

Tribal Sexual Assault Resource Series

Law Enforcement Sexual Assault Protocol

Tribal Law Enforcement Protocol Resource: Sexual Assault

*Guide for Drafting or Revising
Tribal Law Enforcement Agency's
Protocols Responding to Sexual Assault*



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Tribal Sexual Assault Resource Series

**LAW ENFORCEMENT
SEXUAL ASSAULT PROTOCOL**

**Tribal Law Enforcement
Protocol Resource:
Sexual Assault
(Including a Model Sexual Assault Protocol)**

***Guide for Drafting or Revising
Tribal Law Enforcement Agency's
Protocols Responding to Sexual Assault***

**A Product of the Tribal Law and Policy Institute and
Southwest Center for Law and Policy**

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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.

VIOLENCE AGAINST NATIVE WOMEN RESOURCES

COMMUNITY BASED LEGAL DEVELOPMENT

With support from the Office on Violence Against Women (OVW), the Tribal Law and Policy Institute (TLPI) has developed the following resources to assist tribal governments in creating a comprehensive, community based, victim-centered response to violence against Native women. Each resource is designed to help your tribal government customize laws and policies that fit your community's values, principles, and capacities. These resources are all freely available for downloading on the Tribal Court Clearinghouse (www.tlpi.org) except the textbook.

Tribal Legal Code Resource: Domestic Violence Laws

This guide for drafting or revising victim-centered tribal laws against domestic violence 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.

Listen to the Grandmothers Video and Video Discussion Guidebook is designed to assist tribal programs with incorporating cultural traditions into contemporary responses to violence against Native women. The "Listen to the Grandmothers" video features Native elders speaking to the problem of violence against Native women. The video provides a historical overview of violence against Native women, traditional responses, and an analysis concerning the incorporation of cultural traditions into contemporary responses to violence against women.

Sharing our Stories of Survival: Native Women Surviving Violence

This textbook is a general introduction to the social and legal issues involved in acts of violence against Native women, this book's contributors are lawyers, advocates, social workers, social scientists, writers, poets, and victims. In the U.S. Native women are more likely than women from any other group to suffer violence, from rape and battery to more subtle forms of abuse, and *Sharing Our Stories of Survival* explores the causes and consequences of such behavior. The stories and case-studies presented here are often painful and raw, and the statistics are overwhelmingly grim; but a countervailing theme also runs through this extremely informative volume: Many of the women who appear in these pages are survivors, often strengthened by their travails, and the violence examined here is human violence, meaning that it can be changed, if only with much effort and education. The first step is to lay out the truth for all to see, and that is the purpose accomplished by this textbook.

www.TribalProtectionOrder.org This website is designed to provide both tribal and non-tribal entities with a clearinghouse of information and resources pertaining to the issuance and enforcement of tribal protection orders.

Tribal Domestic Violence Case Law: Annotations for Selected Tribal Cases Related to Domestic Violence

This resource is designed to assist tribal judicial officers in understanding how some tribal governments have handled certain legal issues within the context of domestic violence cases. While a great deal of research has been done on case law in the state systems, little to no analysis has been done on the tribal judicial approach to domestic violence. This compendium, developed as part of an overall code-writing workshop curriculum for tribal governments, will assist tribal legislators as well. Understanding how laws are interpreted by the court systems may impact the development of laws that provide safety to tribal citizens.

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OVERVIEW

American Indian/Alaska Native women experience the highest rate of sexual assault of any population in the country. Statistics compiled by the United States Department of Justice indicate that Native women are sexually assaulted at more than two and a half times the rate of all other women. The prevalence of sexual assault against Native women may actually be even higher because of significant underreporting.

Tribal law enforcement officers play an important role in securing safety and justice for Native survivors of sexual assault. A victim-centered law enforcement 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.

The time invested in developing a sexual assault protocol will produce very real, tangible benefits for both the agency and the community. Protocols can serve as a guide to ensure that only the highest standards for the collection and preservation of evidence are followed. This can increase accountability for perpetrators of sexual assault crimes and result in an increase of successful prosecutions within the applicable tribal, state, and/or federal jurisdictions.

A protocol can also be used as a training tool for agency staff, including line officers, investigators, detectives, and dispatch. The policies and procedures memorialized within your agency's protocol can then become "institutionalized knowledge" not dependent upon the retention of any singular, experienced officer.

Point of Discussion: What else will you need to form an effective, comprehensive response to sexual violence in our community?

- Strong tribal laws on sexual assault
- Guidelines and/or protocols for tribal prosecutors
- Sexual Assault Response Team (SART) protocols

Tribal Sexual Assault Response Teams (SARTs) are teams of professionals working together to effectively and comprehensively address sexual assault crimes within their community. Tribal SART teams are commonly comprised of law enforcement officers, prosecutors, sexual assault victim advocates, social services, and specially trained health care professionals (such as sexual assault nurse examiners) or other medical professionals. Often these teams include representatives from federal and state jurisdictions and service providers who work closely with the tribe.

Development and implementation of a SART in your community has the benefit of increasing victim reporting of sexual assault crimes, increasing victim cooperation with law enforcement and prosecutors, and improving victim access to comprehensive medical and other support services. A SART can also provide an important opportunity for law enforcement to build positive, collaborative relationships with other criminal justice, advocacy, social services, and medical professionals within and across jurisdictions.

The Tribal Law and Policy Institute and Southwest Center for Law and Policy have developed publications and training materials on these issues.

The Crime Of Sexual Assault

Sexual assault is unlike any other violent crime. It harms a woman's body, mind, emotions, and spirit. The devastation caused by the crime of sexual assault affects not only the individual woman, but also her family and her community.

Sexual assault survivors often experience a profound sense of shame and violation. Family and community members may believe common myths about sexual violence and falsely assign blame to the victim for putting herself in a position or a location where the sexual assault occurred. Sexual assault crimes in tribal communities may go unreported because of a victim's embarrassment, shame or a lack of confidence in the justice system.

There is no "typical" victim of sexual assault. A survivor can be a mother, sister, grandmother, niece, or daughter. Native women who are young or old, disabled or able bodied can be sexually assaulted. No woman asks for or deserves to be sexually assaulted.

Tribal law enforcement officers face several significant challenges in investigating sexual assault crimes. It may be difficult for Native victims to discuss an important element of the crime (a sexual act or an attempted sexual act) because of the sensitive or taboo nature of the subject. In close-knit tribal communities, victims may be reluctant to report sexual assault crimes because of confidentiality concerns or because they fear retribution from the perpetrator or his family.

Even where no tribal sexual assault code exists, tribal law enforcement can utilize effective investigation techniques to apprehend perpetrators and arrest them for the commission of other related or incorporated crimes currently contained in their tribal code. Tribal law enforcement can also employ these investigative techniques when working cooperatively with federal and state law enforcement agencies to secure sexual assault convictions in multiple jurisdictions.

HOW TO USE THIS RESOURCE GUIDE

There are five main sections:

Introduction

This section provides helpful information on use of the guide and general information on protocol development.

Background Information

This section provides extensive information on sexual assault, jurisdiction and many other issues that are important in tribal law enforcement protocol development.

Model Protocol

The model protocol presents the “best practices” in tribal law enforcement response to sexual assault. The model protocol was designed and developed by the Southwest Center for Law and Policy in consultation with Indian Country law enforcement and criminal justice experts from across the country.

Workbook

This section leads you through a number of exercises and questions, helping in the discussion of important issues, which leads to decision-making.

Appendices

This section contains examples of protocols used by federal, state, and tribal jurisdictions. These protocols can be used as an additional reference and resource.

Point of Discussion: Who should be involved in the development and drafting of your internal agency protocol?

- *Should it be developed internally with input primarily from agency personnel?*
- *Should it be developed with the assistance of tribal, state, and/or federal prosecutors?*

- *Should the Tribal Attorney or Attorney General be involved in the drafting and development?*
- *Should the protocol be developed utilizing a multi-disciplinary team of criminal justice, advocacy, social services, and medical professionals?*
- *What are the advantages and disadvantages of each option?*

Please keep in mind that your law enforcement protocol may be discoverable in criminal or civil legal actions, even if not freely available to the public. Criminal defense attorneys can use an agency's protocol at trial to impeach an investigating officer, detective, investigator, or dispatcher for failure to follow the protocol to the letter. You are strongly encouraged to consult with legal experts in your community before you begin and throughout the process.

WHAT IS A PROTOCOL?

For the purposes of this resource guide, an internal law enforcement protocol can be defined as a written set of procedures to be followed whenever there is a report of sexual assault.

A law enforcement protocol often includes the following basic components:

- Policy Statement
- Initial Contact (911/Dispatch)
- Initial Victim Contact
- Crime Scene Determination and Preservation
- Initial Victim Interviews
- Victims' Rights
- Forensic Medical Exam
- Investigation of Suspect(s)
- Follow-up Investigation
- Arrest
- Report writing
- Training

Depending on your department's needs or resources, there may be additional topics covered in your protocol.

