federal jurisdiction of the Office of United States Attorney, District of Minnesota.

Project Overview

The Red Lake Band of Chippewa Indians has established a basic community response to reports of sexual assault and domestic violence. Equay Wiigamig, the highly-regarded reservation shelter and women's advocacy center, is called in to assist abuse victims with social-service and advocacy needs only at the request of the victim or hospital employees. The Equay Wiigamig Shelter, located on the Red Lake Reservation, is a licensed twelve bed women's shelter. Planning for the center began in 1995 with a community-based needs assessment that included input from all four reservation communities. In 1997, funding was awarded by the Minnesota Coalition for Crime Victim Services to provide shelter and support services to battered women and their children from the reservation and the surrounding area. Since then, the shelter has provided crisis intervention, child care, legal advocacy, social-service assistance, educational services, and transportation, in addition to temporary shelter. The shelter has trained all of their staff on providing services to victims of sexual assault and has laid the necessary groundwork that has prepared them to obtain funding in order to develop enhancements to the work they have already done. Grant funds garnered through the application were be used to enhance the tribe's response to sexual assault and domestic violence primarily through three reservation-affiliated entities: The Red Lake Tribal Police Department, the Equay Wiigamig Shelter and Advocacy Center, and the Family Advocacy Center of Northern Minnesota.

"The SAFETY grant gives us the opportunity to bring department heads to the table to improve services for victims."

Grant Goals and Objectives

- Red Lake Tribal Police Department would assign one of its current officers to work solely in the areas of sexual-assault and domestic-violence response and as the “resident expert” was required to attend specialized training on investigation and would be responsible for ensuring that training would be made available to two other Red Lake tribal police officers who would assist with sexual assault cases. This position is responsible for establishing and maintaining a monitoring system for sexual assault and domestic violence calls, investigations and cases.
- Develop a more comprehensive and immediate multi-disciplinary, response to reports of sexual assault and domestic violence.
- Hire one more full-time sexual-assault advocate. The advocate’s primary function is to provide assistance to abuse victims. Additionally, that advocate is charged with expanding the shelter’s educational programming. Specifically, the advocate is responsible for developing and conducting victim educational classes. The focus of the course are the issues surrounding sexual assault and domestic violence.
- Hire a part-time program manager. That person would work with other partners in this project as well as with representatives of the FBI, the U.S. Attorney’s Office, the tribal court, the tribal council, the Red Lake school district, Red Lake Indian Health Services, and the four district communities that make up the reservation, to develop a more effective community-wide response to sexual assault and domestic violence. The program manager would work with tribal police to establish a policy directing that police notify the shelter immediately upon receiving an abuse call, will work with the Family Advocacy Center of Northern Minnesota to establish a plan for transporting abuse victims to the Center for medical-based exams and assessments and will work with tribal police and the Family Advocacy Center to establish a policy and procedures for developing victim “action plans.”
- Contract with a expert in the field of domestic-violence and sexual-assault response and victim assistance, requesting that expert to develop a comprehensive training packet for use with current and future shelter staff and volunteers.



- Pay for one part-time doctor position and one part-time nurse position at the Family Advocacy Center, where sexual assault forensic examinations are performed.
- Pay for a part-time position for a doctor/administrator who would develop and maintain medical and administrative protocols for the Center. The doctor/administrator would also work with the other partners in this grant application as well as with representatives of the FBI, the U.S. Attorney's Office, the tribal court, the tribal council, the Red Lake school district, Red Lake Indian Health Services, and the four district communities that make up the reservation, to develop a more effective coordinated response to sexual assault and domestic violence. This person would work with the Equay Wiigamig Shelter's program manager to develop a transportation program, through which representatives of the shelter would transport and accompany abuse victims to the Family Advocacy Center of Northern Minnesota for timely examination and would work with the shelter's program manager and tribal police to establish a policy and procedures for the development of abuse-victim "action plans" and would be responsible for setting up training for all doctors and nurses rotating through the program. Training would focus on medical exams, forensic interviews, and mental-health assessments in family violence cases.



Major Accomplishments



- Improvement in the services provided to sexual assault victims.
- Improvement in working relationships between agencies.
- Improved accessibility to the Family Advocacy Center of Northern Minnesota (FACNM) in Bemidji (30 minutes away) versus the need to travel to the Minneapolis area (six hours away) has increased the number of victims willing to obtain forensic/medical examinations. Availability of trained Sexual Assault Nurse Examiners at the Family Advocacy Center an added benefit to increased reporting.
- Increased emphasis on local responsibility for dealing with sexual assault cases. Local law enforcement is strongly committed to aggressively investigating these cases. The tribal court appears committed as well to prosecuting these cases. There is increased community awareness of sexual assault as a serious crime and increasing willingness for victims to seek services.

Major Challenges

- Existing need to have the availability of Sexual Assault Nurse Examiners at the Red Lake Hospital on the reservation.
- Need to ensure victim/patient confidentiality and change existing requirement that any and all sexual assaults are considered mandatory reporting cases that discourage victims from seeking help as they may not want their assault reported.
- Need additional law enforcement officers to receive specialized training in handling sexual assault cases. The one criminal investigator who is dedicated to handling these cases may be overloaded with work.
- Personnel turnover in key positions has had a major impact on the development of the sexual assault protocol and also resulted in the lack of on-going multi-agency meetings.
- Ensure confidentiality and provide adequate protection to victims. Sexual assault victims do not have a private waiting area in either the tribal court or Red Lake hospital. There is little confidentiality or protection for victims in either of these locations.

Red Lake Nation Participant List

Amber Ahola

Chief Judge
Red Lake Nation Courts
P.O. Box 572
Red Lake, MN 56671
Phone: 218-679-3303

Jody Beaulieu

Tribal Secretary
Red Lake Tribal Council
Red Lake, MN 56671
Phone: 218-679-3341
Fax: 218-679-3378

Irma Beaulieu

Women's Advocate
Equay Wiigamig Shelter
P.O. Box 909
Red Lake, MN 56671
Phone: 218-679-3443
Fax: 218-679-3449

Floyd "Buck" Jourdain

Tribal Chairman
Red Lake Tribal Council
Red Lake, MN 56671
Phone: 218-679-3341
Fax: 218-679-3378

Pat Graves

Interim Director
Department of Public Safety

Darlene Lussier

Director
Equay Wiigamig Shelter
P.O. Box 909
Red Lake, MN 56671
Phone: 218-679-3443
Fax: 218-679-3449
Email: darlenel@paulbunyan.net

Hector Martinez

Prosecutor
Red Lake Nation Tribal Court
Red Lake, MN 56671
Phone: 218-679-3361
Fax: 218-679-3053
Email: redlakeprosecutor@msn.com

Karen Neadeau

Wellstone Advocate
Equay Wiigamig Shelter
P.O. Box 909
Red Lake, MN 56671
Phone: 218-679-3443
Fax: 218-679-3449

Linda Omen

Women's Advocate
Equay Wiigamig Shelter
P.O. Box 909
Red Lake, MN 56671
Phone: 218-679-3443
Fax: 218-679-3449

Michelle Pacquin-Johnson

Legal Department

Lea Perkins

Executive Administrator
Red Lake Tribal Council
Red Lake, MN 56671
Phone: 218-679-3341
Fax: 218-679-3378
Email: lperkins@redlakenation.org

Leonard Red Cloud

Criminal Investigator
Red Lake Law Enforcement
Red Lake, MN 56671
Phone: 218-679-3313

Renae M. Stately

Administrative Assistant
Equay Wiigamig Shelter
PO Box 909
Red Lake, MN 56671
Phone: 218-679-3443
Fax: 218-679-3449
Email: renaems@hotmail.com

Lori Washington

Whispering Wind Advocate
Equay Wiigamig Shelter
PO Box 909
Red Lake, MN 56671
Phone: 218-679-3443
Fax: 218-679-3449



Notes

ROSEBUD SIOUX TRIBE



Community Background

In the 1880's, the Tribes of the Great Sioux Nation signed treaties with the United States establishing the boundaries of the Tribes and recognized their rights as a sovereign government. The Sioux Tribes consist of the Seven Original Council Fires, one of which is known as the Lakota. The Sicangu (Rosebud) people are from that Council Fire. The Rosebud Sioux Tribal lands were originally reduced to a reservation by the U.S. Congress in the Act of March 2, 1889 which identified all the Lakota/Dakota /Nakota reservations in what is known as the Great Sioux Settlement. The boundaries were further reduced by subsequent Homestead Acts. The Sicangu people were moved five times before the Rosebud agency was finally established. Previous agencies were located on the Whetstone Agency near the Missouri River, White River Agency along the Big White River, Spotted Tail Agency at Rosebud Creek, and the Ponca Agency located near the west bank.¹

The Rosebud Sioux Reservation is located in south central South Dakota and borders the Pine Ridge Reservation on its northwest corner and the State of Nebraska border to the south. The reservation is located in Todd County, however, the Rosebud Service Unit includes Gregory, Mellette, Todd, Lyman and Tripp Counties in South Dakota. The Reservation has a total area of 922,759 acres (1,442 sq. mi.) whereas the Unit covers some 5,961 sq. mi. The Tribal headquarters is located in Rosebud, SD. There are twenty communities within the Reservation including Ideal, Winner, Butte Creek, Okreek, Antelope, Ring Thunder, Soldier Creek, St. Francis (Owl Bonnet), Spring Creek, Two Strike, Grass Mountain, Upper Cut Meat, Swift Bear, Parmelee,, Rosebud, Black Pipe, He Dog, Corn Creek, Horse Creek, Bull Creek, and Milks Camp.

As of February 24, 2003 there were 24,426 living enrolled tribal members, of which 20,762 tribal members reside on the Rosebud Sioux Indian. There are 3,664 tribal members residing off the reservation. The Tribal government maintains jurisdiction within the boundaries of the reservation including all rights-of-way, waterways, watercourses and streams running through any part of the reservation and to such others lands as may hereafter be added to the reservation under the laws of the United States.

¹ <http://www.rosebudsiouxtribe-nsn.gov/about/demographics.html>

The Tribal government operates under a constitution consistent with the Indian Reorganization Act of 1934 and approved by the Tribal membership and Tribal Council of the Rosebud Sioux Tribe. Harold Ickes, the Secretary of the Interior of the United States approved the constitution and the by-laws on December 20, 1935. The Tribal Council consists of a President, Vice-President, Secretary, Treasurer, a Sergeant-At-Arms, and twenty additional Council members that are elected by the Tribal members. As one of the federally recognized tribes in South Dakota, their territorial boundaries are located within the federal jurisdiction of the Office of United States Attorney, District of South Dakota.

Project Overview

In 2002, the Rosebud Indian Health Service received a grant from the Family Violence Prevention Fund. The White Buffalo Calf Woman Society, Inc. played a key role in developing and implementing the grant. Rosebud Indian Health Service (IHS) and White Buffalo Calf Women Society, Inc. worked successfully to create formalized services for victims of domestic violence and to develop hospital policy and procedures for both screening, treatment and services to victims of domestic violence and IHS employees. Through this grant came the realization of the need to address and assist victims of sexual assault who are seen in the hospital. In 2004, development began on creating a Sexual Assault Response Team (SART). The SART team consists of a multidisciplinary team designed to facilitate effective, sensitive and efficient care for adult victims of sexual assault. The SART includes representation from the Rosebud Sioux Law Enforcement Services, the FBI, the U.S. Attorneys Office, the White Buffalo Calf Woman Society and IHS physicians, nurses, midwives and mental health workers. Implementation of the SART began in January of 2005. The Rosebud Sioux Tribe had already done preliminary work that could be enhanced with funding from this Initiative.

Grant Goals and Objectives

- Creating the position of a Criminal Investigator (CI) dedicated solely to working sexual assault crimes.
- Enhanced collaboration and coordination between Tribal Prosecution, Tribal Court, Law Enforcement and the FBI in order to provide an enhanced law enforcement response to sexual assault cases.
- Establishing a victim witness coordinator position to create a link between the law enforcement and tribal and federal judicial systems. This position would maintain a database of federal and tribal police reports, court proceedings, and offender arrest records. The victim witness coordinator and the Sexual Assault Criminal Investigator work together to track sexual assault cases through the judicial process.
- Creation of sex offender registry and development of tribal sexual assault code in order to enforce registration requirements.
- Establishing a Project Coordinator position to oversee the project.

Major Accomplishments

As Cited in Evaluation Conducted by Dr. Eidell Wasserman

- Increased prosecution of sexual assault cases in tribal court, instead of deferring to the U.S. Attorney.
- Improved relationship between the Criminal Investigator and Tribal Prosecutor.
- Multidisciplinary team (MDT) meetings held under this project have assisted in building the relationship between the U.S. Attorney's Office and the Rosebud Sioux Tribe.
- Designation of a Criminal Investigator to deal specifically with sexual assault victims has prompted a number of positive changes: a single point of contact for outside agencies, public recognition of his role, and the ability to receive specialized training in responding to sexual assault victims.
- Development of a tribal sex offender registry ensures that sex offenders living on the reservation are complying with registration requirements, allowing community members to identify convicted sex offenders, demonstrating that the Rosebud Sioux Tribe is taking sexual assault seriously. Along with the development of the tribal registry, the Sexual Assault Criminal Investigator has worked to ensure compliance with registration. As the result of his efforts, there has been a significant increase in compliance with sex offender registration. See Appendix Attachment D.
- Increased reporting, increased confidence in tribal law enforcement, increased criminal filings in tribal court, and better communication with outside agencies since there is a single point of contact within law enforcement.



