

CULTURALLY APPROPRIATE RESPONSES FOR NATIVE AMERICAN VICTIMS OF SEXUAL ASSAULT.

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Purpose of Webinar

- Provide basic overview of federal policy and impact on tribal nations
- Increase participants knowledge of the socio-cultural background of native people, family dynamics and the environment in which they live
- Improve knowledge and skills of non-Native service providers/responders when responding to victims of sexual assault
- Eliminate potential racism within response and collaboration & coordination efforts
- Improve collaboration between non-Native and Native organizations

Prior to European Contact

- 20-45 million Native peoples lived on this continent
- Thousands of sovereign Nations, each with their own language and culture
- By 1900, only 250,000 Native people survived due to starvation, disease, murder, wars.

B.C. Era – Early Contact

- Women & children were considered sacred, held esteemed positions in the nation
- Matrilineal/matriarchal tribal nations
- No one word for rape
- Sexuality was natural & women's sexual autonomy was respected
- Women were not seen as property of men
- Tribal justice response to acts of violence was swift & severely punished
- Individual and tribal sovereignty



“The Indian have no altercations, and in ten years I have not heard any angry expressions nor seen any degree of passion. They treat their women with respect, even tenderness, They used no ardent spirits. They settled differences amicably.”

-Ephraim Webster, (1786) Fur trader that lived with the Onondaga and Oneida for years and eventually adopted by the people.



Federal Policies

- Removal Era – 1830-1849
- Reservation Era – 1850-1886
 - 1885 - Major Crimes Act
 - 1879 - Creation of Boarding Schools
- Assimilation and Allotment Era – 1887-1933
- Indian Reorganization Act Era – 1934-1945
- Termination & Relocation Era – 1945-1961
 - 1953 - Public Law 280
- Self-determination Era – 1960's – present
 - 1978 - Indian Child Welfare Act (In 60's & 70's, Indian children 6 times more likely removed from their homes and vast majority placed in non-Indian homes)
 - 1978 - Indian Religious Freedom Act
 - 1994 - Violence Against Women Act

“Objective simple and clear cut: To extinguish tribal sovereignty, erase reservation boundaries, and force the assimilation of Indians into the society at large.”

– Supreme Court



1870's Boarding School Era began: Forced removal of children

Conquest, Colonization & Assimilation

- Creation of Government Controlled/Catholic Boarding Schools
- Breakdown of family, social systems
- Traditional forms of justice mostly eliminated
- Conquest: Land/women
- Diminished status of women
- Erosion of individual and tribal sovereignty



Definition of Sovereignty

"Sovereignty, exists as a pre-condition among self-governing entities and acts as a legal shield protecting all rights and privileges reserved and implied by nationhood. In fact, treaties were a granting of rights from the tribes, to the federal government."

-Chief Justice Marshall

Sovereign Native Women

- Sovereignty refers to Nations but it also refers to the people within the Nations. Native women were considered sovereign and self-governing. Native women had the right to their own children, the right to divorce, and their own possessions.

The three primary underlying assumptions were:

- Indians would assimilate
- Indians would eventually disappear, as they “died off naturally” due to relocation and the subsequent loss of traditional subsistence and economic practices (loss of fishing rights, land for agriculture and reductions in wildlife, and other subsistence rights).
- Indians would be exterminated.

The expectation was ***not*** that in the 21st century, more than 560 American Indian tribal nations would still exist as political and culturally distinct peoples

Common Reactions of Non-Native People to this History

- “All of that happened in the past so get over it.”
- “I am not responsible for what my ancestors did to your people.”
- “My relatives were not here when all that happened”.

Some History *Not* in History
Books. Why is it important to
remember this history?