Point of Discussion: Are there other specific issues your agency needs to address in a protocol?

- Your agency's philosophy or overall approach on responding to sexual assault crimes within your community?
- Other specific issues?

WHY SHOULD YOUR LAW ENFORCEMENT AGENCY HAVE A SEXUAL ASSAULT PROTOCOL?

- Ensure that all cases are handled professionally and that objective, uniform standards are consistently followed;
- Improve the overall investigation and prosecution of sexual assault crimes resulting in increased accountability for perpetrators;
- Establish forensically sound guidelines for the collection of evidence;
- Ensure safety for victims of sexual assault;
- Reduce trauma to victims by improving interagency coordination and minimizing the number of times a victim has to tell her account of the crime;
- Improve the opportunity for the victim to heal from trauma by encouraging all systems to be sensitive, responsive and accountable;
- Delineate professional roles and responsibilities;
- Establish standards for points of contact, methods of contact, and purpose of contact among agencies;
- Increase the professionalism of all federal, state and tribal partners;
- Strengthen and clarify relationships among agencies;
- Improve the credibility and accountability of the agencies involved;
- Increase community confidence in and support of the criminal justice response to sexual assault;
- Increase reporting of sexual assault crimes by adhering to a victim-centered law enforcement response;
- Increase victim and witness cooperation with the investigation and prosecution of sexual assault crimes;
- Improve training of agency personnel;
- Institutionalize best practices within the law enforcement agency.

Point of Discussion: Are there any other ways that your agency would benefit from the development and implementation of a sexual assault protocol?

NOTES

BACKGROUND INFORMATION

Native Women and Sexual Assault

Native women are sexually assaulted at more than twice the rate of other women in the United States. They are also more likely:

- to be sexually assaulted by a man of another race
- to be sexually assaulted by multiple perpetrators
- to be sexually assaulted in a public space
- to be sexually assaulted with a weapon used in the commission of the crime
- to suffer injuries as a result of the sexual assault

Some scholars and law enforcement officers in Indian Country believe that there are perpetrators who specifically target Native women for sexual assault *because* the victim is Native. Sexual assault against Native women can be both a crime of sexual violence as well as a hate crime.

Historically, sexual violence against Native women has been used as a tool of colonialism. Native women throughout the history of the Americas have been raped, kidnapped, mutilated, and murdered by the colonizers as a means to gain Native lands and to destroy Native peoples. The perception and experience of many Native women today is that they continue to be dehumanized, devalued, and marginalized by the dominant culture. Because of the history of Native people in this country, there is often widespread mistrust of law enforcement and of the criminal justice system.

Tribal law enforcement officers investigating sexual assault crimes against Native women face additional professional challenges:

- Many tribal communities suffer from high rates of poverty, unemployment, and poor access to telephones, transportation and health care.
- The majority of tribes lack strong sexual assault codes.
- There is a widespread shortage of tribal law enforcement officers, 911 systems, and tribal jails.

- Often, tribal law enforcement officers must patrol large geographic areas alone.
- Tribal law enforcement officers have limited access to advanced training on sexual assault and to state of the art forensic evidence testing and equipment.
- The complex maze of criminal jurisdiction in Indian Country challenges tribal law enforcement to develop effective collaborations with their state and federal counterparts.
- Some perpetrators of sexual assault may go free because of the complexities of criminal jurisdiction in Indian Country.

The above factors may also contribute to the epidemic of sexual assault against Native women, particularly those sexual assaults committed by non-Native men.

Point of Discussion:

What are the unique barriers and challenges facing your tribal law enforcement agency in responding to sexual assault crimes?

What is Sexual Assault?

NOTE: If your tribal community does not already have strong laws in place to address sexual assault, it is recommended that you begin with the first publication in the series – A Resource Guide for Drafting or Revision of Tribal Laws Against Sexual Violence.

Sexual assault is often defined as any “non-consensual sexual contact.” “Non-consensual sexual contact” is defined by the laws of each jurisdiction. Many jurisdictions criminalize *any* non-consensual sexual contact against women that includes one or more of the following types of conduct:

- Contact, touching, or penetration of a victim’s vulva or vagina by a penis, finger, mouth, or foreign object.
- Contact, touching, or penetration of a victim’s anus by a penis, finger, mouth, or foreign object.
- Oral contact with a victim’s vulva, vagina, or anus.
- Contact or touching of a victim’s breast by a finger, hand, mouth, or foreign object.

It is important to remember that sexual assault need not include penile-vaginal penetration. Perpetrators of sexual assault often use foreign objects in the commission of the crime. Foreign objects commonly include firearms, tools, and bottles.

Victims of sexual assault do not need to be unclothed during the assault. Over-the-clothes contact with a victim’s breast, vagina, or anus may also constitute sexual assault under the laws of many jurisdictions.

Non-Consensual Contact: “No Means No”

The crime of sexual assault includes any “non-consensual” sexual contact. “Non-consensual” is a legal term. A person must possess the legal capacity to form consent to the sexual contact at the time of the sexual contact. It is important to recognize that a woman who is intoxicated or who has severe cognitive disabilities (developmentally disabled, an elder with dementia, etc.) may not have the legal capacity to consent to the sexual contact.

Minors do not have the legal capacity to consent to sexual contact in many jurisdictions.

A woman may withdraw her consent from the sexual contact at any time. Any continued, non-consensual sexual contact constitutes the crime of sexual assault.

Sexual assault can be accomplished by the use of force, by the threat of force, by coercion, or by fraud (e.g. posing as a medical doctor). It is important to note that a victim is not required to fight or resist her attacker. Under the laws of most jurisdictions, a conviction for sexual assault can be secured if there is sufficient evidence that sexual contact occurred and that the contact was non-consensual.

Spousal or Marital Rape

Marriage is not a defense to the crime of sexual assault in many jurisdictions. In these jurisdictions, a spouse may be criminally prosecuted for the crime of sexual assault for any non-consensual sexual contact with his wife.

Tribal law enforcement should investigate crimes of sexual assault when the victim and perpetrator are legally married just as thoroughly and professionally as when the crime was committed outside the bounds of a legal marriage.

Stalking and Sexual Assault

Many perpetrators stalk their victims before sexually assaulting them. Native women are stalked more than any other population in the United States. Law enforcement may be able to prevent sexual assaults in their communities by effectively and aggressively responding to reports of stalking.

Evidence of stalking can also be a useful tool for tribal, state, and federal prosecutors in sexual assault cases. Prosecutors can often introduce evidence of stalking in a sexual assault case as “404(b)” evidence (also known as “prior bad acts” or “other bad acts” evidence) to prove:

- Motive
- Opportunity
- Intent
- Preparation
- Plan
- Knowledge
- Identity
- Absence of Mistake or Accident

Utilizing evidence of a sexual assault perpetrator’s prior stalking of the victim can also successfully rebut many of the perpetrator’s defenses at trial and can increase the odds of securing a conviction.

Native Survivors With Disabilities

Native women with disabilities are often specifically targeted for sexual assault. An overwhelming majority of perpetrators of sexual assault against women with disabilities are known to the victim. Women with disabilities may also be repeatedly victimized by the same perpetrator.

Native women with disabilities may be dependent upon caretakers who are the perpetrators of sexual violence against them. Women with disabilities are at risk for sexual assault whether they reside in an institutional setting (such as an assisted living facility), in their own home, or with relatives or other caretakers.

It can be difficult for Native women with disabilities to initiate contact with law enforcement to report sexual assault crimes. Inaccessible buildings and communication systems and a lack of interpreters on tribal lands can pose significant challenges to accessing the criminal justice system.

Tribal law enforcement can assist Native victims with disabilities by:

- Treating victims with dignity and respect.
- Remembering that victims may not have the legal capacity to form consent to sexual acts because of the nature of their disability.
- Recognizing that interpreters who are family members or caretakers may be the perpetrators of the sexual assault and utilizing other interpreters when possible.
- Providing copies of police reports and other victim rights information in alternative formats.
- Understanding the power imbalance between a caregiver and a woman with disabilities and how that may make it more difficult for victims to cooperate with the investigation and prosecution.
- Investigating unexplained pregnancies and STD's of women with disabilities.
- Utilizing formats and communication styles that ensure that the victim understands the criminal justice process and investigation.
- Dedicating an officer with sufficient training on the investigation of sexual assault and other crimes against persons with disabilities at Independent Living Centers, Disability Resource Centers, or other centers where persons with disabilities access services.

It is important that sexual violence against Native women with disabilities be treated as a crime and not solely handled as a tribal court civil matter (e.g. moving the victim to another care-giving facility or appointing a new guardian for the victim).

Sexual Assault Against Elders

Native communities traditionally hold elder women in extremely high regard. Native elders are respected for their knowledge and life experience and are often viewed as an important link in the chain of the people. Unfortunately, Native elders can still become victims of sexual assault.