Major Challenges

- Shortage of sexual assault victim advocacy.
- Limited access to mental health services and confusion/concern about confidentiality of mental health records with the Indian Health Service.
- Lack of availability of mental health critical to victims becoming violent offenders and victims attempting suicide, especially young victims.
- Gaps in the available on-reservation mental health services: lack of treatment for adolescent offenders and their victims, IHS services being totally overwhelmed, the lack of intensive treatment services for sexual assault victims, and the lack of availability of crisis counseling.
- Lack of reporting of sexual assaults was identified as an obstacle. One respondent stated that the number of assaults reported to the hospital (600) versus the number of criminal cases in the same time period (2), starkly pointed out that most assaults are not being reported to law enforcement.
- Community denial and victim-blaming were additional obstacles identified. As in many communities, the perpetrator and his family may harass victims, making them reluctant/fearful to report their assault. Victims also receive pressure from their own families not to report. Victims are told that the assault is their fault and made to feel ashamed for their own victimization.



Rosebud Sioux Tribe Participant List



Tillie Black Bear

Executive Director
White Buffalo Calf Woman Society, Inc.
PO Box 227
Mission, SD 57555
Phone: 605-856-2317
Fax: 605-856-2494
Email: wbcws@gwtc.net

Laddimer Clifford

SA Criminal Investigator
RST Law Enforcement
P.O. Box 840
Rosebud, SD 57555
Phone: 605-747-2281
Fax: 605-747-5010
Email: laddyjr@yahoo.com

Nicole Witt

Grant Manager
White Buffalo Calf Woman Society
P.O. Box 227
Mission, SD 57555
Phone: 605-856-2317
Fax: 605-856-2494

Valinda Zephier

Project Sexual Assault Coordinator
White Buffalo Calf Woman Society, Inc.
PO Box 227
Mission, SD 57555
Phone: 605-856-2317
Fax: 605-856-2494
Email: VZephier@yahoo.com

Joseph Cordier

Special Agent
P.O. Box 840
Rosebud, SD 57570

Ernestine EagleElk

WCBWS

Lisa Iyotte

Sicangu Coalition Coordinator

Robert Moore

Rosebud Sioux Tribal Councilman
P.O. Box 430
Rosebud, SD 57555

Melissa Mousseau

Outreach Advocate

Charles Red Crow

Chief of Police
P.O. Box 840
Rosebud, SD 57570

Matthew Tucker

Special Agent
P.O. Box 840
Rosebud, SD 57570

Angel Wilson

Physician Assistant
P.O. Box 400
Rosebud, SD 57570

U.S. Attorney's Offices

Randy Seiler

Assistant US Attorney
District of South Dakota
225 S. Pierre St., Rm. 337
Pierre, SD 57501-2989

Notes

TRAINING AND TECHNICAL ASSISTANCE

The Tribal Law and Policy Institute (TLPI) and partners provided a broad range of training and technical assistance in order to strengthen the capacity of tribal justice systems to immediately respond to the sexual assault of Indian women, increasing advocacy and services to victims of sexual assault, and strengthening coordination between tribal and federal agencies responding to crimes of sexual assault of Indian women. The overarching goal was to assist the four tribal justice demonstration initiative sites to expand the current response to crimes of sexual assault against Indian women. The training and technical assistance was tailored to meet the culturally specific needs of each site.

The three primary goals of this targeted training and technical assistance project were:

1. To assist pilot tribal project grantees to increase their capacity as tribal law enforcement, prosecutors, courts and health care providers in their handling of sexual assault cases of Indian women.
2. To provide advocacy service providers for tribal women within the Indian tribes selected native based approaches reflective of the unique circumstances, culture, and practices of the women to be served, and
3. To facilitate tribal and federal cooperation in the handling of sexual assault cases of Indian women.

The two overall project objectives were as follows:

1. To assist grantees by providing intensive, technical assistance (TA) with
 - Self-identified barriers unique to their tribal communities with the development and full implementation of CCRs.
 - Developing and implementing strategies to overcome these barriers.
 - Bringing these officials together for discussions and relationship/team building, net working, and strategies for sexual assault protocol and policy development.
 - Ongoing technical assistance with grantees that continue to experience challenges and barriers.
2. To identify and recruit national experts in victim advocacy, criminal justice, forensic nursing, and then to provide intensive on-site training to grantees with the implementation of a coordinated community response to sexual assault of Indian women; including those experiencing administrative challenges.
 - Hold one meeting with all identified sites
 - Tribal specific training on sexual assault of Indian women and protocol development
 - On-site training and technical assistance sessions

- Peer-to-peer on-site consultations
- Monthly conference calls of grant project coordinators and key personnel to discuss implementation of the tribal protocol, development of grant project activities, and promising approaches that enhance governmental responses and services to crimes of sexual assault.
- Assistance with the development of a public education campaign and materials specifically designed for the targeted Indian tribes
- Internet-based resources on sexual assault of Indian women
- Creation of a list-serve
- Video Documentation

The following is an overview of the primary on-site training and technical assistance events. During the first year, there were four grantee meetings and training was a component of each meeting. During year two and three there were additional grantee meetings and training provided.

YEAR ONE GRANTEE MEETINGS

GRANTEE MEETING #1

NAVAJO NATION

WINDOW ROCK, AZ

JANUARY 31 – FEBRUARY 2, 2006

The first meeting of all sites was held in Window Rock, Arizona from January 31, 2006 through February 2, 2006. This meeting was designed to bring all grantees together to provide information on the Initiative, to provide an opportunity for grantees to become acquainted with one another and with the T/TA provider and to be provided with information that will help them to be successful in their grant activities. (See Appendix for full agenda). Fifty three people attended this meeting, including grantees that brought their multi-disciplinary teams. OVW Tribal Unit Staff, TLPI staff and other consultants also attended.

Selected quotes from participants at the first grantee meeting:

- *“Gave me many good ideas to use for policies, procedures when I got home.”*
- *“The information was extremely useful – the groups w/other tribes helped us on different ideas. To see the people you talk to on the phone also made it feel more important. Not that sexual assault isn’t, it just made it feel more like we’re making a difference.”*
- *“I learned a lot and enjoyed meeting others – especially learning about their projects and initiatives on their respective reservations.”*



GRANTEE MEETING #2
HANNAHVILLE INDIAN COMMUNITY
WILSON, MI
MAY 16-18, 2006

The second meeting was held in Wilson, Michigan from May 16, 2006 through May 18, 2006. Thirty six people attended this meeting, including TLPI staff and consultants. The agenda included updates on each site's self-identified barriers and progress towards creating coordinated community responses to sexual assaults of Indian women.

The agenda also included reports from each site on their grant activities and the progress and challenges within each site to create coordinated community responses. All sites reported progress being made on developing their sexual assault protocols. All sites reported seeing better coordination across disciplines and the importance of working through barriers. Hannahville Indian Community reported making a policy change that would provide consistency in sharing police reports with advocates and other possible responders. They also reported that they are beginning to change protocol to policy. Rosebud reported on the beginning stages of the development of their sex offender registry that was ratified by their tribal council.



Selected quotes from participants at second grantee meeting:

- *“We got a lot of ideas about other tribes. We seen and discussed ways we’d like our tribal courts/police to improve to sexual assault victim’s case.”*
- *“Excellent presentation plus ability to network with other tribes and their findings and progress.”*
- *“It gave great insight as to how our justice system can work for us and sexual assault victims.”*

GRANTEE MEETING #3
ROSEBUD SIOUX TRIBE
ROSEBUD, SD
AUGUST 23-25, 2006

The third meeting of all sites was held August 23-25, 2006 on the Rosebud Reservation in South Dakota. A total of 31 participants attended the three day meeting along with Tribal Law and Policy Institute staff and consultants.

All four sites reported being at different stages in the development and full implementation of their Sexual Assault Response Teams. As the T/TA provider for these grantees, TLPI felt it would be helpful if the Rosebud grantee would bring in members of their Sexual Assault Response Team (SART) to discuss key topic areas that would be helpful to the other sites.

TLPI felt that this type of peer to peer education would result in sharing of resources and information on how the Rosebud team is meeting some of their self-identified barriers and how they are overcoming them. The Rosebud site had been very successful in a number of areas including but not limited to the development of their SART; the development and implementation of the Sexual Assault Nurse Examiner Program; the passage of their Sex Offender Registration Law. They continue to incorporate traditional Lakota practices in their sexual assault victim advocacy work through the efforts of the White Buffalo Calf Women's Society shelter. In addition, TLPI held a brainstorming session on working in collaboration with federal partners, identifying and overcoming barriers to working in collaboration across disciplines. TLPI felt this was an important opportunity to provide the sites the time to discuss some their self-identified barriers and the challenges they are experiencing in working with their federal partners. TLPI also felt that they were providing a relationship/team building opportunity by bringing these officials together for discussions and problem solving. This session resulted in some ideas that the sites may utilize to bring their federal partners to the table.

The host site provided a tour for the other sites to their tribal court, law enforcement office, the juvenile detention center, and the White Buffalo Calf Women's Society battered women's shelter.

Selected quotes from participants at third grantee meeting:

- *“The WBCWS created a traditional healing approach to survivors of sexual assault and talked about 12 tools they've used to assist in their healing. I find this information very helpful. Touring the facilities was a great idea.”*
- *“I really enjoyed the training. Contact with others doing the same work. Always a great learning experience as well as knowledgeable presenters. Loved the tour yesterday – helped to see the local area and people who run the programs.”*
- *“Very informative training. Good job! I liked the video. Keep up the good work.”*
- *“Great meeting, learned a lot from everyone involved. I think one final meeting w/all of us together again somewhere is needed to update again. Especially when our protocols are completed. :)”*



GRANTEE MEETING #4
RED LAKE BAND OF CHIPPEWA INDIANS
RED LAKE, MN
OCTOBER 17-19, 2006

The fourth meeting was held in Red Lake, Minnesota on October 17, 2006 through October 19, 2006. Forty four participants were in attendance, including TLPI staff and consultants.

TLPI utilized this meeting as an opportunity for all four sites to provide a report on the progress they have made in the past year since the project began. Each site gave a report and copies of those PowerPoint presentations are available and were been provided to Dr. Wasserman who utilized them in her evaluation. During this meeting TLPI also provided an opportunity for the sites to break into small group discussion to work through case scenarios where they describe how their CCR would respond to a given a sexual assault case. TLPI felt this would be a good opportunity for the sites to demonstrate how they work together as a team when responding to sexual assault.

Once again the host site provided the other sites with a tour of their tribal court office, their law enforcement and Equay Wiigamig, the tribe's battered women's shelter and the Family Advocacy Center located in a private hospital that provides the forensic rape examinations for Red Lake tribal members.

Selected quotes from participants at the fourth grantee meeting:

- *"I think this was very informative and the wording is eloquent in trying to change biases officers may have pertaining to sexual assault."*
- *"It enlightened us on how far certain agencies have come and what actions they took to reach that goal."*
- *"It was great to see how many of us were on the same page as it pertains to victims. We/I realized the other programs are doing this in the best interest of victims."*
- *"Very informative. Leave the grantee meeting feeling rejuvenated and dedicated."*



YEAR TWO - YEAR THREE ON-SITE TRAINING AND TECHNICAL ASSISTANCE EVENTS

ON SITE T/TA #1
SHAKOPEE MDEWAKANTON SIOUX COMMUNITY CONVENTION CENTER
PRIOR LAKE, MN
SEPTEMBER 26-28, 2007

Sexual Assault Law Enforcement Training

The first in a series of onsite training and technical assistance trainings was held in Shakopee Mdewakanton Sioux Community Convention Center, Prior Lake MN on September 26-28, 2007. Twenty five participants, representing all four grantees sites including law enforcement, criminal investigators and prosecutors were in attendance including TLPI staff, OVW grant managers and trainers.

During year one of the project, the training and technical assistance provided by TLPI was designed to meet the self-identified needs of grantees. Throughout the first year of grant activity, all four grantees indicated a need for tribal law enforcement training. In prior evaluations, participants also expressed a strong desire to bring all grantee sites together as this process seemed very beneficial with the information sharing and peer to peer education. TLPI decided to hold one law enforcement training for all sites to meet the need and requests.

The topics covered included Sexual Assault Dynamics; Effectively Recognizing and Responding to Sexual Assault; Developing Skills to Interview Sexual Assault Victim Survivors; Importance of Working from a Victim-Centered Approach; Documenting; Effective Report Writing and Investigating Sexual Assault; Multi-disciplinary Collaborative Approaches and Overcoming Challenges to Collaboration; Investigating Difficult Cases: Drug Facilitated Victimization; The Impact of DNA on the Sexual Assault Investigation; Obtaining good DNA and Challenges.