Contemporary Synopsis

Demographics

- 560+ federally recognized tribes in the U.S.
- 4.1 million American Indian & Alaska Native people living in the U.S. (2000 census)
- Prior to European contact, Indigenous population exceeded 20 million
- Most living west of the Mississippi River with largest populations in CA & OK (2000 census)
- Native Americans rank at or near the bottom of nearly every social, health and economic indicator (U.S. Commission on Civil Rights)
- Nationally, at least 50% of Native Americans live in metropolitan areas

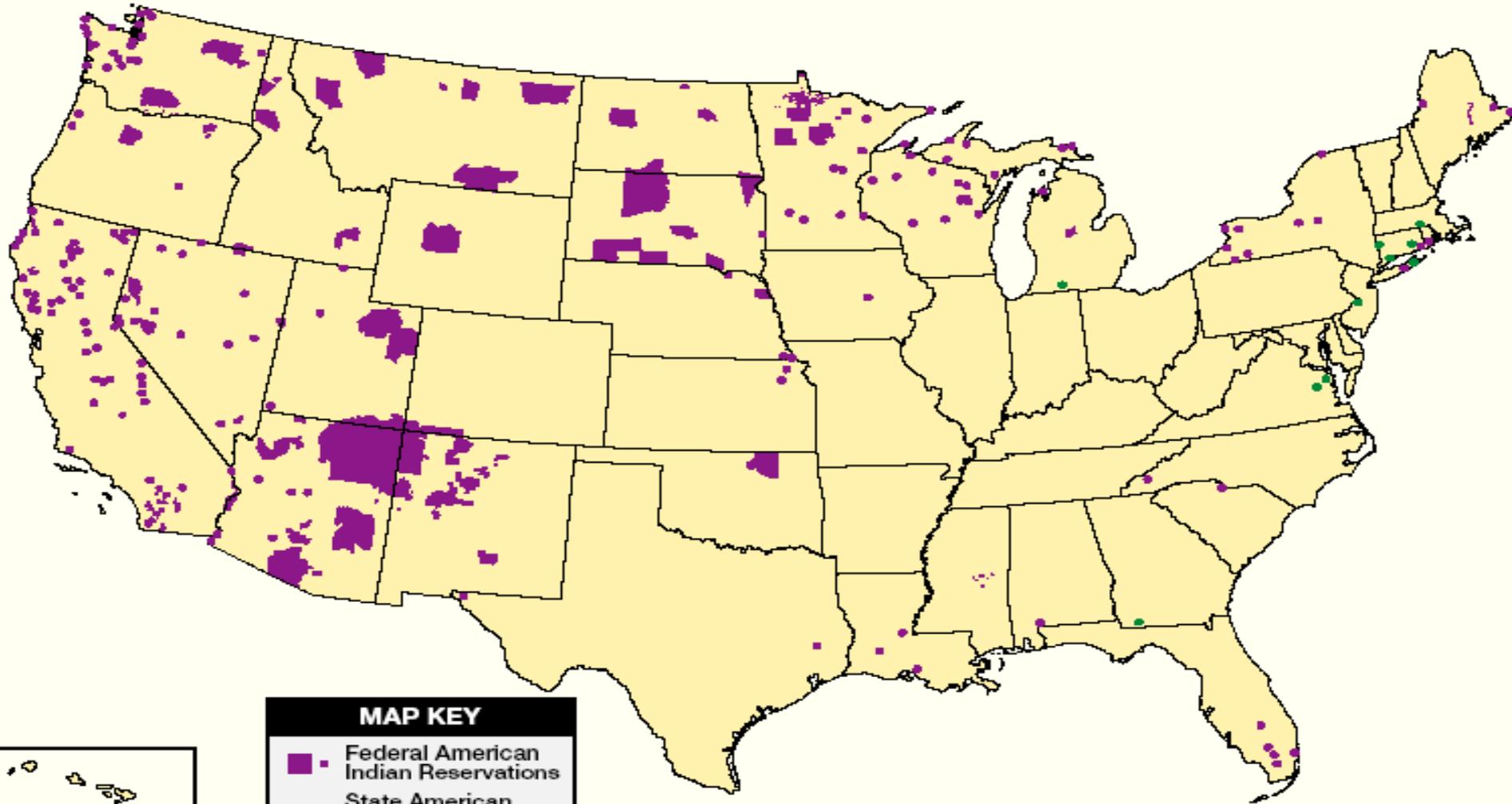
What does it mean to be a “Federally Recognized Tribe?”

A "Federally Recognized" Tribe pursuant to the Federally Recognized Indian List Act of 1994 (25 U.S.C. 479a) is a tribe, band, nation, pueblo, village or community that has a Federally acknowledged legal and political relationship with the Federal government. This relationship is referred to as a government-to-government relationship collectively defined in the United States Constitution, treaties, agreements, statutes, and numerous court cases.