There are few statistics addressing the prevalence of sexual violence against older Native women. Reporting may be low because of a heightened sense of shame, fear of the criminal justice system, language barriers, dependency on the caretaker/perpetrator, or a desire not to "air the family's dirty laundry" in closely knit tribal communities.

Tribal law enforcement can assist tribal elders who are victims of sexual assault by:

- Being respectful of the elder at all times and allowing the elder to retain her dignity and privacy throughout the investigation.
- Recognizing that perpetrators may be family members, acquaintances, or caregivers.
- Being aware that some elders may have disabilities that prevent them from having the legal capacity to form consent to sexual acts (e.g. dementia, etc.).
- Recognizing that family members or caretakers who serve as language interpreters for elders who do not speak English may be the perpetrators of the sexual assault.
- Understanding that elders may be completely dependent upon their caregivers and that this power imbalance may make it more difficult for her to cooperate with the investigation and prosecution.
- Investigating unexplained injuries and STD's of elders.
- Utilizing formats and communication styles that ensure that the victim understands the criminal justice process and investigation.
- Dedicating an officer with sufficient training on the investigation of sexual assault and elder abuse at the Senior Center or at other centers where elders access services.

Sexual Assault Victim Advocates:

Victim advocates provide essential support to victims of sexual assault and should be used in each and every sexual assault investigation. They are trained to assess victim needs and to provide counseling, advocacy, information, and support. Additionally, they serve as important liaisons with law enforcement and prosecution throughout the entire criminal justice process.

Victim advocates, if available, should be linked with the victim as soon as possible in the initial stages of the investigation. They often assist officers in explaining the medical examination process and in informing the victim about how sexual assault criminal investigations are typically conducted. Tribal sexual assault victim advocates often work in concert with victim advocates from other jurisdictions and can assist victims as their cases proceed through tribal and/or other criminal justice systems.

Victim advocates can be an important resource for explaining victim's rights. They can also assist in assessing ongoing victim safety issues and in providing medical, counseling, social services, and other referrals for victims.

Reporting Issues

Delayed reporting of sexual assault crimes is common and should never be used as a barrier to criminal prosecution. It is common for victims to report sexual assaults only after they have arrived at a safe location and/or after they have received the support of sexual assault advocates, family, clergy, or friends.

Victims may also delay reporting or fail to report the crime of sexual assault because of:

- mistrust or fear of the criminal justice system
- shame
- confidentiality concerns in tight knit tribal communities
- fear of retaliation by the perpetrator or his family
- fear that she will be arrested on unrelated criminal matters (e.g. public intoxication, outstanding warrants, etc.)
- difficulty discussing sexual contact or attempted sexual contact with others

Victims reporting sexual assault crimes should be assured that delayed reporting will not affect the commitment of law enforcement officers to conduct a thorough, comprehensive investigation of the crime. Under almost all circumstances, tribal law enforcement officers should refrain from arresting a victim reporting sexual assault for unrelated criminal charges.

Community Education and Outreach

Community education and outreach can raise community awareness, increase reporting of sexual assault, and improve community cooperation with tribal police. Effective community outreach and education programs by tribal police can:

- Dispel common myths about sexual assault.
- Reduce the stigma sometimes associated with being a survivor of sexual violence.
- Sensitize the community to victim safety and needs.
- Educate the community about available resources for survivors of sexual assault.
- Demystify the criminal justice system's response to sexual violence.
- Demonstrate that sexual assault crimes will be taken seriously by tribal law enforcement.

Tribal law enforcement officers serve as leaders and role models for the communities in which they serve. It is important for officers to model respectful behavior towards women at all times and in all interactions. Officers should display zero tolerance for behavior that belittles women or that is disrespectful towards them. As leaders in the community, tribal law enforcement officers have an obligation to speak out about sexual violence and to let the community know that there is no place for sexual violence in their community.

Determining the Location of the Crime

Crimes of sexual assault can occur in many different types of locations including:

- mobile or stationary vehicles
- public places with considerable foot traffic
- private residences
- remote, undeveloped lands
- places of employment

Sexual assault victims frequently report the crime from a safe location far from the actual crime scene. It is important to accurately determine the location of the crime scene(s) in order to secure the crime scene(s) as early as possible in the investigation. Accurate determination of the crime scene also assists in the determination as to which agencies have the jurisdiction to investigate and prosecute the crime.

“The Jurisdictional Maze”

Basic Criminal Jurisdiction Over Sexual Assault Crimes in Indian Country

Criminal jurisdiction in Indian Country can be extremely complex. In general, tribal courts have criminal jurisdiction over any crime committed by a member of a federally recognized tribe that takes place in Indian Country.

“Indian Country” is a legal term that encompasses:

- All lands within the limits of any Indian reservation
- Allotted land in trust
- Rights-of-way running through a reservation
- All dependant Indian communities (such as a Pueblo) within the borders of the United States

Tribes can prosecute Indians for sexual assault crimes committed in Indian Country regardless of whether the victim is Indian or non-Indian. Federal prosecution of a sexual assault crime does not preclude a parallel or concurrent prosecution of the same crime in tribal court.

Sometimes it can be extremely difficult to make the initial determination whether the crime was committed in Indian Country. In these cases, law enforcement should still make every effort to attend to the victim’s safety needs, locate and/or apprehend the perpetrator, and preserve important evidence.

Checkerboard Reservations

Tribal courts maintain criminal jurisdiction over any crime committed by an Indian on fee simple land that is owned by a non-Indian as long as that land is within the exterior boundaries of an Indian reservation. Thus, even on “checkerboard reservations” tribal law enforcement may arrest Indian perpetrators of sexual assault when the crime was committed within the exterior boundaries of the reservation.

State Criminal Jurisdiction Over Sexual Assault Crimes Committed In Indian Country

All state courts have criminal jurisdiction over sexual assault crimes committed by non-Indians against non-Indian victims in Indian Country. A federal law known as Public Law 83-280 (also known as “PL280”) confers additional state court criminal jurisdiction in select jurisdictions.

PL280 jurisdiction is extremely complicated (and often confusing). There are various categories of PL280 status that affect the ability of a tribe to investigate and prosecute crimes of sexual assault. Continuing intensive, focused collaborative efforts between tribal and state jurisdictions are often required to ensure safety and justice for tribal communities located within PL280 states.

In select PL280 jurisdictions, state courts have *concurrent* criminal jurisdiction with tribes over Indian perpetrators of sexual assault crimes. In these select PL280 jurisdictions, states also have *exclusive* jurisdiction over non-Indians who commit sexual assault crimes in Indian Country.

In the six “mandatory” PL280 jurisdictions listed below, the states have criminal jurisdiction over all crimes committed in Indian Country except for those crimes of general national applicability (e.g. violation of the RICO Act, commission of an inter-state crime under the Violence Against Women Act, theft from the United States mail, treason, violation of federal immigration law, etc.). It is important to note that some of the below listed states have also “retroceded” jurisdiction to the federal government. Retrocession is a state’s return to the federal government of some or all of the criminal and/or civil jurisdiction that was previously granted to the state under PL280.

The six “mandatory” PL280 states are:

- Alaska (except the Annette Islands with regard to the Metlakatla Indians)
- California
- Minnesota (except for the Red Lake reservation)
- Nebraska
- Oregon (except for the Warm Springs reservation)
- Wisconsin

Some states are considered to be “optional PL 280 states.” These “optional” states have adopted all or part of PL280 jurisdiction over Indian Country. It is also important to note that additional federal legislation exists that transfers jurisdiction from tribes to particular states.

Before you begin, it is strongly recommended that you consult with legal experts to determine the parameters of criminal jurisdiction within your community. Consultation with federal and state criminal justice partners can also be useful before commencing your protocol.

Federal Prosecution of Indian Offenders for “Major Crimes”

In 1885 Congress enacted the Major Crimes Act, 18 U.S.C. § 1153. The Major Crimes Act allows for federal prosecution of Indians for the commission of any of the following crimes in Indian Country:

- Murder
- Manslaughter
- Kidnapping
- Maiming
- Aggravated Sexual Abuse or Sexual Abuse (aka “rape” or “sexual assault”)
- Incest
- Assault With Intent To Commit Murder
- Assault With A Dangerous Weapon
- Assault Resulting In Serious Bodily Injury
- Assault Against A Person Under Sixteen
- Felony Child Abuse or Neglect
- Arson
- Burglary
- Robbery
- Felony Theft

The Major Crimes Act applies to crimes committed by Indians in Indian Country regardless of whether the victim of the crime is Indian or non-Indian. It does not preclude parallel or concurrent tribal court prosecution for any of the above listed crimes.

Federal Investigation and Prosecution

Crimes of sexual assault may potentially be prosecuted in both tribal and federal courts without the threat of double jeopardy. It is possible to prosecute and convict a perpetrator of sexual assault in two separate jurisdictions and to impose two separate criminal penalties for the crime. Coordination of the tribal sexual assault investigation with federal authorities is important to ensure the successful dual prosecution of a perpetrator in both tribal and federal courts.