Selected quotes from participants at Shakopee MN 2007 Law Enforcement Training:

- *“Instructors are very knowledgeable and had many examples that answered questions I had before I asked them. Excellent examples and real cases were great to learn from. Awesome group exercises on 911 calls, class was involved and asked questions. Great training.”*
- *“Joann’s (Archambault) clarity, dynamic, knowledge and passion very impressive – learned lots and lots. John’s (Oliviera) sensitivity knowledge being Native – excellent complement.”*

ON SITE T/TA #2
ROSEBUD SIOUX TRIBE
ROSEBUD, SD
APRIL 14-16, 2008

Adam Walsh Act Compliance; Overview of Tribal Sexual Assault Codes; Advocate Self Care

The Rosebud Sioux Tribe grantee requested a need for training on Adam Walsh Act Compliance and an Overview of Tribal Sexual Assault Code Development and a session on Advocate Self Care and Burn Out Prevention. There were 19 participants including Advocates, Law Enforcement, and Court Personnel. The trainers were Bonnie Clairmont and Sarah Deer. Topics covered included A Day in the Life of an Advocate; Advocacy: What Is It and Why We Do It; Self Care Techniques for Advocates; Personal Safety Planning for Advocates; An Overview of Tribal and Federal Sexual Assault Codes; Overview of Adam Walsh Act.

Selected quotes from Rosebud Sioux Tribe Training on Adam Walsh Act Compliance; Overview of Tribal Sexual Assault Codes; Advocate Self Care:

- *"Very helpful."*
- *"A lot of good information."*

ON SITE T/TA #3
NAVAJO NATION HOME FOR WOMEN AND CHILDREN
SHIPROCK, NM
MARCH 17-19, 2008

Sexual Assault Advocacy Training

The Navajo Nation grantee requested Sexual Assault Advocacy training. There were thirteen advocates and one shelter director in attendance. The training included those topics that are generally covered in a 40 hour sexual assault advocacy training curriculum including but not limited to: What is Sexual Assault Advocacy; Different Types of Advocacy; Role of an Advocate; Providing One to One Support and Counseling. The trainers were Bonnie Clairmont and Sarah Deer.

Selected quotes from participants at Navajo Advocacy Training:

- *"The presenters were very knowledgeable. The information they shared will be very useful in helping us do a good job as advocates. I'm not as scared now!!"*
- *"This onsite training and technical assistance will result in better advocacy. Feel more confident now. Thank you!!"*

ON SITE T/TA #4
RED LAKE NATION
RED LAKE, MN
JUNE 9-11, 2008

Sexual Assault Prosecutor Training, Sexual Assault Team Building and Advocate Self-Care

The Red Lake Nation grantee requested Sexual Assault Prosecutor training and training on Advocate Self Care. Some of the topics covered included a session on Team Building; Challenges of Maintaining a Strong Collaborative Approach; Advocate Self-Care and Sexual Assault Prosecution. The trainers were Bonnie Clairmont, Sarah Deer and Arlene Downwind White.

Selected comments from Red Lake Prosecutor and Advocacy Self Care Training:

- *“Any tools we can get to help us maintain our balance is always useful, helpful and appreciated.”*

ON SITE T/TA #5
HANNAHVILLE INDIAN COMMUNITY
WILSON, MI
AUGUST 4-6, 2008

Community Wide Training on Sexual Assault

The Hannahville Indian Community requested training on key aspects of their grant goals and objectives and they wanted to open the training to all community members. They believe that community members such as aunties and other relatives may also be first responders and should have this training in order to provide good response upon first disclosure. They felt this to be an important step as they come to an end of their two year demonstration initiative. There were thirty people in attendance including all disciplines from the Hannahville Team; trainers included Victor Sikes, Leslie Hagen, Eileen Hudon, Nicole Matthews and Bonnie Clairmont. Topics included Introductory Sexual Assault; Law Enforcement Response; Community’s Role to Keep Native Women Safe; Community Organizing; Prosecutor Needs; Importance of Multi-disciplinary Response; and Overview of Adam Walsh.

Selected comments from Hannahville Community-wide Training on Sexual Assault:

- *“Educational and informative. I enjoyed the opportunity to attend such a well run session being held close to home. Thank you!”*

- *“Overall this was very educational. I was also very disappointed more than 2 tribal council members did not come for the Adam Walsh presentation because it would have given them needed information they will need to discuss when our tribe goes to implement their SO registry and start their auxiliary discussions on other decisions that surround this act as it pertains to the impact and affect on victims and members and for our future work in stopping violence.”*

ON SITE T/TA #6
NAVAJO NATION HOME FOR WOMEN AND CHILDREN
SHIPROCK, NM
JUNE 18-19, 2008

Training for advocates and law enforcement on sexual assault and Adam Walsh Act

The Navajo Nation, Home for Women and Children requested this training for their advocates and tribal law enforcement. There were 55 people in attendance representing all disciplines including law enforcement and advocates. The trainer from TLPI was Maureen White Eagle. Topics covered included Recognizing Sexual Assault; Overview of Adam Walsh Act; Developing Law Enforcement Sexual Assault Protocols; Law Enforcement training including Initial Contact, Report Writing, Interview Techniques and Victim Centered Investigative Skills Development.

Selected comments from Navajo Nation Training for advocates and law enforcement on sexual assault and Adam Walsh Act:

- *“Excellent stress management; very fun; good topic; really enjoyed the officer.”*
- *“Good exercise for stress relief . . . games: excellent.”*

PILOT TESTING OF TRIBAL SEXUAL ASSAULT RESOURCES

A central component of the Safety Project Training and Technical Assistance program was the pilot testing of draft versions of the four following tribal sexual assault publications that were being developed under other grants from the Office on Violence Against Women (OVW):

- **Tribal Legal Code Resource: Sexual Assault and Stalking Laws**
- **Tribal Law Enforcement Protocol Resource: Sexual Assault**
- **Tribal Prosecutor Protocol Resource: Sexual Assault**
- **Tribal Sexual Assault Response Team (SART) Resource**

These publications were developed by the Tribal Law and Policy Institute (TLPI) in collaboration with the Southwest Center for Law and Policy (SWCLAP) and other national leaders in tribal law. All four publications were designed to assist tribal governments in creating a comprehensive, community based, victim-centered response to sexual violence and stalking against adult victims. Each publication was designed to help tribal governments customize laws and policies that fit their community's values, principles, and capacities. These publications are ideal for a community with a strong grassroots victim advocacy program. The usefulness of these publications were greatly enhanced through the Safety Project pilot testing of draft versions.

CONCLUSION

All four of the demonstration sites developed remarkable teams of passionate, dedicated, and energetic individuals. While they faced obstacles in the implementation of their sexual assault projects, all four of the demonstration programs managed to provide direct services and/or develop multi-agency protocols. The staffs of the four projects have learned valuable lessons that would be useful to other tribal communities. Some of these lessons are included below, in Dr. Wasserman's overall observations¹ on the demonstration project:

1. Participation of representatives from federal agencies, such as the U.S. Attorney's Office and FBI

All of the sites had some type of positive, working relationships with some of their federal partners. There was, however, minimal participation by the Assistant U.S. Attorneys from the four districts represented in the demonstration project. Initially, there was significant participation by Leslie Hagan, Assistant U.S. Attorney from Michigan. However, she was detailed to Washington, D.C. and given new responsibilities that precluded her active involvement in the Hannahville project.

The federal Victim/Witness Coordinators from the federal districts of two sites were very involved in the SAFETY project. However, it appeared that there was less involvement by the federal Victim/Witness Coordinators from the districts of other demonstration sites. There was less interaction with the FBI Victim Specialist. While the Victim Specialist who works with one of the sites was actively involved, there seemed to be little involvement by the Specialists from other areas.

The inconsistent involvement of representatives from federal agencies highlights an on-going issue facing tribal programs as they strive to develop multi-agency, multi-jurisdictional agreements and protocols with federal agencies. The difficulties with federal participation were highlighted in one of the programs, which waited several months for their federal partners from the U.S. Attorney's Office to provide their portion of the protocol being developed under the SAFETY project.

2. The Need of Community Education and Awareness

¹ Please note that Dr. Wasserman completed evaluations of each of the four grantee programs along with an overall evaluation (cited here) prior to grant completion so that the tribal grantee programs might use the evaluation findings to address any problems that exist. The hope was that this information would assist in identifying what is working well and areas for improvement, with the idea that all of the grantees would have sufficient time to make any necessary adjustments to the implementation of their projects.

The majority of people interviewed during the on-site visits expressed the need for community education and awareness regarding sexual assault. There is an overwhelming need for community members to understand the dynamics of sexual assault. Many people are confused about the types of behavior that are considered sexual assault. There is a tendency to blame the victim, especially if the victim has been drinking. Shame and embarrassment often keep victims from reporting their abuse. In many communities, these feelings are often validated when family members blame the woman for her own assault.

In small communities, it is particularly difficult for sexual assault victims to report their assaults when they are victimized by someone they know or when the perpetrator is a family member. A large number of interviewees reported that they believe that victims in their communities are often pressured by their own families not to report an assault involving another family member or that victims are frequently threatened by the perpetrator's family members. In some cases, if the perpetrator is a member of a politically or culturally important family, they may exert influence on the victim and/or her family for her not to report or to recant if she has already reported the assault. Community education was mentioned as one method for dealing with these types of pressures. Interview respondents frequently stated that they believe when community members understand the impact of sexual assault and the dynamics involved in such assaults, they may be more supportive of victims within their community.

Another area for community education involves increasing the sensitivity of service providers who respond to sexual assault. Many interview respondents stated that service providers do not always understand the needs of sexual assault victims. Victims may not report their assaults if they do not expect to receive sympathetic, appropriate responses from law enforcement and medical personnel. Some of these first responders may blame the victim, or not take her report of assault seriously. Several interviewees reported that some law enforcement officers did not view victims who had been drinking when assaulted as victims.

3. Instituting Systemic Change

All of the SAFETY demonstration projects include efforts to institute long-term systemic change to improve the response to adult female sexual assault victims. The projects in Hannahville, Red Lake, and Navajo include a focus on developing multi-agency protocols for responding to sexual assault. The Hannahville Indian Community and Navajo Nation projects include both tribal and federal agencies in their protocols, while the Red Lake protocol focuses on tribal and community-based agencies. Rosebud and Red Lake have developed and implemented sex offender registries. These registries help to ensure that sex offenders living in the community are identified and monitored.

The need for systemic change was evidenced by the amount of staff turnover evident during the on-site evaluations. All four sites had experienced significant changes in personnel that had delayed the implementation of their projects. In Hannahville, the change was in the U.S. Attorney's Office. At the other three sites there was significant turnover in personnel at the tribal level. At one site, for example, the tribal prosecutor appeared very committed to prosecuting sexual assault crimes. She was passionate on this issue and seemed very committed to improving the court's response to sexual assault. However, it turned out that she was leaving her post as prosecutor shortly after the on-site visit. Similarly, at another site, there were new personnel in key positions that had lacked permanent leadership for several months, including the hospital, courts, and law enforcement.

The frequency of staff turnover illustrates the need for systemic changes that are not person-dependent for their success. The development of a multi-agency protocol can be extremely useful for assisting responders to know their roles and responsibilities in responding to sexual assault victims, especially when these responders are new in their positions.

All of the demonstration sites have focused on developing partnerships to improve their working relationships with other agencies. Non-tribal partners include: off-reservation SANE programs, U.S. Attorney's Offices, the FBI, sexual assault response centers in neighboring non-tribal communities, and county law enforcement agencies. The Rosebud project has also partnered with the state sex offender registry compliance officer to assist in the implementation of their registry.

4. Identification of Training Needs

All of the project sites expressed a need for additional training. The four demonstration projects all requested victim sensitivity training for first responders, especially law enforcement officers. Victim impact panels can be an important and effective means of providing such training. When the option of having victim impact panels available for law enforcement officers was discussed during the on-site interviews, there was a very positive response. All of the sites were also interested in cross-training for the various agencies involved in responding to sexual assault cases.

Some of the sites also identified specific training topics of interest within their community. One site expressed an interest in training regarding the dynamics of sexual perpetrators. Such training would assist law enforcement and other responders in identifying the behavioral characteristics associated with sexual offending.

Another program requested additional training in maintaining their sex offender registry. The development of a sex offender registry is new undertaking for the tribe. There are many issues that may arise, including the development of new technologies and the challenges of utilizing a tribal registry in a large geographic area, with tribal housing communities in four counties.

Another program identified building resilience for service providers and community members as a training need. The inclusion of service providers and community members provides an important bonding experience, building trust in the service providers among the community members they serve. The stressful nature of working with sexual assault victims takes a tremendous toll on service providers. Effective, culturally appropriate training in building resilience can rejuvenate service providers and strengthen relationships with community members.

5. Availability of local Sexual Assault Nurse Examiners (SANEs)

The lack of on-reservation SANEs was a common concern among the four projects. Three of sites lack local SANEs (Hannahville, Red Lake, and Navajo), resulting in victims traveling to neighboring communities for sexual assault exams by trained SANEs. Rosebud has a Sexual Assault Response Team nurse. Red Lake has partnered with the Family Advocacy Center of Northern Minnesota in Bemidji to perform sexual assault exams. At the on-set of the SAFETY project there were SANEs at the Shiprock hospital, however, Indian Health Service eliminated the SANE positions.