Indian Country

- The definition of Indian Country is set forth by federal law ([18 U.S.C. § 1151](#)) as follows:
- (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

American Indian Reservations



MAP KEY

- Federal American Indian Reservations
- State American Indian Reservations

Cultural Variations/Similarities & Diversity

- 560+ tribal *nations*
- ✓ Names
- ✓ History
- ✓ Land, natural resources & demographics
- ✓ Customs
- ✓ Languages & dialects
- ✓ Spiritual Beliefs
- ✓ Art forms
- ✓ Dances & songs
- ✓ Economic Infrastructures
- ✓ Social/kinship Systems
- ✓ Matrilineal/patrilineal
- ✓ Tribal governments – Elected officials and hereditary chiefs

Contemporary Reality of Sexual Assault in Tribal Communities

Statistics

- American Indian women experience sexual assault at a rate 3.5 times higher than all other ethnicities (Greenfield & Smith, 1999).
- 34.1% of American Indian women raped in her lifetime (National Violence Against Women Survey, 1998)
- Over 70% of rapes are not reported. (BJS report, American Indians and Crime, 1999)
- According to the National Crime Victimization Survey, 87% of sexual assaults on American Indian women are perpetrated by non-Indian men (National Crime Victimization Survey, 2000).
- In 2003, only 54 cases of sexual assault against American Indian women were prosecuted by the U.S. Attorney's Office (personal communication, Assistant U.S. Attorney Leslie Hagen, December 10, 2004).

More Statistics

- American Indian and Alaskan Native women were slightly more likely than white women to be murdered by a male offender. (When Men Murder Women: An Analysis of 2003 Homicide Data, Violence Policy Center)
- American Indian/Alaska Native women are stalked at a rate at least twice that of any other race. 17% of American Indian and Alaska Native women are stalked in their lifetime, compared to 8.2% of white women, 6.5% African-American women, and 4.5% Asian/Pacific Islander women. (1998 Violence Against Women Survey)

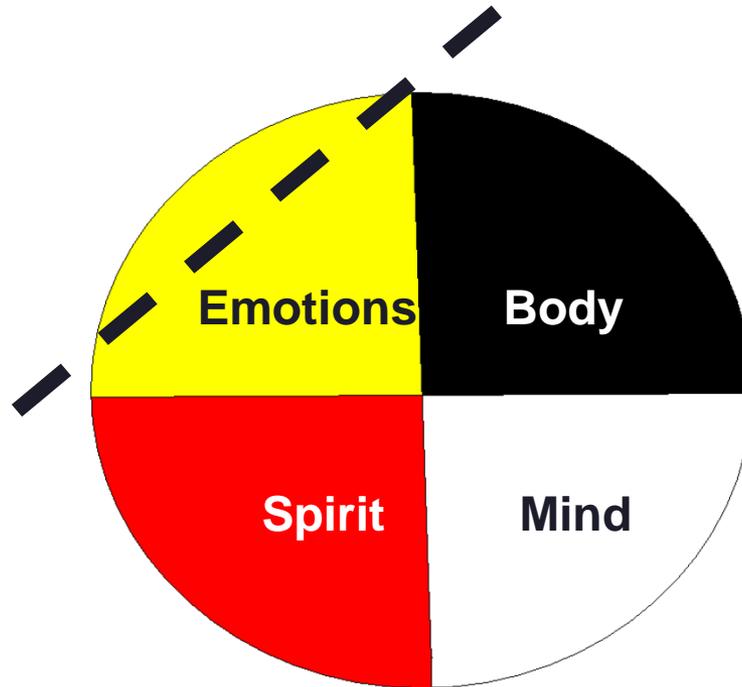
Federal Limitations on Tribal Responses to Rape

- Major Crimes Act: 1885
- Public Law 280: 1953
- Indian Civil Rights Act: 1968
- *Oliphant v. Suquamish Indian Tribe* 1978

- Violence Against Women Act (VAWA)- 1994
- Tribal Law & Order Act - 2010
- VAWA Reauthorization 2013

Rape & Aftermath

Rape & Aftermath



Whole Person Violation

A Few of the Barriers in Tribal Communities that Victims Face

- Poverty (lack of telephones in a high percentage of American Indian households, lack of adequate transportation)
- Delays in law enforcement response due to understaffed departments
- Lack of available resources for victims and added challenge of geographical distance
- Victim's lack of trust in criminal justice system