Communication, collaboration, cooperation, and mutual respect are the hallmarks of a productive, successful working relationship between tribal and federal criminal justice professionals. There is a greater likelihood of securing sexual assault convictions when tribal and federal agencies have established solid, collaborative working relationships.

Tribal criminal justice professionals should meet regularly with their federal counterparts to clarify each jurisdiction's roles and responsibilities in the investigation and prosecution of sexual assault crimes. Formal protocols or clearly defined informal agreements can reduce the confusion and overlap that sometimes occur when multiple jurisdictions are investigating and prosecuting the same criminal acts. These protocols or informal agreements can address such important issues as:

- Which jurisdiction will issue a search and/or arrest warrant? (Note that many federal districts will not accept evidence secured by a tribal search warrant.)
- Which agency will coordinate victim interviews to reduce the number of times and persons interviewing a victim?
- Which agency will maintain evidence and the chain of custody over evidence?

Although the federal definition of sexual assault may differ from the definition of sexual assault contained in a tribal code, federal and tribal prosecutors will often be utilizing the same evidence, witnesses, and arguments at trial. It is important to coordinate access to evidence and witnesses so that they will be available for trial in each and every jurisdiction where the perpetrator can be prosecuted.

Multi-disciplinary teams (“MDT’s”) have been formed in many tribal communities to respond to child sexual assault and abuse. These federally mandated multi-disciplinary teams can provide an ideal opportunity for tribal law enforcement to network with their state and federal counterparts who may also investigate and prosecute sexual assaults against adult Native women.

Law enforcement may also find it useful to network with social services, medical, advocacy, and tribal government professionals who participate as multi-disciplinary team members. MDT meetings can often serve as a spring board for the development of a coordinated community response to sexual assault against adult Native women.

Tribal Law Enforcement: Arrest and Detention

Tribal law enforcement officers have the authority to arrest and detain both Indians and non-Indians for sexual assault crimes committed in Indian Country under the following circumstances and conditions:

- When there is probable cause to believe that an Indian has committed the crime of sexual assault against another Indian.
- When there is probable cause to believe that an Indian has committed the crime of sexual assault against a non-Indian.
- Cross-deputized tribal law enforcement officers may arrest and detain both Indians and non-Indians on behalf of the certifying agency.
- Tribal law enforcement officers can detain non-Indians for a reasonable amount of time until the appropriate state or federal law enforcement officers arrive or may deliver them to the nearest state/federal jurisdiction.

Tribal law enforcement officers may arrest and detain Indian suspects outside of Indian Country when they are in hot pursuit of the suspect. Similarly, tribal law enforcement officers may detain non-Indian suspects outside of Indian Country when they are in hot pursuit of the suspect.

Firearms

Tribal law enforcement officers maintain broad powers to seize firearms from both Indians and non-Indians who have committed sexual assault

crimes in Indian Country. Firearms and ammunition should be seized from all sexual assault suspects upon their arrest or detention.

Possession of a firearm or ammunition by Indians or non-Indians may also constitute a crime separate from the sexual assault. Under federal law it is a crime for certain enumerated persons to possess any firearms or ammunition. Conviction under these federal “prohibited possessor” statutes carry a maximum penalty of up to 10 years of incarceration.

Some examples of persons who are prohibited possessors under federal law include:

- Convicted felons and persons under indictment for felonies
- Persons subject to qualifying orders of protection
- Persons who have been convicted of misdemeanor crimes of domestic violence
- Persons who have been dishonorably discharged from the military
- Fugitives from justice
- Persons who have previously been committed to a mental institution by court order.

It is also important to remember that possession of a firearm or weapon during the commission of the crime of sexual assault can result in enhanced or additional criminal penalties in many jurisdictions.

Tribal courts have the power to restrict possession of firearms and ammunition in both civil and criminal proceedings, even in the absence of formal tribal firearms codes. Possession of a firearm or ammunition in violation of a court order can result in additional criminal or civil penalties against the perpetrator.

Tribal courts can issue orders restricting possession of firearms and ammunition against both Indians and non-Indians in civil cases. Examples of civil tribal court orders restricting possession are:

- Protection orders
- Child custody orders
- Child visitation orders

Tribal courts can issue orders prohibiting possession of firearms and ammunition against Indians in criminal cases. Examples of criminal tribal court orders restricting possession are:

- Conditions of release
- Sentencing conditions
- Conditions of probation

Sexual assault perpetrators who possess firearms or ammunition in violation of civil or criminal court orders may face additional criminal and civil penalties in addition to the sexual assault charges. These can include:

- Civil contempt of court
- Criminal contempt of court
- Criminal charges for violation of a protection order or violation of a valid court order
- Criminal charges as a “prohibited possessor” under federal, tribal, or state laws

Investigating and Prosecuting Sexual Assault Crimes When No Tribal Sexual Assault Code Exists

The federal Major Crimes Act does not preclude tribes from enacting their own sexual assault codes and punishing Indian offenders. Indeed, many tribes have already adopted sexual assault codes or are actively working towards adoption of these codes.

Even where no tribal sexual assault code exists, tribal law enforcement can work collaboratively with federal criminal justice professionals to ensure a successful federal prosecution and conviction of the offender. Tribal law enforcement may also be able to arrest an Indian perpetrator of sexual assault for the commission of some of the following crimes under their current tribal codes:

- Assault or Aggravated Assault
- Indecent Exposure
- Trespassing
- Burglary
- Kidnapping

- False Imprisonment
- Elder Abuse
- Child Abuse
- Disorderly Conduct
- Threats and Intimidation
- Harassment
- Stalking
- “Peeping Tom”/Window Peeping
- Disturbing the Peace
- Criminal Damage/Malicious Mischief
- Loitering
- Violation of a Protection Order
- Violation of a Court Order
- Incest

Many of the above listed crimes can also be used when a tribal sexual assault code has been enacted but tribal prosecutors can not meet their burden of proof in proving each and every element of that crime.

It is important to note that Indian perpetrators can be convicted in tribal court of the crime of sexual assault in addition to any other crimes committed during the course of the sexual assault. The maximum sentence an Indian defendant can receive in tribal court for any single crime committed in Indian Country is up to one year of imprisonment and a \$5,000 fine. Tribal prosecutors may be able to utilize the above listed crimes to “max and stack” criminal charges and sentences against Indian defendants in tribal courts. This can result in significantly more jail time for Indian perpetrators than in cases where the perpetrator of the crime of sexual assault was charged in tribal court solely with the sexual assault crime.

The Tribal Law and Policy Institute has developed a Resource Guide for Drafting or Revising Criminal Tribal Laws Against Sexual Assault, which may be helpful in drafting or revising a tribal sexual assault code.

TRIBAL LAW ENFORCEMENT SEXUAL ASSAULT MODEL PROTOCOL¹

I. Policy Statement

The purpose of this protocol is to:

- A. Establish guidelines for an effective Tribal law enforcement response to reports of sexual assault in Indian Country.
- B. Reduce the incidence of and improve the response to sexual assault in Tribal communities by:
 - 1. Protecting victims of sexual assault.
 - 2. Investigating and building strong criminal cases against sexual assault suspects in Indian Country.
 - 3. Supporting and empowering victims of sexual assault through effective collaborations between law enforcement, courts, prosecutors, social services, tribal governments, tribal communities, victim advocates, medical personnel, and victims themselves.
 - 4. Encouraging the cooperation and coordination of tribal law enforcement agencies with the appropriate state/federal law enforcement and prosecution agencies.

¹ This model protocol contains best practices in law enforcement sexual assault response as identified by the Southwest Center on Law and Policy in consultation with Indian Country law enforcement and criminal justice experts from across the country. This is not intended as a recommendation of this particular protocol, but only suggestions of the types of provisions that may be included in a law enforcement protocol. Tribes should collaborate with others such as prosecutors and advocates to develop protocols. See the SART Guidebook for more suggestions regarding collaboration.

II. Initial Contact: 911 Operator/Dispatch

Tribal police dispatch/911 operators are often the first point of contact for victims of sexual assault in Indian country. They serve a vital function in ensuring victim safety and in facilitating an immediate, effective law enforcement response. The following procedures are designed to ensure the safety of the victim, provide immediate medical or other aid to the victim, preserve evidence, and facilitate the apprehension of suspects.

A. Call Priority: Reports of sexual assault shall be treated as high priority calls regardless of the length of time between the call to 911/Dispatch and the incident of sexual assault.