All of the programs expressed concern about the lack of Sexual Assault Nurse Examiners within their local communities. One of the sites has explored the option of training a local nurse to become a SANE. However, the certification requirements involve the SANEs seeing a specified number of clients per year. Given the small number of sexual assault victims who seek medical treatment at some of the other sites, it would not be possible for a nurse to maintain a SANE certification within those communities.

6. Sustainability

All of the projects expressed great concern regarding the sustainability of their programs beyond the funding under the SAFETY grant. Three of the four programs face the challenge of maintaining direct service provision to victims of sexual assault after the funding for the current project expires. The SAFETY projects represent the only source of on-reservation specialized services for sexual assault victims. It is impossible to over-state the importance of the direct services provided to sexual assault victims under the SAFETY projects the demonstration sites.

7. The Value of the Grantees Meetings

The grantees and their partners who attended one or more grantee meetings expressed a number of benefits of attending these meetings. In addition to the information presented at these meetings, a number of additional benefits were identified. These benefits included: bonding, idea-sharing, and support.

Many of the people interviewed during the on-site visits discussed the importance of spending time together with other team members, especially in a non-work setting. For example, one of the federal partners described driving to a grantees meeting with tribal partners and the importance of getting to know them in a casual environment. The gains from interpersonal relationships among team members are immeasurable, developing trust and leading to improved working relationships. Not only did the respondents report improved bonding between team members, but among project staff from the four sites as well.

The SAFETY project staff members from all four sites bonded quite strongly. During each site visit, project staff asked about the other sites and how they were doing. The staff members also inquired about a grantees meeting, stating a desire to at least see the team members from the other sites at least one final time.

The bonding between staff at the four sites led to idea-sharing and support. The various sites gained ideas about different approaches to dealing with sexual assault victims and implementing systemic change, including the development of a sex offender registry.

Providing direct services to sexual assault victims is emotionally draining work. The development and implementation of a new project, with uncertain future funding, is also stressful. The interactions between the personnel from the four sites provided a support network of people all dealing with similar issues. Such support is an invaluable asset to people working in this stressful field.

8. Moving Beyond the Demonstration Phase

An over-riding concern for all of the sites involved not only the future of their individual programs, but also how the knowledge and experience gained from their programs would be shared with other tribal communities. A key reason for funding demonstration projects is to provide information to other communities seeking to develop comparable services. The four sites in the SAFETY demonstration project have faced and overcome a variety of obstacles to developing programs and instituting systemic change. The lessons that have been learned could be extremely useful to other tribal communities seeking to develop services for sexual assault victims.

The project staff from all four sites are keenly aware of their responsibilities to share what they have learned with other communities. They recognize their responsibilities as demonstration sites to share their difficulties and their successes with others and are anxious to fulfill those responsibilities. Program staff expressed concern that there did not appear to be a plan for them to share the lessons they had learned from developing and implementing their projects.

Overall, all four demonstration sites were able to provide important services to increase the safety of Native women. Dr. Wasserman found that “it is overwhelmingly clear, that the SAFETY projects, when operational, provide an important and necessary service within their communities. In each of the four demonstration sites, the SAFETY projects offer the only services available to sexual assault victims within their own communities. The demonstration projects in Navajo (while running), Red Lake, and Rosebud have lead to the development of direct services for sexual assault victims, the implementation of a sex offender registry in Red Lake, and work on protocol development in Hannahville, Navajo, and Red Lake.”

In addition, it is important to highlight that the T/TA plan itself proved beneficial to grantees: “The process of developing a cohort of four programs and bringing the groups together for periodic training events worked exceptionally well. This approach had the added benefits of allowing project team members to interact outside of the workplace environment and to form supportive relationships with others doing similar work.”

APPENDIX

Further Reading on Sexual Assault in Indian Country

- Amnesty International. (2007). *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the U.S.A.* New York: Amnesty International.
- Deer, Sarah (2005). Sovereignty of the Soul: Exploring the Intersection of Rape Law Reform and Federal Indian Law, 38 *Suffolk University Law Review* 38 (455). Available at <http://www.law.suffolk.edu/highlights/stuorgs/lawreview/docs/Deer.pdf>. Last accessed 7/3/2009.
- Deer, Sarah (2004). Expanding the Network of Safety: Tribal Protection Orders for Survivors of Sexual Assault. *Tribal Law Journal* (University of New Mexico). Available at http://tlj.unm.edu/tribal-law-journal/articles/volume_4/violence,%20women/index.php. Last accessed 7/3/2009.
- Deer, Sarah (2004). Toward an Indigenous Jurisprudence of Rape. *Kansas Journal of Law and Public Policy*, 14(121).
- Deer, Sarah, Bonnie Clairmont, Carrie Martell, and Maureen White Eagle (Eds.). (2008). *Sharing Our Stories of Survival: Native Women Surviving Violence*. New York: Alta Mira.
- Deer, Sarah and Carrie Martell (2005). Heeding the Voice of Native Women: Toward an Ethic of Decolonization. *North Dakota Law Review* 81(807).
- Greenfeld, Lawrence A. and Steven K. Smith (1999). American Indians and Crime (NCJ 173386). Available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic.pdf>. Last accessed 7/1/2009.
- Luluquisen, M., Asetoyer, C., and Kim, U.J. (2005). *A Survey of Sexual Assault Policies and Protocols within Indian Health Service Emergency Rooms: A Report*. Lake Andes, SD: Native American Women's Health Education Resource Center.
- National Congress of American Indians. (2005). NCAI Resolution # TUL-05-10: Support for the Development and Implementation of Sexual Assault Policies and Protocols within Indian Health Service Emergency Rooms and Contract Health Care Facilities/Providers. Available at <http://www.ncai.org/ncai/data/resolution/annual2005/TUL-05-101.pdf>. Last accessed 7/1/2009.
- Rennison, Callie (2001). Violent Victimization and Race, 1993-98 (NCJ 176354). Available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/vvr98.pdf>. Last accessed 7/1/2009.
- Smith, Andrea. (2005). *Conquest: Sexual Violence and American Indian Genocide*. Cambridge: South End Press.
- Tjaden, Patricia and Nancy Thoennes (2000). Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women (NCJ 181867). Available at <http://www.ncjrs.gov/pdffiles1/nij/183781.pdf>. Last accessed 7/1/2009.
- Tribal Law and Policy Institute Sexual Assault Resources. Available at: <http://www.tribal-institute.org/lists/assault.htm>.

TRIBAL SEXUAL ASSAULT RESOURCE SERIES

COMMUNITY BASED LEGAL DEVELOPMENT

With support from the Office on Violence Against Women (OVW), the Tribal Law and Policy Institute (TLPI), in collaboration with the Southwest Center for Law and Policy (SWCLAP) and other national leaders in tribal law, have developed a series of publications to assist tribal governments in creating a comprehensive, community based, victim-centered response to sexual violence and stalking against adult victims. Each publication is designed to help your tribal government customize laws and policies that fit your community's values, principles, and capacities. They are ideal for a community with a strong grassroots victim advocacy program.

Tribal Legal Code Resource: Sexual Assault and Stalking Laws

This guide for drafting or revising victim-centered tribal laws against sexual assault and stalking is written with a philosophy that tribal laws should reflect tribal values. In addition, writing a tribal law usually requires careful consideration of how state and/or federal laws might apply in the community. This resource guide includes sample language and discussion questions which are designed to help tribal community members decide on the best laws for their community.

Tribal Law Enforcement Protocol Resource: Sexual Assault

This guide for drafting or revising tribal law enforcement agency's protocols responding to sexual assault (including a model sexual assault protocol) is a tool for improving the investigation of sexual assault crimes. Effective investigations increase the likelihood of victim participation and increase the probability of convictions in tribal, state, and/or federal courts. This guide focuses on the development of an internal protocol for law enforcement. A law enforcement protocol can enhance the efforts of all community agencies in addressing sexual violence. Once your tribal government has strong laws in place, this publication will help you create policies and protocols for your law enforcement agency to enforce your laws.

Tribal Prosecutor Protocol Resource: Sexual Assault

This guide for drafting or revising tribal prosecutor's protocols responding to sexual assault (*including a model sexual assault protocol*) is a tool for improving the prosecution of sexual assault crimes. Holding offenders accountable for their actions is a key part of making your community safe. This publication is designed to help your prosecutor's office ensure consistency and compassion for all survivors. This guide focuses on the development of an internal protocol for tribal prosecution. A prosecutor protocol can enhance the efforts of all community agencies in addressing sexual violence.

Tribal Sexual Assault Response Team (SART) Resource

This guide for development of a Sexual Assault Response Team (SART) in tribal communities is a guide to creating cohesive policies between tribal agencies. Victims of sexual assault deserve a coordinated, comprehensive response from a variety of community agencies. This SART Resource provides a starting point for developing victim-centered SART teams in your community.

Final Report: Focus Group on Public Law 280 and the Sexual Assault of Native Women On August 15 - 16, 2007 the Office on Violence Against Women (OVW) hosted a focus group in Green Bay, Wisconsin to discuss challenges to, and opportunities for, collaboration between states and tribes in Public Law 280 jurisdictions to address sexual assault in Indian country. The Tribal Law and Policy Institute (TLPI) provided technical assistance and collaborated with OVW on the design and delivery of the session. This final report details the event.

Safety for Indian Women From Sexual Assault Offenders Demonstration Initiative

Introductory Meeting
Hosted by the Red Lake Band of Chippewa Indians
Red Lake, Minnesota
September 21, 2005

AGENDA

9:00 a.m.

Opening Prayer
Tom Stillday

Welcome

Chairman Floyd Jourdain
Red Lake Band of Chippewa Indians

**History and Announcement of the
Demonstration Initiative**

The Honorable Diane M. Stuart, Director
Office on Violence Against Women

**Presentation of Challenges and Needs
Addressed by the Initiative**

Tribal Secretary Judy Roy
Red Lake Band of Chippewa Indians

Vice Chair Elaine Meshigaud
Hannahville Indian Community

President Charlie Colombe
Rosebud Sioux Tribe

First Lady Vikki Shirley
Navajo Nation

Questions and Answers

Next Steps for the Demonstration Initiative

Paula Julian, Program Manager
Office on Violence Against Women

Training & Technical Assistance

Bonnie Clairmont, Victim Advocacy Specialist
Tribal Law and Policy Institute

12:30 p.m.

Lunch

2:00 p.m.

Tour

Red Lake Tribal Facilities
Equay Wiigamig Women's Shelter
Family Violence Center of Northwest Minnesota

6:30 p.m.

Dinner

RESOLUTION 120202-A

Whereas: The Hannahville Indian Community is a federally recognized Indian Tribe pursuant to the Indian Reorganization Act of June 18, 1934, "48 Stat. 934" as amended by the Act of June 15, 1935, "49 Stat. 378"; and

Whereas: The Tribal Council of the Hannahville Indian Community is the duly elected governing body of the Hannahville Indian Community; and

Whereas: The Tribal Council has previously enacted various Criminal and Civil Codes and Ordinances; and

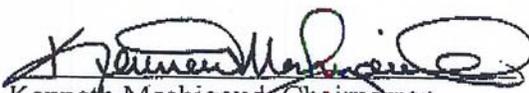
Whereas: The Hannahville Indian Community, through its Tribal Council, and pursuant to Article V of the Hannahville Indian Community Constitution finds it desirable from time to time to review and revise its criminal and civil laws, enacting new legislation as needed for the protection, preservation and development of its members' relationships, its lands and the business and governmental affairs of the Community; and

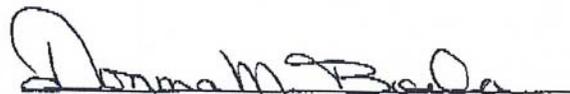
Whereas: The Tribal Council has directed that a comprehensive review of its statutory law should be undertaken and recommendations be made and presented in respect to revisions and additions thereto and has appointed a committee to assist the legal department in accomplishing this task; and

Now Therefore Be It Resolved: That the Tribal Council does hereby amend its Code of Criminal Procedure, ("the Code"), Chapter 1.20, §§ 1.2084 and 1.2084a, relating to rape and attempted rape revising both sections and adding §§ 1.2084b, 1.2084c and 1.2084d, to be known as the Hannahville Indian Community Criminal Sexual Conduct Code and repealing all inconsistent previously enacted legislation in the Code. The amendments and new text are attached and incorporated by reference herein.

Certification

The Hannahville Indian Community Tribal Council met in regular session on December 2, 2002, a quorum being present, and adopted the foregoing legislation by a vote of 11 for, 0 against, 0 abstaining.


Kenneth Meshigaud, Chairperson


Donna Boda, Secretary

HANNAHVILLE INDIAN COMMUNITY SEXUAL ASSAULT ADVOCACY PROTOCOL

The role of the advocate is to provide support, crisis counseling, advocacy, referral and information to the survivor of a sexual assault and/or their families, where appropriate, in the case of a juvenile. The role of the advocate is to remain victim centered regarding service delivery. All services and support activities will be based on the victim's definition of their needs and will be performed with the victim's knowledge and consent. It is the role of the advocate to inform the victim of all their options and rights available to them, including their right not to report to law enforcement and their right not to consent to medical procedures. Services provided by any responding advocacy agency or program may vary based on cultural differences and staff limitations.