Barriers to Access

- Victim blaming & prejudice
- Conflict of values
- Language barriers
- Economic and geographic barriers
- Community size affects confidentiality, stigma, and perception of choices
- Fear of law enforcement and the community justice system
- Lack of funding

Patient Perceptions of Health Care Providers

- Some patients reported negative experiences with providers;
 - Providers showed superior attitudes;
 - Providers used confusing terminology;
 - Providers avoided the reservation outside of working hours
- From Fifer 1996 a qualitative study of patient perceptions of health care providers on one reservation,

Immediate Needs of a Victim of Sexual Assault

- Safety
- Medical Attention
- Emotional Support – culturally appropriate that may include spiritual support
- Support for Family
- Information/Referral
- Transportation
- Emergency Housing
- Legal Response/Remedies

First Responder Key Points

- Concern for safety
- Avoid blaming language
- Believe the victim
- Delayed reports are common
- Challenging victims
- Return some control back to victim
- Confusion does not equal fabrication.
- Realize how difficult this is for victim
- Patience
- Informative/Referrals

Developing a Culturally Respectful Response

- Accessible
- Accountable
- Non-racist
- Respectful
- Collaborative
- Flexible
- Trust

- Incorporate culturally congruent processes into services and programs.
- Make services and programs accessible to community members.
- Adapt language and communication styles to the audience.
- Offer choices for services that will protect confidentiality and reduce stigma.
- Develop coordinated community responses with law enforcement and criminal justice.
- Make use of community strengths.

Non-offensive

- Assuming that all Native people are the same.
- Believing what works for the majority works for all.
- Not allowing for silences.
- Interrupting, talking over, talking too much and talking in a loud voice.
- Assuming Native people are Christian.
- Assuming Native people are NOT Christian.
- Being directive, dogmatic, aggressive or intrusive.
- Saying, "color doesn't matter to me" or "some of my best friends are..."
- Mistaking quietness for shyness, weakness or disability.

Two major cornerstones for all services.

Confidentiality & Empowerment:

Returning locus of control back to the victim by offering choices, even small choices such as where to do an interview. Provide accurate and thorough information about victim rights to confidentiality and anonymity where possible.

Possible Resources for American Indian Victims of Sexual Assault

- Spirituality and cultural resources
- Traditional healers
- Tribal court – civil protections, traditional remedies
- Free health care – I.H.S.
- Tribal advocacy program – support groups, talking circles, accompaniment to court, medical services
- Possible victim assistance – financial assistance

Understand Jurisdiction Issues & Impact on Native Women's Safety

- Tribal courts have criminal authority over Native offenders
- Tribal courts, while having civil authority & limited criminal authority over non-Natives in criminal domestic violence cases, with recent passage of VAWA within their boundaries, still may have only limited remedies available against non-Native offenders which presents enforcement and safety problems for Native victims
- Programs must provide adequate training on jurisdictional issues

Establishing Relationships

- Acknowledge & understand the history of colonization & resulting lack of trust
- Recognize, respect, honor the sovereign status of Tribal Nations
- Educate yourself on the history, customs and governments of individual tribes with whom you will work
- Know the times of the year, seasons that tribal ceremonies are held. Participate as appropriate/as feasible
- Approach tribal leaders/elders in accordance to tribal customs
- Understand basic value differences
- Acknowledge the resiliency factors

Resiliency Factors of Tribal Nations

- Maximizing resources
- Environmental; land; resources/natural
- Spirituality; healing practices; celebrations
- Concept of Time
- Extended family; kinship system; group orientation
- Reluctance to trust often misinterpreted
- Interdependency
- Traditions; customs; identity
- Use of food to gather people together
- Humor

Preliminary Work Being Done in Tribal Communities to Address Sexual Assault

- Coordinated community responses/Increased collaboration across jurisdictions
- Tribal codes on sexual assault
- Offender accountability mostly due to SORNA
- Examine/improve investigation/prosecution protocols
- Regenerate Indigenous forms of justice
- Community awareness of sexual assault
- Fighting to exercise inherent sovereignty

Exercise Patience

- Gaining trust and building solidarity takes time and patience. Support the development of culturally appropriate strategies to end sexual assault.

Q & A Session

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