B. Initial Information: As much of the following information listed below should be collected:

1. Victim's name
2. Victim's location
3. Victim's medical condition and whether she needs any immediate emergency medical assistance for any injuries
4. Date, time, and location of the sexual assault
5. Name (if known) of the suspect(s)
6. Detailed description of the suspect(s)
7. Whereabouts (if known) of the suspect(s)
8. If whereabouts of the suspect(s) unknown, the direction and mode of travel of the suspect(s)
9. Use, attempted use, or possession of a weapon by the suspect(s) and description of any such weapon

Preservation of Evidence: Direct the victim to preserve evidence by refraining from engaging in any of the activities listed below. Reassure the victim that law enforcement may be able to identify and recover evidence even if she has engaged in any of these activities:

1. Changing clothes
2. Washing
3. Urinating or defecating
4. Consuming any food or beverage
5. Combing hair
6. Touching, destroying, or moving any items at the crime scene

D. Additional Procedures: 911/Dispatch can assist victims, promote victim and community safety, and facilitate victim cooperation with the ensuing law enforcement investigation by consistently employing the following practices:

1. Demonstrate patience and respect at all times with the victim reporting a crime of sexual assault. She may be in crisis and may exhibit behaviors ranging from rage, outbursts, and crying to calmness, unresponsiveness, or laughter.
2. Whenever possible, stay on the line with the victim to provide additional information and assistance until an officer arrives at the scene.
3. For 911 or other emergency hang-up calls where the call location is known: call back and dispatch an officer.
4. Do not cancel an officer dispatch regardless of whether the request is made during the initial or follow-up call. Advise the responding officer of the request so that the officer can determine whether the request was made voluntarily by the victim.
5. Record and preserve a tape of the conversation and print out a transcript, if possible, for the investigation.

III. Law Enforcement: Initial Victim Contact

A. Law enforcement's initial contact with victims of sexual assault can greatly influence the entire investigative process. Therefore, contact with victims should be guided by professional, respectful, and courteous behavior at all times.

B. Law enforcement initially responding to a report of sexual assault shall:

1. Respond immediately to the crime scene or location of the victim.
2. Conduct a security sweep of the scene to ensure the offender is not present or if present poses no additional risk to the victim.
3. Keep the victim safe and address any safety concerns.
4. Administer first aid, if necessary.
5. Request medical support, if necessary.
6. Demonstrate understanding, patience and respect for the victim's dignity.

7. Attempt to calm and reassure the victim by establishing trust and rapport.
8. Remain aware that the sexual assault may have been committed by a family member, care taker, neighbor or friend who may be present at the scene.
9. Inform the victim that an officer at the scene of the same sex will be provided if desired and available.
10. Contact a victim advocate to provide assistance throughout the investigative process.

IV. Crime Scene Determination and Preservation

- A. It is important for first responding officers and investigator to understand that the victim's body is the primary crime scene and must be protected in those terms second only to the victim's needs. All other scenes are secondary crime scenes. Crimes of sexual assault can occur in many different types of locations including mobile vehicles, public places with considerable foot traffic, private residences, or remote, undeveloped lands. Sexual assault victims frequently report the crime from a safe location far from the actual crime scene. It is important to accurately determine the location of the actual crime scene and to secure the crime scene as early as possible in the investigation.
- B. Officers responding to reports of sexual assault shall:
 1. Determine the actual location(s) of the crime scene(s).
 2. If practicable, secure the crime scene to ensure that evidence is not lost, altered, destroyed, or contaminated.
 3. Make a determination as to whether the victim was in a motor vehicle with the suspect either prior to or after the crime.
 4. Request assistance from the appropriate tribal, state, or federal detectives, evidence technicians, and the prosecuting attorney according to department policy.
 5. Record observations of the crime scene, including the demeanor of the victim and of the suspect(s).
 6. Thoroughly document any injuries to the victim.
 7. Protect the integrity of the evidence and the chain of custody by properly marking, packaging and labeling all evidence collected following department policy.

8. Photograph or videotape the victim's and suspect's injuries, if any, as well as the crime scene.
9. Accurately diagram the crime scene.

V. Initial Victim Interviews and Victim Rights

- A. Initial Victim Interview: Responding officers should attempt to gain the victim's trust and confidence by demonstrating understanding, patience, and respect for the personal dignity of the victim. A secondary goal of the preliminary interview with the victim is to establish the facts of the sexual assault. Initial questioning should be limited to those matters necessary to identify the victim, identify the suspect(s) and witnesses, and to describe and locate the suspect(s), witnesses and physical evidence.
- B. Officers responding to a report of sexual assault shall conduct the initial interview of the victim as follows:
 1. Secure a private location for the interview if the victim is coherent.
 2. Involve the assistance of a victim advocate upon consent of the victim
 3. Explain the necessity of a preliminary law enforcement interview and the need for follow-up contacts and possible additional interviews.
 4. If an interpreter is necessary, avoid using family members, care takers, neighbors or friends as they may be the perpetrator of the crime.
 5. Refrain from having multiple or extraneous officers present during the interview.
 6. Ask the victim to explain what she remembers and how she felt
 7. Remain silent and maintain an open mind while listening fully and attentively to the victim.
 8. Explain the role of other law enforcement professionals who are or who may be involved in the investigation.
 9. Obtain as much information as possible about any identifying information regarding the suspect(s) as well as the names and contact information of any witnesses.
 10. Avoid leading questions and use open ended questions.
 11. Use simple or layperson's terminology appropriate to the victim's age and level of understanding.
 12. Avoid using jargon or police, medical or legal terms.

13. Document any actions taken by the victim during the sexual assault (e.g. scratching the suspect, kicking the car window, etc) and any statements made by the suspect to the victim or that were overheard by the victim.
14. Determine whether any relationship existed between the suspect and the victim.
15. Inquire about any indications that a drug may have been used to facilitate the sexual assault, i.e. whether the victim experienced any loss of memory, disorientation, severe illness or hallucinations.
16. Explain to the victim the importance of a forensic medical examination to the investigation of the crime, to the apprehension of the suspect(s), and for the victim's own well-being.
17. While law enforcement may inquire as to the reasons for any delayed reporting, any such inquiry shall be conducted with full recognition that delayed reporting in sexual assault crimes is common due to multiple factors such as victim trauma, fear, and confidentiality concerns.
18. Document the emotions of the victim and any changes in emotion during the interview and at what point in the interview those changes occurred.

C. Provision of Law Enforcement Contact Information

1. Give the victim the contact information of the responding officer(s) and the lead detective or investigator assigned to the investigation at the conclusion of the initial victim interview.
2. Encourage the victim to contact the lead detective or investigator with any additional information or evidence.
3. Remind the victim to contact the lead detective or investigator should visible signs of injury later appear.

D. Victim Rights Information

1. Inform the victim as to the next possible steps in the criminal investigation.
2. Provide information pertaining to the rights of the victim during the investigation and criminal justice process.
3. Advise the victim that she should notify law enforcement immediately if contacted, harassed or intimidated by the suspect(s)

VI. Forensic Medical Examinations of Victims of Sexual Assault

Timely forensic medical examinations of sexual assault victims, where available, can serve as an important evidence gathering and investigative tools for tribal law enforcement. However, sexual assault victims should never be coerced or pressured to submit to these examinations.

Victims in jurisdictions where forensic sexual assault medical examinations are not available should be reassured that this is not an insurmountable barrier to the investigation or prosecution of the crime.

Law enforcement officers investigating sexual assault crimes shall:

1. Consult with the forensic examiner and/or criminalist concerning the need for a forensic examination.
2. If a forensic examination is warranted, explain the purpose of the forensic examination and its importance to the investigation to the victim.
3. Provide the victim with information on the forensic examination process.
4. Ask for the victim's consent for a forensic examination.
5. Inform the victim that she may withdraw her consent to any or all of the portions of the examination at any time.
6. Ask if the victim wishes to have any support person(s) present or notified of the incident.
7. Help to facilitate contact between the victim and her support person(s) and with any person(s) that the victim wishes to receive notification of the incident.
8. Transport the victim to a designated medical facility for the forensic examination.
9. Advise the victim that the forensic examination will collect any clothing that was worn by the victim either during or immediately after the sexual assault.
10. Obtain a signed release from the victim for access to her medical records and explain the reasons for and significance of the release.
11. Brief the forensic examiner regarding the details of the sexual assault.
12. Refrain from being present in the examination room as the forensic examiner will serve as a witness to the collection of evidence and chain of custody.

13. Allow victim advocates or support person(s) to remain in the examination room if their presence will not harm or compromise the investigation.
14. After the forensic examination has concluded, ask the forensic examiner for a briefing.
15. Attach or include a copy of the forensic examination report, if available, to the officer's case report and include in the officer's case report a summary of the findings.
16. Ensure that all evidence collected is transferred to the appropriate law enforcement agency for storage and the proper chain of custody is followed and documented.

VII. Investigation of the Suspect

- A. The investigating officer shall adhere to department and inter-agency protocols and agreements in **conducting investigation**, identification, and interviews of the suspect.
- B. The investigating officer shall adhere to department and inter-agency protocols and agreements in the **collection of evidence** and in the service of search and arrest warrants.