The initial contact made with advocacy services may be made by a variety of sources. However, the three most common are: initial contact made by self-reporting victim or family member; initial contact made by law enforcement; initial contact made by medical clinic/hospital staff.

Throughout this protocol, the use of the word Advocate refers to Victim Advocates working within Tribal communities as first responders, as well as specialized advocacy if or when the case progresses through the criminal justice system. In some cases, this may be Tribal Advocates, but in the absence of Tribal Advocates, other community-based advocacy or federal programs may be responding to sexual assault victims. When federal investigators are involved, the FBI Victim Specialist or the United States Attorney's Victim/Witness Coordinators should be involved. It is the responsibility of each community to decide which advocate should provide specific services as available and appropriate.

{? Symbols refer to issues the advocate should keep in mind when working with any victim, but they may be of heightened concern for victims with culturally specific needs.}

INITIAL CONTACT BY VICTIM TO ADVOCACY SERVICES

- Address safety concerns
 - ? Address safety Concerns
 - ? Where is the perpetrator?
 - ? Where is the victim calling from and is the victim safe and is it OK to talk?
 - ? Does the victim need medical attention; is the victim injured? **(If yes, see Advocacy – Medical) Offer** to accompany.
 - ? Does the victim want to report to law enforcement? **(If yes, see Advocacy – Law Enforcement) Offer** to accompany.

- Identify immediate concerns:
 - ? Respect legitimacy of concerns and allow/encourage survivor to regain control by making their own decisions, even if they are not the same decisions you would make.
 - ? Assess the need for culturally appropriate services i.e. interpretive services. With the victim's consent and when appropriate advocates are reminded to inform other providers of victim's specific needs.
 - ? Confidentiality (Is the victim concerned about the community reaction to this crime? Is the victim aware of what information is available to the perpetrator? Remind the victim that all of the advocacy services she receives are confidential? Is there a legal requirement for medical personnel to report this crime?)

- ? Victim may have a variety of concerns regarding reporting this as a crime to law enforcement (immigration status, the victim may have a warrant against them, they may have been under the influence of alcohol when the crime occurred, they may be concerned regarding the possibility of child protection/child welfare involvement, threats made by the perpetrator may seem very real, and the victim may have a fear of reporting to law enforcement.) It is the advocates responsibility to provide honest information regarding reporting and when addressing victim concerns.
- ? Advocates must be willing to advocate in conflict with medical staff and law enforcement officers, even if their goals/wishes go against survivors wishes/rights.
- ? If the victim is from a diverse community, concerns may be different; make no assumptions including no assumptions around assumed ethnicity.
- ? Advocates should consider the following for all victims; however, keep in mind the concerns may be heightened for some victims from culturally diverse backgrounds.
 - Home (Is it safe? Will the victim be returning home and be staying there?)
 - Financial (What is the source of income? Is the victim afraid of the medical costs associated with possibly seeking medical help? Will any additional services sought by the victim have a cost associated with services?)
 - Children (Does the victim have children? Where can they stay, at least temporarily? What is the possible role of Child Protection, if any?)
 - Confidentiality Is the victim concerned about the community reaction to this crime? Is the victim aware of what information is available
- Address medical needs (if after 72 hours, **see Advocacy – Medical and Advocacy – Law Enforcement.**)
 - ? Address any concerns victim may have regarding past experience with medical providers. Victims’ reluctance to seek services may stem from a past negative experience(s). The advocate should offer to accompany the victim to medical clinic or hospital ER, or offer to meet them there.
 - ? During initial contact with victim, advocates should address all of the following:
 - Is the victim in need of medical treatment?
 - Explain that regardless of intent to report, the costs of evidentiary exams are covered, however general injuries may not be covered. STD and pregnancy tests may not be covered, the clinic staff should be contacted to insure coverage if the victim has no independent insurance coverage.
 - Offer to call paramedics if appropriate.
 - Assess the victims’ need for transportation to the clinic or hospital.
 - Inform the victim to bring a change of clothing if possible.
 - Caution against evidence destruction. Explain the need to place clothing worn during the crime in a paper bag not a plastic garbage bag. In addition, explain to the victim that they should not shower, bathe, brush teeth, use mouthwash, douche, etc.
 - If the victim has personal transportation to the hospital or clinic offer to meet the victim at specified location. **(See Advocacy – Medical)**
 - Inform the victim of victim rights and reparations.
- Address law enforcement reporting (if after 72 hours **see Advocacy – Law Enforcement and Advocacy – Medical.**)
 - ? Address concerns about law enforcement reporting. Discuss the roles of all responders; local tribal police, other responding officers and FBI investigators. Encourage the victim to discuss any reluctance to report. Reluctance to report may be based on past negative experiences with law enforcement.

- Provide law enforcement phone number regardless of victim reluctance to report. Even if the victim explains that this is a delayed report it is important to supply law enforcement numbers.
- If the assault is recent offer to call 911 for transport to ER, offer transport to medical clinic on reservation or ER and explain that a report can be made to law enforcement to meet them at those locations. **(see Advocacy- Law Enforcement)**
- Offer accompaniment when victim makes report.
- Explain the reporting process.
- Reinforce victims' decision to work with law enforcement.
- Provide/offer on-going crisis counseling and support services, including but not limited to: information/referrals, support group, possible financial support, assistance with filing victim compensation forms, assistance with filing for other legal protections against the perpetrator. **(See Resource List)**
- Support and respect the decisions that the victim makes.
- Find out what kind of support system the victim has.
- Offer on-going referral services.
- Assess on-going safety issues, i.e. discuss offender lethality possibilities, home security, shelter needs, etc.
- If the victim decides report the crime/offense and the case proceeds in tribal court explain the tribal court process. Provide the victim with contact information regarding tribal court personnel and Hannahville Tribal Police contact information.
- If the victim decides to report the crime/offense and the case proceeds in the federal system explain the roles of federal responders and the federal court process. Provide the victim with contact information regarding federal responders as that information becomes available to the advocate.
- If the victim decides to report the crime/offense and the case is accepted federally. Explain the role of other federal advocates, such as, FBI Victim Specialist, US Attorney Victim Witness Coordinators and Indian Country Advocates. Explain how to contact these other support advocates and why they would be making contact with them. The more familiar the victim is with the names of responders the more confident the victim may be with the court process. Provide contact information for other federal victim responders. **(See Resource List)**
- Make follow-up contacts with the victim and provide support services as identified by the victim.
- Offer to allow the victim to use your office or cellular phone when contacting other victim responders and possible federal responders. Keep in mind many victims in Indian Country do not have access to a phone and may need help when contacting any long-distance responder number and possibly local support and referral services.
- With the victims consent and with a signed authorization to release information form offer to make contacts with other responders on behalf of the victim, if necessary.

ADVOCACY – MEDICAL/HOSPITAL CONTACT

Indian women who are victimized by sexual assault offenders have several options regarding seeking medical attention for the assault. Many Indian women will choose to utilize the services of local tribal health clinic personnel. These are individuals who they may be more familiar with and opt for this intervention because they are confident in the level of service provided. Alternately, individuals who are fearful of community response may not wish for any local agency or program to become involved in their case even though they are confident of the skill level of local tribal providers they may just prefer the anonymity of seeking out non-local medical responders. The role of an advocate is to directly respect and respond to the needs of any victim as they define that need to be. We must respect and not question the choices of any victim to identify their responders. Whether the victim chooses a tribal clinic setting or a local hospital ER setting the protocol will remain the same.

- The advocate will check in with the nurse assigned to this case, identify yourself and offer proof of identification if necessary.

- If the victim has not contacted the advocate, the advocate will introduce themselves to the victim, medical responders and law enforcement.
- The advocate will explain their role to the victim.
 - ? Address any concerns about ER procedures and pelvic exams. Determine the need for culturally appropriate services (interpreter advocate, etc.). If the contact is made at a local hospital setting discuss the possible need to contact the clinic emergency number to seek approval of hospital intervention for payment of services. Explain the need to follow any local health clinic protocol for service payment.
- Give information regarding Emergency Department services or tribal clinic Services and other options. Explain that what services are provided cost free and those that are for payment such as STD testing and pregnancy testing.
- If SANE/SAFE Nurse is not there, verify with the hospital or clinic that one is available and has been contacted.
- If a SANE/SAFE Nurse is not available to perform the exam note the name of the physician performing the rape kit examination.
- Ask the victim about reporting. If the victim wants to report, ensure that the appropriate police agency has been contacted.
 - ? Hospitals may be located in a jurisdiction other than the one that the crime has taken place in. The evidence collection kits should be turned over to the appropriate police agency to ensure proper change of evidence procedure is followed. The advocate should address any concerns that the victim may have regarding reporting and provide honest appropriate information regarding those concerns.
 - ? Victims may have various concerns regarding reporting (the victim may have a warrant out for them, they may be under the influence of drugs or alcohol, they may have Child Protective/Child Welfare concerns, immigration status, or have a fear of law enforcement based on past experience.)
- Provide emotional support, validation of feelings.
- Spend time with the victim when hospital/clinic personnel are not available.
- Ask if the victim wants you to contact anyone for them.
- Ask if there is anything you can get for the victim to make her feel more comfortable (food, something to drink, warm blanket, etc.)
- Address the victims' costs concerns, evidentiary costs are covered, others are not.
- Inform the victim of their right to refuse treatment (i.e. drug/alcohol testing). It is important to explain to the victim the impact this may have on any pending criminal investigation and prosecution.
- If you have reason to believe that the victim has psychiatric problems and they need to be assessed for (i.e. suicidal thoughts), consult with the attending physician, attending SANE/SAFE Nurse or social worker.
- Check in with anyone waiting with the victim after assisting the victim.

During Evidentiary Examination:

- It is the victims' choice whether you will be in the room during the examination.
- If the victim allows you to be in the exam room, ask her if she would like an explanation of each stage of the process before the examination begins.
- Stand at the head of the examination table near the victims' head.
- Provide support and validate.

Discharge of victim or admission

- Address transportation needs, immediate and long term safety needs (home security, court ordered protection needs, etc.), and the victim's support system (family and friends).
- Inform victim that follow up is available at the victim's request.

- Assist with prescriptions as needed.
- Assist in securing a change of clothes, if needed.
- Assure the victim that support is available whether or not they have decided to report the crime to police.
- Offer referral information, as needed.
- Provide information regarding crime victim rights should the victim decide to report the crime/offense at this time or in the future.
- Provide victim your contact information.

ADVOCACY – LAW ENFORCEMENT

- Assess any culturally specific needs of the victim and address any other culturally specific concerns the victim may have about reporting to law enforcement.
- If this is a delayed report and the victim has made contact over the phone or in person, give the phone numbers for tribal law enforcement. Explain to the victim that a delayed report can always be made. Discuss the pros and cons of making a delayed report.
- Offer to provide support during the report. Inform the victim that the police can be called to the advocates' office if that is more comfortable.
- Refer victim to the appropriate jurisdiction where the crime occurred. **(See Resource List)**
- If the case has been referred to the federal government for investigation give name and contact information for FBI Victim Specialist.
- Be present during interviews when requested by the victim.
 - ? An advocate should discuss pros/cons of being present during police interviews. If present, advocate could be listed in police reports as a witness and then be susceptible to receiving subpoena to testify at court.
- Let the victim know what information the police will need.
- Provide emotional support during the interview.
- Continue advocacy, intervening on behalf of the victim when appropriate.
- Assist the victim in getting information about the status of the case (including the case number.)
- Provide ongoing support, advocacy and information during the investigation.
- Provide assistance with any civil matters (PPO attainment, harassment information regarding offender or offender family harassment, possibility of offender banishment, etc).

ARREST

- Provide victim with information regarding the process for obtaining offender's case status (arrest, charged, not charged, incarceration status, etc.)
- Provide jurisdiction information, will the offender be tried in federal court, tribal court or both.
- Provide victim with information regarding the nature of the charges against the offender.
- Provide the victim with the names of other federal responders who may be contacting them and the nature of the role each will play in their case(s).

CHARGED CASES

- Support and facilitate communication between victim and Victim Witness Advocate, in the federal system, who has been assigned to the case, as requested by the victim. The federal Indian Country Crime team including the federal prosecutor (called Assistant United States Attorney or AUSA), FBI agent (who investigates the crime), FBI Victim Specialist, United States Attorney's Victim/ Witness Coordinator who can provide detailed information regarding the case status.
- Accompany the victim to court hearings, meeting with the federal prosecuting attorney, Victim Witness staff and others as requested by the victim.
- Assist the victim in communicating safety concerns regarding conditions of offender release.
- Attend trial during victim testimony and other testimony if requested by the victim.
- Provide ongoing support as needed.

CASES NOT CHARGED

- At the victim's request, contact charging attorney for information on the decision not to charge.
- Provide continuing support services and advocacy as needed and requested by victim.
- Address safety concerns.
- Accompany victim to meet with prosecuting attorney to discuss reasons for non-charging decision.

SENTENCING

- Assist victim with Victim Impact Statement and provide support at court if victim chooses to speak at sentencing.
- Explain to the victim the rights they have to collect restitution in federal cases and thru tribal court. List some of the more common out of pocket expenses that may be listed, for example, ripped clothing, days lost from work, medical expenses, damage to personal property.
- Accompany victim to sentencing hearing, if requested.

POST-SENTENCING

- Be available to respond to ongoing needs and inform the victim about issues such as prisoner status, PPO options, reparations and civil litigation.
- Offer non-system related services, which may include contacting culturally specific healing opportunities, support groups, 24-hour contact numbers and referrals to other community services. Victims may need assistance in contacting and receiving other services such as transportation to appointments and telephone access.

LAW ENFORCEMENT PROTOCOL

DISPATCH PROTOCOL:

- Determine if suspect is still present and if so, is the suspect armed.
- Determine if the victim is injured and if medical attention is needed.
- Obtain pertinent information on location of crime scene, victim's name, address and phone number.
- Obtain information on suspect (Name, address, phone number, physical description, etc).
- Establish a call priority based on information obtained.
- Relay all vital information to the responding police officers, including any possible language barriers that may exist.
- Reassure the victim that the police are responding to the call. In cases where the suspect may still be in the vicinity, or the victim is extremely distraught, the dispatcher will stay on the line with the victim until the police arrive. If the dispatcher recognizes that it may be unsafe for the victim to stay on the line other safety options should be suggested.
- Advise the victim the importance of not disturbing the crime scene and explain to the victim the need to refrain from bathing, showering, brushing teeth, use of mouthwash, douching, etc.

The following factors may be documented, but will NOT interfere with the reporting and investigation process:

- 1. Marital status, sexual orientation, race, gender, culture, disability, age, economic, social and professional position.**
- 2. Belief that the victim will not cooperate with the criminal prosecution or that an arrest may not lead to a conviction.**
- 3. Disposition of previous police calls involving same victim.**
- 4. Drug or alcohol use by the victim.**
- 5. Immigration status of the victim or person reporting.**
- 6. Inquiries into process for reporting complaints against law enforcement officer.**

PATROL OFFICER PROTOCOL

- Attempt to calm and reassure the victim that the victim is now safe and not at fault regarding the crime. It may be helpful and appropriate to tell the victim you are sorry this happened to her. Make every effort that the victim is as comfortable as possible.
- Take a few minutes to explain to the victim the process she will be undergoing, and explain the need to ask questions that may be sensitive in nature or uncomfortable.
- Determine if the victim needs urgent medical attention. If the victim receives medical attention obtain the victim's signature on a medical release form.
- Secure the crime scene to ensure that evidence is not lost, changed or contaminated.
- Obtain necessary information on victim, suspect and possible witnesses including phone numbers. It is important to obtain a phone number where the victim can be contacted and/or address where the victim can be reached in the days following.
- Obtain the assistance of a victim advocate if the victim consents.
- Interview the victim and any witnesses as to what has happened. Limit interview to information immediately needed to assess situation when the victim will be going directly to the health clinic or hospital for medical examination.
- If the victim is making a delayed report document the reason for the delay (shame, embarrassment, fear, etc.) However, be sensitive that questioning the delay may cause the victim to feel you are blaming her or that you do not believe her.
- Ask open-ended questions such as "and then what happened?" or "is there a reason that you wanted...", rather than questions that convey judgment such as "Why didn't you?"
- Attempt to locate and interview the first person the victim told about the assault.
- Ask if the suspect took anything during the assault or if the victim may have left something at the crime scene or suspect's home.
- Explain to the victim the need to collect evidence such as clothing and bed linens and the need to retain collected property thru trial and appeal.
- Record officer's observation of the scene, including demeanor of suspect, victim, injuries on both or disheveled clothing.
- Explain to the victim the necessity to go to a medical facility for treatment and collection of evidence in cases in which the assault happened within the last 72 hours. CSC kits should be collected up to 72 hours after sexual assault. Injuries can be documented long after an assault but every victim should be encouraged to seek a medical examination and document injuries as soon as possible and receive appropriate tests for STD's, etc.
- Before transporting the victim to a medical facility, have dispatch contact the facility to alert them.
- Accompany the victim to a medical facility. A physician or SANE personnel will perform a CSC exam, interview the victim and collect a CSC kit. Officers can be present during the victim interview, with the victims' consent; the officer may document events, and ask clarifying questions. The interview will not be taped.
- If the assault has just occurred and the victim is brought to the hospital the interview may be conducted with Law Enforcement, SANE and the advocate present if the victim desires.
- Collect and inventory the CSC kit as evidence.
- Broadcast suspect information to other police responders and notify immediate supervisor, as department policy requires.
- Give victim Crime Victims' Rights information as required by law.
- Make arrests when and where appropriate. In the case of a delayed reporting it may be advisable to delay arrest, allowing time to locate and interview witnesses.
- Explain any department policy in existence for victim notification of suspect arrest and release.
- When trained to do so, process the crime scene and collect all pertinent physical evidence or follow agency policy of contacting the appropriately trained investigative officer. A crime lab unit should be contacted for processing particularly in cases of an unidentified suspect breaking into a dwelling to sexually assault a victim.
- Explain to the victim that an investigator will contact the victim.

- Provide the victim with complaint number assigned to the case, and a list of victim services containing contact numbers.
- The patrol officer and the investigative officer should evaluate cases.
- To prevent losing physical evidence, an intoxicated person who claims to be a sexual assault victim should be taken for the sexual assault medical examination before being taken to a detox program.
- If date rape drugs are suspected (such as Rohypnol, GHB) request a urine test at the hospital. These drugs metabolize quickly in the body. Rohypnol cannot be detected 48 hours after ingestion. Evidence of GHB can remain up to only 12 hours. Indications that the victim may have been drugged are any of the following:
 - If she reports becoming intoxicated in a short span of time (5-15 minutes).
 - Can't remember what happened.
 - Recalls waking up then passing out again.

Officer should be aware that other prescription and over-the-counter medications can cause similar reactions, therefore all other medications consumed by the victim in the past 24 hours should be documented.

INVESTIGATOR PROTOCOL:

One of a Crime Victim Rights is the "Right to be reasonably protected from the accused." It is appropriate for the investigator to discuss safety issues with the victim to determine risk posed by the suspect. Provide appropriate resources and address those needs, in doing so the investigator may refer to the victim advocate to develop a safety plan with the victim to ensure they are reasonably protected.

- The investigator should attempt to contact the victim within 24 hours of receiving the incident report. To obtain additional information from the victim, it is strongly recommended that an in-person interview be conducted. The interview should be arranged where the victim would be most comfortable. The victim may have an advocate present during the interview with the understanding that the advocate will not interject into the questioning.
- Determine what information is needed before the interview so that these questions can be asked in one interview. This will lessen the chance of repetitious interviews.
- Set the victim at ease and reassure the victim, write down what the victim is saying and have the victim write and sign a statement while in law enforcement presence.
- Explain to victim the importance of the interview for clarification purposes and that some questions may be pointed but need to be asked in order to gather more evidence for the prosecutor.
- Obtain the victims medical records. Some sexual assault records are available within one day of exam and can be faxed to the investigator if a medical if a medical release has been signed. Lab reports from the clinic or hospital are generally available within 7-14 days and require a follow-up request.
- Process the crime scene, document with photos, videos, and diagrams. Obtain search warrants when required.
- Ensure CSC Kits are taken from the hospital and sent to the appropriate crime lab for appropriate testing.
- When necessary, obtain consent to search or execute a search warrant for a buccal swab or blood draw from a suspect. The investigator can do the buccal swab. Medical personnel are not needed. Law Enforcement must witness Blood samples taken by medical personnel.
- Document all interviews from victim, witnesses or suspects. Interview should be conducted in person.
- Obtain a copy of the 911 tape from the dispatch center.
- Explain to the victim the charging process and provide the victim the investigator's work phone number and encourage the victim to call if questions arise.
- Inform the victim of appropriate victim services.
- Notify the victim when the suspect has been charged and inform the victim when law enforcement phase of the investigation is complete and the case may then transition to prosecutor. Law enforcement may assist as the case progresses.
- In the event the prosecutor declines the case, inform the victim of the reason for the declination. If the victim has further questions, refer the victim to the prosecuting attorney.
- Remain available to the prosecuting attorney for any follow-up investigation.

FEDERAL PROSECUTION PROTOCOL CHECKLIST

It is appropriate for the prosecutor to review safety concern with the victim that includes threats from defendant, associates or family members, rumors in the community, and fear of retaliation or a general climate of fear. If any concerns exist, the prosecutor should assist a victim regarding developing a safety plan utilizing available resources and by making referrals.

- Review all reports submitted by law enforcement.
- Decline, charge or request further investigation.
 - Tribal Law Enforcement will complete an Indian Country Case Filing Checklist.
 - If case is declined, a letter of declination will be provided to the Chief of Tribal Police with a copy to the Tribal prosecutor providing an explanation for the declination.
 - The investigating officer may request a second opinion on any declined case.
 - If case is charged, based on the facts of the specific case, prosecutor will request detention, or seek appropriate conditions of release including a no contact order.
 - If further investigation is required, the prosecutor will work closely with case agent in obtaining required evidence; during this additional time the victim advocate will work closely with the victim to address any concerns that victim may have including safety from the alleged perpetrator.
- Once charged:
 - The prosecutor will work with the federal and tribal victim advocates to ensure that victim is provided with adequate and timely notice of court hearings.
 - The lead Case Agent will be provided with notice of all court proceedings. Investigating officer is notified of the charges.
- Initial Appearance in Federal Court
 - Bail set or detention requested or terms of release discussed/established
 - No Contact Order will be requested
 - If DNA testing is required, file motion and obtain court order referring to the taking of saliva sample (buccal swab).
 - Next hearing is scheduled.
 - The victim has a right to attend and be reasonably heard at any public proceeding in District Court involving release, plea, sentencing, etc. As set forth at 18 U.S.C., section 3771 (a) (4).
- Following Initial Appearance
 - Copy of the No Contact Order, if issued, will sent to the victim and police jurisdiction in which the victim resides.
 - The victim may contact the prosecutor, discuss the case and possible options to resolution; the victim's concerns will be heard and addressed at this time.
 - The federal and tribal victim advocates will ensure that the victim is provided with notice of all court proceedings.
 - Victim advised by court and/or advocate of next hearing date.
 - Victim is provided services as needed, ongoing throughout the pendency of the case.
 - Victim is provided with victim rights information and community referrals.
 - Whenever, possible, the advocate will contact the victim by phone or in person regarding these items.
- Complaint and Arrest Warrant/Indictment
 - If exigent circumstances require immediate arrest of suspect, the case agent will contact an AUSA and request a complaint and arrest warrant; the case agent will be the affiant for the complaint and arrest warrant.
 - Once arrested the suspect will be brought before the nearest federal magistrate immediately.
 - Detention or federal Pre-trial release conditions will be set;
 - A preliminary hearing will be scheduled; AUSA will either hold preliminary hearing or seek an indictment
 - If a preliminary hearing, the AUSA will present evidence to establish probable cause.

- When seeking indictment, the AUSA will work with the case agent to present case to Grand Jury.
- The AUSA may consult with the federal and tribal victim advocates to reach a determination of whether victim will be asked to testify at Grand Jury.
- AUSA will present indictment to the Grand Jury, if the Grand Jury finds probable cause crime has occurred an indictment will be issued.
- Arraignment
 - In the Northern Division of the Western District of Michigan, arraignment and initial appearance is done at the same hearing.
 - Although a defendant can plead guilty at the arraignment this is highly unlikely, (unless the partners reached a plea agreement prior to arraignment) in fact, when it happens the Magistrate Judge will not take the plea, enter a plea of not guilty for the defendant and then schedule a change of plea hearing.
 - The court will issue a scheduling order setting deadlines, for discovery, filing of pre-trial motions, a final pretrial conference, and trial date.
- If Not Guilty Plea Entered
 - Federal and Tribal Advocates will notify victim of pretrial and trial dates
 - Prosecutor will assess facts of the case, offender's history, aggravating/mitigating factors, strengths and weaknesses of the case as well as victim and public safety.
 - AUSA, case agent will meet to discuss settlement options and address any outstanding evidentiary issues, and whether a superseding indictment is needed.
 - Prosecutor will consider the victim's input before making plea offer.
- Trial Preparation
 - All investigative reports are disclosed.
 - All witness statements and physical evidence reviewed and necessary follow-up investigation requested.
 - Witnesses are subpoenaed.
 - Trial motions are prepared.
 - Special motions may be filed (DNA testing, etc.)
 - Discuss sexual assault medical exam with examining physician or SANE nurse for additional evidentiary detail.
 - Victim and witnesses prepared for trial. Inform medical and scientific witnesses when they will be needed or if they are no longer needed.
 - Case status updates provided to advocate and other witnesses. Advocate will notify the victim.
 - Advocate will coordinate services with community-based advocate, if involved.
 - Advocate provides support to victim before and during trial.
 - Investigating officer and federal/tribal advocates will provide status updates to victim and other witnesses.
 - If plea offer is made, advocate will notify and seek input from victim. Advocate will notify victim of the right to attend plea hearing.
- Trial
 - Witnesses sequestered, victim has the right to be present in courtroom, with few exceptions. If victim is a witness who will testify at trial, then if the government or defense requests that all witnesses be sequestered, then this may include the victim for good cause shown.
 - Advocate will notify victim of trial outcome, if victim does not attend the entire trial.
 - If found guilty, sentencing date set and victim notified. The AUSA, federal and tribal advocates may immediately meet with the victim to discuss potential sentences and obtain information for sentencing including restitution information and victim impact statement .
 - AUSA will file sentencing memorandum requesting departure motion when appropriate.
- Sentencing
 - AUSA presents government position, especially if departure motion is made or there are complex sentencing issues.
 - AUSA will consult with federal and tribal advocates and the victim to determine if they wish to make an oral or written impact statement. The court will be notified in advance. Court will inquire if the

- Provide defense counsel (or defendant if unrepresented) with initial discovery (i.e. charging document, police report, witness statements, medical reports, photographs, etc.)
- Schedule supplemental pretrial hearing for all pretrial issues (i.e. motions, amendments, possible plea offer, jury demand, schedule trial, etc.)
- Continue to work with investigating officer and victim advocate in case development and preparation for possible plea offer or trial.