Identity of the Suspect Known: When the identity of a suspect is known, the investigating officer shall:

1. Construct a photo line-up, if appropriate.
2. Review the suspect's criminal history.
3. Review all open sex crime cases.
4. Confirm the suspect's identity and whereabouts.
5. Consider the appropriate time, place and setting for the suspect's interview.
6. Interview the suspect.

Identity of the Suspect Unknown: When the identity of the suspect is unknown, the investigating officer shall:

1. Follow all leads and witness information to establish the identity of the suspect.
2. Construct a composite and place an alert, if possible.

3. Confer with other law enforcement agencies and other sources of information.
4. Submit any identification evidence such as fingerprints or DNA for comparison and potential identification.

Suspect Interviews: A primary goal of the suspect interview is the admissibility at trial of any incriminating statements made by the suspect. Therefore, law enforcement officers shall:

1. Ensure that suspect interviews comply with the provisions of the 5th Amendment to the United States Constitution, state constitutions and/or the Indian Civil Right Act that safeguard the privilege against self-incrimination during custodial interrogations.
2. Prior to interviewing a suspect who is in custody, advise the suspect of those Miranda rights applicable to Indian Country.

Collection of Physical Evidence From The Suspect: Immediately upon completion of the suspect's interview, the investigating officer shall:

1. Make a determination as to whether probable cause exists to obtain an item of physical evidence from a location in control of the suspect and whether a search warrant may be necessary.
2. Request that the suspect voluntarily execute a consent to search form that itemizes the evidence that the suspect consents to be searched and/or seized.
3. Document in the officer's report the suspect's voluntary consent to search if no consent to search form is available.
4. Clearly document, in the absence of a search warrant or court order authorizing the seizure of evidence, that the suspect is free to decline any part of the search and may leave at any time if the suspect is not already under arrest.
5. Adhere to department and inter-agency protocols and agreements in seeking and obtaining a search warrant for physical evidence from the appropriate court.
6. Make a determination as to whether probable cause exists to obtain blood, hair or saliva samples from the suspect. Blood, hair and saliva collection should be accomplished in accordance with guidelines published by the FBI or in accordance with the best available practices. Only authorized and licensed personnel should collect

- blood. Hair and saliva samples should be collected by trained personnel of the same sex as the suspect.
7. Determine the necessity and availability of a forensic sexual assault examination of the suspect, and conduct if needed.
 8. Limit the number of personnel in the chain of custody of physical evidence as much as possible.
 9. Keep accurate and thorough records of the chain of custody of evidence.
 10. Advise any forensic examiner who has been utilized to collect evidence from the suspect to document the suspect's medical history and any injuries observed.
 11. Advise any forensic examiner who has been utilized to collect evidence from the suspect to document and collect biological and trace evidence from the suspect's body.
 12. Provide applicable Indian Country *Miranda* warnings to any suspect in custody prior to questioning regarding his medical history questions by the forensic examiner or the investigating officer. If the suspect invokes his right to remain silent, the examiner or investigator shall bypass the medical history portion of the examination and continue documenting any visible injuries and collecting appropriate specimens.
 13. Review the evidence to determine the need for any additional crime lab procedures such as: DNA typing/serology typing and fingerprints.

VIII. Follow Up Investigation

- A. Respect for the dignity and welfare of a victim of sexual assault shall be maintained at each stage of the investigation.
- B. Officers should minimize the number and length of additional interviews with victims and limit the number of persons present during the additional interviews.
- C. The investigative officer shall develop a plan and strategy to conduct a comprehensive follow up investigation and shall:
 1. Consider the status of the case following the initial investigation, the facts and circumstances surrounding the sexual assault, and all

- potential defenses available to the suspect (e.g. consent, mistaken identify, etc.) when developing the follow up investigation plan.
2. Consult with all law enforcement officers and personnel who responded to the scene or otherwise took part in the initial investigation.
 3. Review all initial reports and supporting documents.
 4. Review recordings of any communications between the victim and the 911 operator/dispatcher.
 5. Review any audio and/or video recordings conducted during the initial investigation.
 6. Coordinate with victim advocates and any other relevant agencies to address the needs of the victim.
 7. Confer with supervisors and/or other law enforcement and prosecution agencies concerning the proposed investigatory plan when appropriate.
 8. Maintain appropriate on-going communication with the victim and victim advocate.
 9. Determine whether it is necessary to re-photograph victim injuries in order to document any changes.

D. Law enforcement shall determine the need for a second or additional in-depth interview of the victim and schedule the additional interview as soon as possible after the incident. Factors to consider in making the determination as to whether a second or additional victim interview is necessary include:

1. The victim's emotional and physical ability to submit to the additional interview.
2. Whether the victim has been previously medically examined and treated.
3. Whether the victim was incapacitated, injured, or under the influence of alcohol and/or substances during the initial contact with law enforcement officers.
4. Whether newly acquired information or evidence necessitates an additional interview of the victim.

E. If a second or additional interview is conducted, the investigative officer shall:

1. Employ a comfortable, convenient, accessible setting for the victim which affords the victim privacy and freedom from distraction.
2. Arrange transportation for the victim, if necessary.
3. Begin the second or additional interview by:
 - a. Discussing with the victim the purpose and scope of the additional interview.
 - b. Reviewing contact information which may require updating;
 - c. Requesting the victim's consent if the interview is intended to be audio or video recorded.
 - d. Explaining the status of the case and the information necessary to conduct an arrest of the suspect.
4. Summarize the victim's account of the incident back to the victim for accuracy and to identify new information.
5. Clarify any inconsistencies with previous accounts of the sexual assault by the victim in a non-threatening, non-accusatory manner.
6. Encourage the victim to cooperate with the ongoing investigation and prosecution of the case by emphasizing the importance of prosecution for public and victim safety.
7. Apprise the victim of future investigation and prosecution activities that may require the victim's participation and cooperation.
8. Assist the victim in the continuing development of her safety plan
9. Encourage the victim to contact the investigative officer if the suspect attempts to contact the victim by any means or if the suspect violates a protection or other court order.
10. Refer the victim to a victim advocate if one has not already become involved in the case.

F. Upon completion of a second or additional victim interview, the investigative officer shall:

1. Evaluate any new information provided by the victim to determine the necessity of interviewing or re-interviewing other witnesses.
2. Evaluate whether there is any new evidence that needs to be obtained or seized pursuant to a warrant.

At the conclusion of witness interviews, the investigative officer shall:

1. Evaluate seized evidence to determine which items may have evidentiary and probative value.

2. Submit to a crime lab any evidentiary items for DNA, serology, fingerprinting or other forensic testing that have not been previously submitted.
3. Prepare a supplemental officer's report documenting all subsequent investigation including interviews of witnesses and seizure of evidence.
4. Present the most current, complete case file and reports to the appropriate prosecuting authority for review.
5. Continue to work closely with the prosecutor's office(s) to develop the case and to conduct any subsequent interviews.

IX. Decision To Arrest A Suspect

- A. If probable cause exists under tribal law, the suspect shall be immediately arrested by law enforcement or the investigative officer shall seek a warrant for the suspect's arrest.
- B. The victim shall be notified in accordance with departmental procedures whenever an arrest of a suspect has been made.
- C. If probable cause exists to arrest the suspect but the investigation may be lengthy (e.g. due to scientific testing), the case should be referred to the appropriate prosecutor's office for consideration of speedy trial factors.
- D. In tribal jurisdictions where law enforcement initiates criminal charges against a suspect, the investigative officer shall file the criminal complaint with the tribal court and provide a copy of the criminal complaint to the tribal prosecutor.
- E. If there is doubt as to whether probable cause exists to arrest the suspect, the case should be referred to the tribal prosecutor's office for review.
- F. If the case investigation is complete, but the suspect remains unidentified, the case should be filed as "inactive," filed as "under further investigation," or otherwise handled per department policy.
- G. Sexual assault victims shall be notified when law enforcement and prosecution have made a decision not to arrest a suspect and shall be advised of the specific reasons why the decision was made.

- H. If possible, a victim advocate should be present whenever a victim is notified that a decision has been made not to arrest and/or prosecute a suspect.
- I. Periodic review of all unsolved cases should be conducted and the analysis should be made to determine whether there is an immediate need to conduct additional investigation and/or to assign additional officers.

X. Report Writing

- A. Thorough and accurate report writing is essential to the successful prosecution of the crime of sexual assault. Thus, the officer(s) investigating a report of sexual assault shall timely prepare initial and supplemental written reports and submit them in accordance with department policy.
- B. The investigating officers *shall not* fail to prepare and submit a report of sexual assault due to the:
 - 1. Assertions by the suspect that consensual sex occurred.
 - 2. Use of or impairment by drugs and/or alcohol by the victim and/or the suspect.
 - 3. Martial status, sexual orientation, race, age, religion, profession, culture, social position, or political position of either the victim or the suspect.
 - 4. Disability of the victim (e.g. physical, sensory, or cognitive).
 - 5. Status of suspect as a current or former law enforcement officer.
 - 6. Current or previous relationship between the victim and the suspect.
 - 7. Belief that the victim may not cooperate with a criminal prosecution or that an arrest may not lead to conviction.
 - 8. Occurrence of the crime in a private place with no other witnesses except for the victim and the suspect.
 - 9. Disposition of previous reports of criminal activity involving the same suspect or victim.
 - 10. Sexual or criminal history of the victim.
 - 11. Lack of physical evidence.
 - 12. Delayed reporting of the crime by the victim.
 - 13. Absence of physical resistance on the part of the victim.
 - 14. Manner of the victim's dress or behavior.