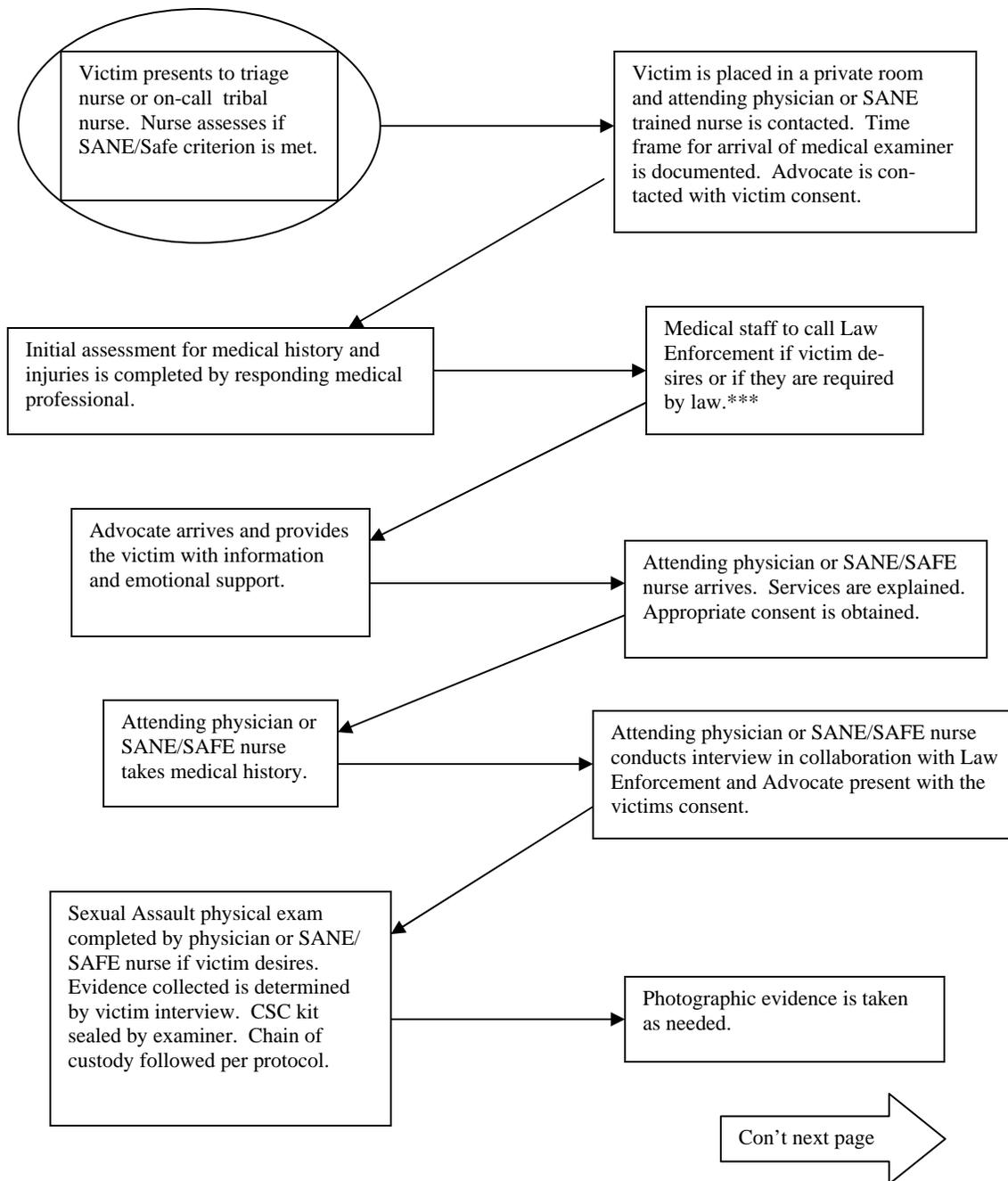
- Supplemental Pretrial:
 - Second pretrial hearing in front of judge by defendant and prosecutor.
 - Possible plea and sentencing (if plea agreement is reached.)
 - Hearing on motions by prosecutor and/or defendant.
 - Jury is waived if not demanded in writing by this hearing.
 - Schedule trial (jury or non-jury).
 - Address remaining pretrial issues (jury selection procedure, length of trial, jury instructions, admissibility of evidence/testimony, view of scene, bond and bond conditions, no contact order, etc.)
 - Continue to work with investigating officer and victim advocate in case development and preparation.

- Trial Preparation:
 - Confirm or complete discovery and required disclosures.
 - Review reports, witness statements and evidence.
 - Review jury instructions and prepare special instructions.
 - Prepare opening statement and closing argument.
 - Subpoena witness and determine order of presentation.
 - Organize presentation of exhibits (documents, photographs, physical evidence, demonstrations, picture enlargements, power point presentation, etc.)

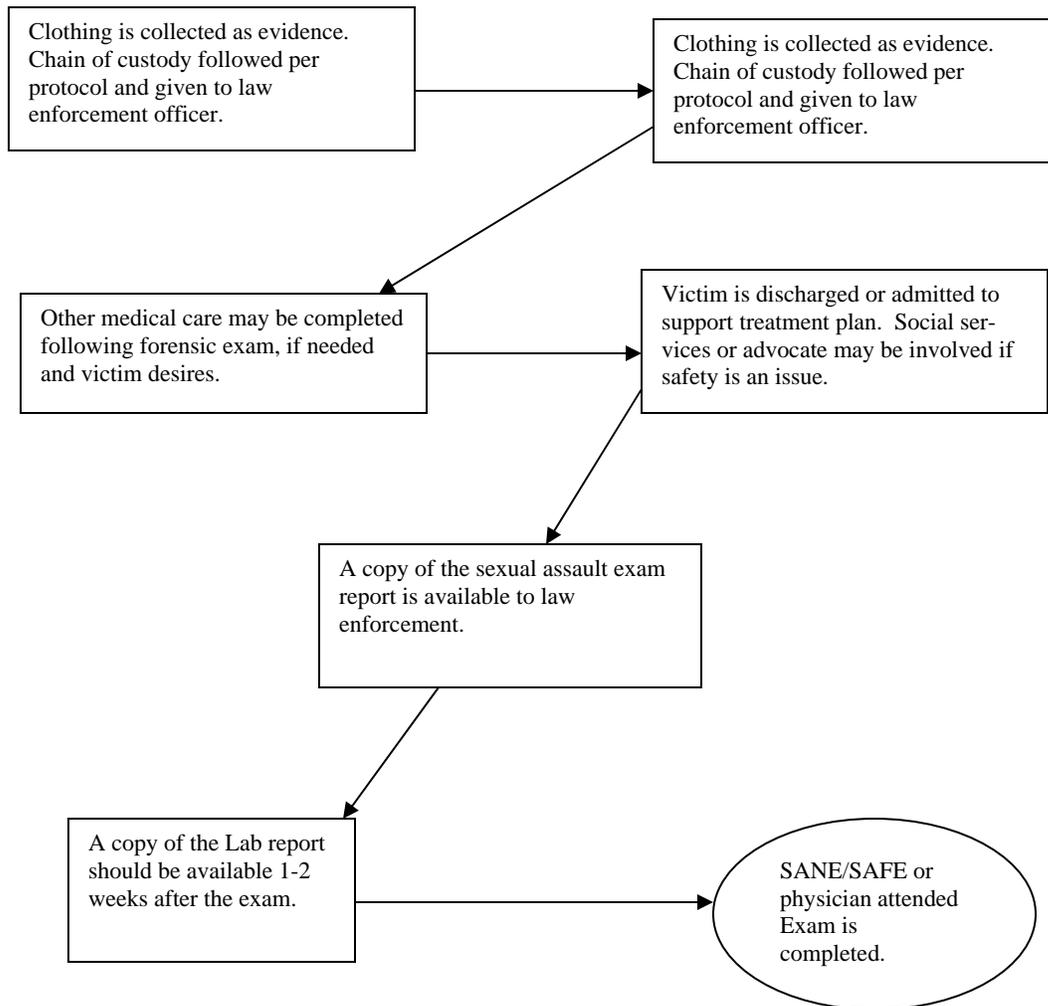
- Trial:
 - Sequester witnesses.
 - Victim's right at attend proceedings.
 - Opening, case presentation, defense, rebuttal, closing and jury instructions.
 - Verdict and notice to victim, if not present.
 - If conviction, move to revoke any bond and remand defendant to jail pending sentencing.

- Sentencing:
 - Immediate or schedule at later date.
 - Sex offender registry review.
 - Prepare written sentencing recommendation, including continued "no contact" and restitution, and review with probation officer, victim advocate, victim (if participating) and investigating officer.
 - Victim impact statement (oral and/or written).
 - Pre-sentence conference with judge and defense counsel (or defendant, if not represented) and provide court and defense with copies of written sentencing recommendation and victim impact statement.

- Post Sentencing:
 - Notify victim of sentence, explain and answer questions.
 - Confirm notification to tribal police of sentence provisions and any probation restrictions, including no contact order, which will require enforcement.
 - Notify victim is defendant files and appeal, explain claim of appeal and appeal process to victim and answer questions.
 - Arrange victim notification of inmate release.



**SEXUAL ASSAULT MANAGEMENT PROTOCOL FOR THE
EMERGENCY ROOM OR HEALTH CLINIC SETTING**



*** Michigan State Law, M.C.L. 750.411, requires physicians caring for a person suffering from a wound or other injury inflicted by means of a knife, gun, pistol, other deadly weapon, or other means of violence, must report to local Law Enforcement the following: 1.) name and residence of wounded person (if known); 2.) The whereabouts of the wounded person; 3.) The cause of the injury; 4.) The character and extent of injury.

PROBATION OR CORRECTIONS PROTOCOL

During the pre-sentencing Investigation

During the pre-sentencing investigation the following services will be provided to the victim.

- Victims or their legal guardians will receive information regarding:
 - The conviction offense;
 - The proposed disposition as contemplated in plea agreement if there is one;
 - The right to object to the proposed disposition;
 - The right to request restitution;
 - The right to be present at sentencing;
 - The range of sentencing options available to the judge.
- The pre-sentencing investigation shall include a summary of the damages to the victim and the victim's recommendation for disposition, if the victim gives this information to the investigator.
- To receive this information, the pre-sentencing investigator shall make a good faith effort to contact the victim by phone or by mail, and may contact the local advocacy program to initiate follow-up contact.
- If there is a victim advocate available, contact can be established through that advocate.
- Victims will be informed of timing issues:
 - All victim info including victim impact statement and any restitution claimed must be provided no later than 60 days after plea/conviction.
- Interested victims will be provided with referrals to appropriate services.
- A note will be made in the Pre-sentencing report of any advocacy programs providing services to the victim.

Community Supervision

Upon a probationary disposition of Criminal Sexual Conduct victim incident Corrections will provide the following victim services.

- Notify victims of the perpetrator's supervising agent so victims know who to contact with questions or concerns.
- Notify victims of any relevant conditions of probation related to the perpetrator.
- If the victim is not available provide the information to local advocacy services, program advocate and request it be forwarded to the victim.
- Monitor "no contact orders" between the perpetrator and victim when those orders are issued.
- If restitution is ordered, the payment schedule or structure will be incorporated into the probation agreement and the offender's obligation to pay restitution to victim will continue through the term of the probation.

Hannahville Indian Community
Criminal Sexual Assault Code

1.2084 Criminal sexual conduct; title; definitions; general provisions.

- (1) Title. Sections 1.2084, 1.2084a, 1.2084b, 1.2084c and 1.2084d shall be known as the “Hannahville Indian Community Criminal Sexual Conduct Code” and may also be cited as the “criminal sexual conduct code”. References to “this code” within the aforementioned sections refer to the Hannahville Indian Community Legal Code.
- (2) Definitions. As used in the criminal sexual conduct code, the following terms and definitions shall apply:
 - (1) Mentally disabled person - a person who has a mental illness, is mentally retarded, or has a developmental disability, as herein defined.
 - (2) Mental illness - a substantial disorder of thought or mood, which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
 - (3) Mentally retarded person - a person who has significantly sub-average general intellectual functioning, which originated during the developmental period and is associated with impairment in adaptive behavior.
 - (4) Developmental disability - an impairment of general intellectual functioning or adaptive behavior which meets the following criteria: [1] it originated before the person became 18 years of age; [2] it has been continuous since its origination and can be expected to continue indefinitely; [3] it constitutes a substantial burden to the impaired person’s ability to perform in society; and [4] it is attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other condition found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services similar to those required for a person who is mentally retarded.
 - (5) Temporarily incapacitated person - a person who is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a controlled substance, alcohol, anesthetic, or other substance, regardless of the voluntary or involuntary nature or method of the consumption or use, as that term is defined in subsection 1.2036(2)(d) of this code, or due to any other act committed upon that person with or without his or her consent.
 - (6) Physically helpless person - a person who is unconscious, asleep, or who for any other reason is physically unable to communicate unwillingness to an act.
 - (7) Perpetrator - a person accused of criminal sexual conduct.
 - (8) Personal injury - a bodily injury (however slight or impermanent), disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.
 - (9) Intimate parts - parts of the human body in the primary genital area, groin, inner thigh, buttock, and breast.

- (10) Sexual contact - the intentional touching of the victim's or perpetrator's intimate parts by the perpetrator or by the victim through the action or initiation of the perpetrator, including the intentional touching of the clothing covering the immediate area of the victim's or perpetrator's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, or done for sexual purpose, or in a sexual manner, including such actions for revenge, to inflict humiliation or out of anger.
 - (11) Sexual penetration - sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.
 - (12) Victim - the person alleged to have been subjected to criminal sexual conduct.
 - (13) Weapon - any object, although not inherently dangerous, which is used in a way that is likely to cause serious injury or death. Weapons include, without limitation, firearms, whether or not loaded and whether or not capable of being fired, knives, brass knuckles, clubs, iron bars, baseball bats, and any other device capable of causing serious injury.
 - (14) Force or coercion - the exercise of physical control or threatening influence over a victim sufficient to negate voluntary consent, including but not limited to any of the following circumstances: [1] when the perpetrator overcomes the victim through the actual application of physical force or physical violence; [2] when the perpetrator coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes the perpetrator has the present ability to execute these threats; [3] when the perpetrator coerces the victim to submit by threatening to retaliate in the future (including threats of physical punishment, kidnapping or extortion) against the victim or against any other person, and the victim believes the perpetrator has the ability to execute this threat; and [4] when the perpetrator, through concealment or by the element of surprise, is able to overcome the victim.
- (3) Consent not a defense. The actual or apparent consent of the victim shall not be a defense to charges of criminal sexual conduct in the first or second degrees and shall not otherwise be relevant if any of the circumstances listed herein exist. A person shall be guilty of the crime of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and any of the following listed circumstances exist. A person shall be guilty of the crime of criminal sexual conduct in the second degree if he or she engages in sexual contact with another person and any of the following circumstances exist. The circumstances referred to in this paragraph are as follows:
- (1) The victim is under 13 years of age.
 - (2) The victim is at least 13 years of age, but less than 16 years of age, and either [1] the perpetrator is a member of the same household as the victim, or [2] the perpetrator is related to the victim by blood or affinity to the fourth degree, or [3] the perpetrator is in a position of authority over the victim and used this authority to coerce the victim to submit, or [4] the perpetrator is 5 or more years older than the victim.
 - (3) The perpetrator knows or has reason to know that the victim is mentally disabled, temporarily incapacitated or physically helpless.
 - (4) The perpetrator uses force or coercion to accomplish the sexual penetration or contact.

- (5) The victim has knowledge that the perpetrator is armed with a weapon, as defined in subsection 1.2084(1)(m) of the criminal sexual conduct code, or the victim has knowledge that the perpetrator is armed with any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.
- (6) The perpetrator engages in the medical treatment or examination of the victim in a manner or for purposes, which are medically recognized as unethical or unacceptable.
- (4) Corroboration of victim's testimony. The testimony of a victim need not be corroborated in prosecutions under any section of the criminal sexual conduct code.
- (5) Resistance. A victim need not resist the perpetrator in the perpetrator's commission of an offense under any section or subsection of the criminal sexual conduct code. Resistance by a victim is not an element of any offense under any section or subsection of the criminal sexual conduct code, and the absence of a victim's resistance is not a defense in a prosecution under any section or subsection of the criminal sexual conduct code.
- (6) Admissibility of evidence; victim's prior sexual conduct.
 - (1) Evidence of specific instances of the victim's prior sexual conduct, opinion evidence of the victim's prior sexual conduct, and reputation evidence of the victim's prior sexual conduct shall not be admitted as evidence in a prosecution under any section or subsection of the criminal sexual conduct code, unless and only to the extent that the judge finds that the proposed evidence is material to a fact at issue in the case, that its inflammatory or prejudicial nature does not outweigh its probative value, and that the proposed evidence is of the following nature: [1] evidence of the victim's past sexual conduct with the perpetrator; or [2] evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy or disease.
 - (2) If the defendant proposes to offer evidence described in subsection (a) immediately above, the defendant shall file, no later than ten (10) days after the initial pretrial conference following arraignment, a written motion and offer of proof. The court may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (a) above. If new information is discovered during the course of the trial that may make the evidence described in subsection (a) above admissible, the judge may order an in camera hearing to determine whether the proposed evidence is admissible under subsection (a) above.
- (7) Suppression of names and details. Upon the request of the victim or the perpetrator in a prosecution under the criminal sexual conduct code, the magistrate before whom the perpetrator is brought on a charged offense under the criminal sexual conduct code shall order the names of the victim and the perpetrator and the details of the alleged offense to be suppressed until such time as the perpetrator is arraigned, the charge is dismissed, or the case is otherwise concluded, which ever occurs first.
- (8) Married persons. A person may be charged and convicted under the criminal sexual conduct code even though the victim is his or her legal spouse. However, a person may not be charged or convicted solely because his or her legal spouse is under the age of 16 years, or is mentally disabled, or is mentally incapable, or is mentally incapacitated.

1.2084a Criminal sexual conduct in the first degree; penalty. A person is guilty of the crime of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person without the voluntary consent of that person. Criminal sexual conduct in the first degree may be punished upon plea or conviction by incarceration for not more than 1 year, or by a fine of not

more than \$5,000.00, or by both, plus costs.

- (1) Upon plea or conviction of a second or subsequent offense under section 1.2084a, the sentence imposed for such second or subsequent offense shall require a mandatory minimum sentence of incarceration for not less than 1 year and a fine of not less than \$5,000.00, plus costs.
- (2) For purposes of subsection (1) immediately above, an offense shall be considered a second or subsequent offense if, prior to conviction of said second or subsequent offense, the perpetrator has at any time been convicted under section 1.2084a (criminal sexual conduct in the first degree), or under a predecessor statute of this jurisdiction substantially corresponding to said section 1.2084a, or under any substantially similar statute of this or any other jurisdiction for a criminal sexual offense including rape, carnal knowledge, indecent liberties, gross indecency, or an attempt to commit any of such offenses.

1.2084b Criminal sexual conduct in the second degree; penalty. A person is guilty of the crime of criminal sexual conduct in the second degree if he or she engages in sexual contact with another person without the voluntary consent of that person. Criminal sexual conduct in the second degree may be punished upon plea or conviction by incarceration for not more than 270 days, or by a fine of not more than \$3,500.00, or both, plus costs.

- (1) Upon plea or conviction of a second or subsequent offense under section 1.2084b, the sentence imposed for such second or subsequent offense shall require a mandatory minimum sentence of incarceration for not less than 270 days and a fine of not less than \$3,500.00, plus costs.
- (2) For purposes of subsection (1) immediately above, an offense shall be considered a second or subsequent offense if, prior to conviction of said second or subsequent offense, the perpetrator has at any time been convicted under either section 1.2084a (criminal sexual conduct in the first degree) or section 1.2084b (criminal sexual conduct in the second degree), or under any predecessor statute of this jurisdiction substantially corresponding to either section 1.2084a or 1.2084b, or under any similar statutes of this or any other jurisdiction for a criminal sexual offense including rape, carnal knowledge, indecent liberties, gross indecency, or an attempt to commit any of such offenses.

1.2084c Assault with intent to commit criminal sexual conduct in the first degree; penalty. A person is guilty of the crime of assault with intent to commit criminal sexual conduct in the first degree if he or she commits an assault or a battery against another person, as those terms are defined in sections 1.2004(1)(a) and (b) of this code, with the intent to engage in sexual penetration with that other person without the voluntary consent of that person. Assault with intent to commit criminal sexual conduct in the first degree may be punished upon plea or conviction by incarceration for not more than 180 days, or by a fine of not more than \$1,000.00, or both, plus costs.

1.2084d Assault with intent to commit criminal sexual conduct in the second degree. A person is guilty of the crime of assault with intent to commit criminal sexual conduct in the second degree if he or she commits an assault or a battery against another person, as those terms are defined in subsections 1.2004(1)(a) and (b) of this code, with the intent to engage in sexual contact with that other person without the voluntary consent of that person. Assault with intent to commit criminal sexual conduct in the second degree may be punished upon plea or conviction by incarceration for not more than 120 days, or by a fine of not more than \$500.00, or both, plus costs.

Enacted by the Hannahville Indian Community Tribal Council for immediate effect on 12/02/02.

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2007-119**

- WHEREAS**, the Rosebud Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof; and
- WHEREAS**, the Rosebud Sioux Tribal Council is the governing body of the Rosebud Sioux Tribe and exercise its power and authority pursuant to the Rosebud Sioux Tribal Constitution and By-laws; and
- WHEREAS**, the Rosebud Sioux Tribal Council is vested with the authority to promulgate and enforce ordinances providing for the maintenance of law and order and administration of justice and to safeguard and promote the peace, safety, morals, and general welfare of the tribe under act. IV § 1(k) and 1(m) of the Rosebud Sioux Tribal Constitution; and
- WHEREAS**, the Rosebud Sioux Tribe experiences high incidents of rape and child sexual abuse and molestation, all which have a detrimental impact on the lives of all residents of the Rosebud Sioux Reservation; and
- WHEREAS**, the Rosebud Sioux Tribal Council recognizes that sex offenders have a high likelihood of re-offending and that sex offender registration and notification laws are necessary to help residents of the Rosebud Sioux Reservation protect themselves and their children from sex offenders; and
- WHEREAS**, the United States Congress has enacted P.L. 109-248, The Adam Walsh Child Protection and Safety Act of 2006 (hereinafter referred to as "Act"), which establishes a comprehensive national system for the registration of sex offenders in order to protect the public from these offenders.
- WHEREAS**, Title I, which maybe cited as the Sex Offender Registration and Notification Act, subtitle A of the Act, requires that each State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands and federally recognized Indian Tribes maintain a jurisdiction-wide sex offender registry that conforms with the requirements of subtitle A of the Act; and
- WHEREAS**, Indian tribes were granted two options for complying with the requirements of subtitle A as follows: passing a resolution electing to carry out subtitle A as a jurisdiction subject to the provisions of subtitle A *or* passing a resolution electing to delegate its function, under subtitle A, to another jurisdiction(s) within which the territory of the tribe is located and to provide access to its territory and such other cooperation and assistance as may be needed to enable such other jurisdiction(s) to carry out and enforce the requirements of subtitle A. If a tribe does not pass a resolution adopting one of the two elections by July 27, 2007, then that tribe shall be treated as if it elected the latter option of delegating its function to another jurisdiction(s); and

**ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2007-119**

WHEREAS, the Rosebud Sioux Tribe elects to carry out subtitle A as a jurisdiction subject to the provisions of subtitle A of title I of the Adam Walsh Child Protection and Safety Act of 2006 and thereby opts to function as a sex offender registration jurisdiction; and

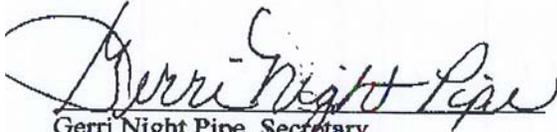
WHEREAS, the Governmental Affairs Committee, has reviewed this matter and recommends passage of this resolution by the Rosebud Sioux Tribal Council; now

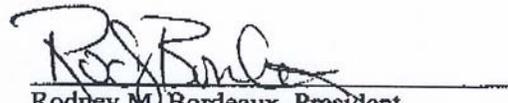
THEREFORE BE IT RESOLVED, that the governing body hereby adopts Resolution No. 2007-119.

CERTIFICATION

This is to certify that the above Resolution Number 2007-119 was duly passed by the Rosebud Sioux Tribal council in session on May 10, 2007, by a vote of fourteen (14) in favor, none (0) opposed and four (4) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:


Gerri Night Pipe, Secretary
Rosebud Sioux Tribe


Rodney M. Bordeaux, President
Rosebud Sioux Tribe