- C. The reporting officer(s) shall refer to the crime as “sexual assault” rather than as “alleged sexual assault” in all reports.
- D. The officer(s) shall ensure that all elements of the crime of sexual assault are included in the report.
- E. The officer(s) reports shall include:
 - 1. Documentation of all verbal or written statements made by the victim, witnesses, and suspect(s).
 - 2. Specific, verbatim quotations of all verbal statements.
 - 3. Names, addresses, phone numbers and statements of all witnesses.
 - 4. Information regarding the relationship, if any, between the victim and suspect(s).
 - 5. Documentation of all evidence seized or prepared during the investigation including photographs, video tapes, audio tapes, crime scene diagrams, laboratory analyses, and other investigative tools.
 - 6. Documentation of all victim and suspect injuries whether visible or by complaint of pain or discomfort.
 - 7. Documentation of any unusual or suspicious behavior by the suspect(s).
 - 8. Documentation of the demeanor and emotion of a suspect(s) during initial contact and/or interviews.
 - 9. References to all related reports.
 - 10. Documentation in great detail of the victim’s emotional and physical condition at the time that she made any statements.

Training of Sexual Assault Investigators

- A All tribal law enforcement personnel designated to investigate crimes of sexual assault should receive competency based training.
- B Sexual assault competency based training for tribal law enforcement officers should contain the following curricula:
 - 1. The nature, extent and dynamics of sexual assault in Indian Country including myths surrounding sexual assault, delayed reporting, confidentiality, and sensitivity to victim needs and concerns.

2. The history of the tribe and an overview of its culture, tradition, and traditional response to sexual assault.
3. An overview of local resources available for sexual assault victims in their community (victim advocates, shelters, and other victim services) as well as information on how to effectively access those services.
4. Tribal, state, and federal criminal jurisdiction.
5. Applicable tribal, state, and/or federal sexual assault laws.
6. Updated decisions and case laws that relate to sexual assault (i.e., *Crawford*)
7. Applicable tribal, state, and/or federal rules of evidence relevant to sexual assault crimes.
8. Any inter-agency Memoranda of Understanding or agreements related to the investigation and prosecution of sexual assault crimes.
9. Successful and sensitive interview techniques for victims of sexual assault and other witnesses.
10. An overview of the forensic medical examination process and a review of common forensic and other scientific evidence.
11. An overview of the applicable tribal, state and/or federal victim's rights laws.
12. The use and access of state, tribal and federal databases.
13. Updated and/or advanced evidence collection techniques.

**SEXUAL ASSAULT PROTOCOL
WORKBOOK**

This guide provides step-by-step exercises for developing a law enforcement protocol. You may use this protocol to developing an internal agency protocol or to modify an existing sexual assault protocol.

The model protocol contained within this resource guide contains the “best practices” as defined by national experts. Other examples have been included in Appendix to illustrate other law enforcement approaches to the crime of sexual assault. You may find that using the examples provided and following the exercises included in this section will be helpful in developing your protocol. The questions below are designed to ensure discussion of important issues. However, it is important to note that not all questions may apply to **your** department.

Getting Started:

- Identify the people who should be involved in drafting the protocol.
- Establish a time-line for developing the protocol.
- Review any existing protocols (law enforcement, prosecution, SART, or others) for responding to the crime of sexual assault.

It is often helpful to have input from a representative cross-section of your agency in developing your protocol, i.e. dispatch, line officers, detectives, supervisors, etc.. Some agencies have found it useful to include legal experts from the tribal prosecutor’s office or from the office of the tribal attorney in the drafting process and/or in the final review of the protocol.

Each exercise in this section provides a series of discussion questions that correspond with a section of the protocol. These questions are designed to help clarify what is needed, but are by no means the only questions that should be asked or answered. You can use a combination of brainstorming and discussion on each of the exercises to develop your specific protocol language.

It is common for one or two members of a law enforcement agency to spearhead the project of developing a protocol. Often, these individuals are tasked with the responsibility of scheduling protocol development meetings, notifying protocol development task force participants of the meetings, and keeping track of the protocol drafts as they are developed.

It is important to determine which individuals within your agency are ultimately responsible for developing and completing the protocol. The appointment of two or more “co-chairs” of the protocol development task force can lessen the negative impact of employee turnover on the creation and completion of a final product.

It can be helpful to keep track of all protocol drafts in a central file or notebook. Maintaining an electronic copy of all drafts on a disk as well as on a computer hard drive can lessen the probability of loss of your work product.

To prevent confusion, you should place a “DRAFT” mark on each version of your protocol and clearly indicate the date of each draft on every page of the document. Distribution of hard copies of the most recent drafts at each protocol development meeting can also be helpful.

IMPORTANT NOTE:

Most law enforcement agencies will decide to maintain their sexual assault protocol as an internal agency document not freely accessible to the general public. Some agencies may decide to widely disseminate their protocol for various policy reasons. Those agencies electing to publicly distribute their protocol may choose to include persons other than criminal justice professionals (such as medical providers, social services, etc.) in the drafting process.

Please keep in mind that even an internal agency protocol may be discoverable in both civil and criminal actions.

You are strongly encouraged to consult with legal experts in your community to discuss whether the protocol will be an internal agency document or whether the protocol will be publicly disseminated.

PRELIMINARY MATTERS

Define Terms:

- How is sexual assault defined by your tribal code?
- Does the federal or state sexual assault code apply to tribal lands?
- What are the definitions of sexual assault used by any relevant jurisdiction?
- What terms will you use in your protocol? (sexual assault, sexual abuse, rape)? Why?

Clarify Jurisdictional Questions:

- What law enforcement agencies have a role in sexual assault response in your community?
- What are the key jurisdictional issues to keep in mind when developing this protocol?
- What are the specific challenges your department faces in partnering with other law enforcement agencies?
- How does the role of law enforcement vary depending upon whether the victim or perpetrator is an Indian/non-Indian?
- Are there any existing agreements between jurisdictions which may affect the sexual assault protocol?
- Are there any new agreements needed between agencies or jurisdictions?

Consult With Sexual Assault Victim Advocates:

During the development of your protocol you may find it particularly helpful to consult with sexual assault victim advocates, shelters, or other grassroots organizations dedicated to supporting Native women who are victims of sexual assault. Because of their unique role, advocates have considerable insight into which specific law enforcement responses, policies, and procedures may be helpful to victims. Incorporating their suggestions into your protocol may yield significantly improved victim collaboration with the investigation and prosecution of sexual assault crimes.

STEP 1: PURPOSE, POLICY, OR MISSION STATEMENT

Your law enforcement department's overarching policy on responding to sexual assault crimes should be featured prominently in the first section of the protocol. The purpose statement is the foundation upon which the entire protocol will be built.

Questions:

1. What is the goal of the protocol?
2. What is your law enforcement agency's policy towards responding to sexual assault crimes?
3. Why should your department have a written set of guidelines on responding to sexual assault crimes?
4. Are there any traditional values that inform your agency's and/or community's response to sexual assault crimes?

STEP 2: INITIAL CONTACT: DISPATCH/911

When a victim of sexual assault calls for help, she deserves to be treated compassionately and with respect. The response that a victim initially receives from dispatch will impact any subsequent investigation and prosecution of the crime.

A sexual assault victim is more likely to cooperate with law enforcement and prosecutors if her report of the crime is treated as valid and credible and if her safety is prioritized at every stage in the criminal justice process.

Questions:

1. What are the victim's immediate safety concerns? How will they be addressed by dispatch?
2. What are the immediate concerns regarding evidence preservation? How will they be addressed?
3. What specific information should be gathered by dispatch?
4. What specific procedures should be followed by dispatch when a report of sexual assault is made?

STEP 3: INITIAL VICTIM CONTACT: LAW ENFORCEMENT

There are numerous ways that crimes of sexual assault may enter in to the criminal justice system. Some victims may report the crime immediately to law enforcement or may have a relative, friend, neighbor, or medical professional assist them in reporting the crime. Other victims may delay reporting of the crime for days, weeks, or even years.

Law enforcement must prioritize victim safety and evidence preservation in every reported sexual assault case, regardless of the amount of time between the commission of the sexual assault and the actual reporting of the crime.

Questions:

1. What are the victim's immediate safety concerns? How will they be addressed at the initial contact with the officer(s)?
2. How will the victim's injuries be addressed?
3. What information should be provided to the victim?
4. What are the immediate concerns regarding evidence preservation?
5. What specific information should be gathered at the initial interview?
6. Will a victim advocate be called? When?
7. What referrals or information will be provided by law enforcement to the victim?
8. How many officers will respond? Will specially trained officers, investigators, or detectives respond? If so, when?
9. When should other criminal justice professionals from your jurisdiction or other jurisdictions be contacted?
10. Are there any additional procedures or practices?

Special Note:

Sexual assault victim advocates play an important role in supporting victims throughout the criminal justice process. Many law enforcement agencies maintain formal or informal agreements with independent victim advocacy service providers whereby an advocate is called out whenever a report of sexual assault is made. These independent victim advocates are primarily tasked with serving the victim's needs.

Many jurisdictions recognize a “victim-advocate privilege.” In these jurisdictions, all communication between the victim and her advocate is confidential and generally may not be disclosed to law enforcement without the express consent of the victim.

Point of Discussion: What is the role of advocates in our community?

“Advocates are the **biased** supporters of women...There is no other job or position that allows for this stance. Advocates are 100 percent of the time about the sovereignty of women. We are accountable to the women with whom we work, and there should be no conflict of interest.”

-Brenda Hill, *The Role of Advocates*, in *Sharing Our Stories of Survival* (Deer et al, Eds.) 2007.

STEP 4: CRIME SCENE DETERMINATION AND PRESERVATION

There are a many possible “crime scenes” in a sexual assault case. Consider the possibility that while the sexual assault may have been committed in primarily one location (e.g. in a vehicle or in a bedroom), other locations may be equally important for investigative purposes. Always remember that the victim’s person is a primary “crime scene” during the commission of every sexual assault crime.

Questions:

1. Are the crime scenes secure? What should be done to ensure security of the scenes?
2. How will evidence be handled and preserved?
3. What should be documented? How?

STEP 5: VICTIM INTERVIEWS AND VICTIMS' RIGHTS

Compassion and respect are necessary to build the victim's trust and confidence. This section of your protocol should provide the foundation for a solid interview which will minimize the need for subsequent interviews.

Questions:

1. Who should be present during the initial victim interview?
2. What can be done to increase the comfort and engender the trust of the victim?
3. Where should the interview take place?
4. What information should be obtained during the initial interview?

STEP 6: FORENSIC MEDICAL EXAMINATIONS

It is important to remember that perpetrators of sexual assault crimes are routinely convicted in tribal, state, and federal courts without the introduction of any forensic medical evidence at trial. However, timely forensic medical examinations can and do yield important evidence leading to the conviction of perpetrators in many cases of sexual assault crimes committed against Native women.

Your jurisdiction will need to develop a collaborative relationship with a nearby, qualified sexual assault forensic medical examiner (such as a Sexual Assault Nurse Examiner/SANE) as well as with a qualified laboratory to process the evidence. Specific details such as payment for the examinations and for laboratory testing, transportation of victims, chain of custody of evidence, and trial testimony will need to be addressed by your jurisdiction with your collaborative partners.

Questions:

1. Who will perform the forensic medical examination?
2. Where will it take place?
3. Who will transport the victim to and from the exam?
4. What information will the victim be provided about the exam?
5. Who will be present during the examination? Why?
6. How will consent to perform the examination be obtained from the victim?
7. Who will make the decision as to when a victim will be referred or transported to a forensic examination?
8. Who is responsible for transportation and/or storage of evidence?

Point of Discussion: What is the role of health care professionals and forensic medical examiners in your community's response to sexual assault crimes?

STEP 7: INVESTIGATION OF SUSPECT(S)

Your agency may already have in place policies, protocols, and procedures addressing:

- Detention of suspects
- Interviewing of suspects
- Identification procedures
- Warrantless searches of a suspect's person or property
- Arrest of suspects
- Application for and execution of search warrants
- Application for and execution of arrest warrants

You may incorporate any relevant, current policies into your sexual assault protocol. Alternatively, you may wish to develop more detailed procedures that specifically address issues important to the investigation of crimes of sexual assault.

Questions:

1. Although the majority of sexual assault crimes are committed by suspects known to the victim, what procedures should be followed to identify the suspect(s) when he or they are unknown to the victim?
2. What procedures should be followed to collect physical evidence from a sexual assault suspect?

STEP 8: FOLLOW-UP INVESTIGATION

Investigations of sexual assault crimes can often be complex and require additional investigation and supplemental report writing. Sometimes it is necessary to re-interview victims or other witnesses in the case.

Continued victim cooperation with the investigation and prosecution is often dependent upon law enforcement's ongoing respect and concern for the safety and dignity of the victim.

Questions:

1. How can the safety and dignity of the victim be protected during the follow-up investigation?
2. What steps can be taken to minimize the number of interviews conducted with a victim and the number of persons present during interviews?
3. What procedures are in place to review cold cases?

STEP 9: ARREST

Victim, officer, and community safety should always remain at the forefront of any decision over how, when, whether, and on what charges to arrest a suspect.

Your agency may already have policies, protocols, or procedures in place that comprehensively address how the arrest of a suspect can be effectuated. You may wish to incorporate these existing arrest policies, procedures, and/or best practices into the sexual assault protocol.

Questions:

1. Will the victim be notified of the arrest? By whom?
2. When is it advisable to initiate communication with the tribal prosecutor concerning the arrest?

STEP 10: REPORT WRITING

Timely submitted, thorough, and accurate reports are essential to the successful prosecution of sexual assault crimes. Ensuring that important evidence is documented within the report also requires the precise recording of any statements made by witnesses and suspects. The context within which those statements were made should also be documented in your report (e.g. whether the victim was crying when the statement was made, whether the perpetrator was in the room when the victim denied the sexual assault had occurred, whether Miranda rights had been given prior to the questioning of the suspect, etc.).

Question:

1. What key information should be documented in all reports?

STEP 11: TRAINING

Ongoing training can significantly enhance the ability of tribal law enforcement to effectively investigate sexual assault crimes. Research has shown that the most effective training is delivered by qualified Indian Country criminal justice professionals familiar with the unique challenges faced by tribal law enforcement.

Cross-training your agency's personnel with law enforcement, prosecutors, victim advocates, victim witness specialists, social services providers, and healthcare providers from the jurisdictions that you routinely work with can result in a more seamless, streamlined response to sexual assault crimes.

You may consider including a section on sexual assault training in your protocol. This may help to ensure that ongoing sexual assault training will continue to be prioritized by your agency.

Questions:

1. What type of training does your agency need in order to effectively respond to sexual assault crimes?
2. How often should personnel receive training?
3. What training providers will provide the most effective training for your agency?

STEP 12: PUTTING IT ALL TOGETHER

You can use your answers to questions contained in the previous exercises along with language from the model protocol (or from protocols contained in the Appendix of from other jurisdictions) to draft your law enforcement sexual assault protocol.

It is strongly recommended that your final draft be reviewed by legal experts within your community prior to the final acceptance and implementation.

Questions:

Is your protocol compatible and consistent with other sexual assault protocols in you community?

- Your tribal prosecutor's protocol?
- Your state or federal law enforcement partner's protocol?
- Your forensic medical examiner's protocol?
- Your sexual assault advocacy protocol?
- Your Sexual Assault Response Team's (SART's) protocol?

Evaluation and Review of the Protocol

It is strongly recommended that the final protocol be reviewed, at a minimum, on an annual basis. This will allow your agency to identify whether any changes are needed so that the protocol will more accurately reflect best practices in responding to sexual assault crimes in your community.

Questions:

1. How will you evaluate whether your protocol improves case outcomes?
2. What kind of data will be collected and reviewed to evaluate the efficacy of the protocol?
3. How will changes in the code or law be reflected in protocol revisions?
4. Who must approve protocol revisions?

APPENDIX

EXAMPLE SEXUAL ASSAULT PROTOCOLS

RAMSEY COUNTY (MINNESOTA) PROTOCOL:

Advantages: This protocol is considered one of the most comprehensive victim-centered protocols in the nation. It was developed over the course of several years through collaboration with a number of agencies and incorporates a wide scope of proven techniques that enhance the response to victims.

Disadvantages: This protocol is not tribal specific. It was designed for a largely urban setting. While much of the language in this protocol may be helpful to your community, it will be important to carefully consider the unique needs of tribal victims. Moreover, you should consider the capacity of the local health care provider to comply with this protocol.

BIA PROTOCOL:

This protocol is provided for your information and reference. It does not necessarily contain the best practices for law enforcement response to sexual assault. Nonetheless, it is the protocol that Bureau of Indian Affairs Law Enforcement officers currently follow. If your tribal community interacts with BIA law enforcement, you will need to take this protocol into consideration when discussing and drafting your tribal-specific protocol.

HANNAHVILLE PROTOCOL

Advantages: This protocol was developed by and for a tribal community. It contains many (but not all) of the same procedures outlined in the model protocol. This protocol also contains a memorandum of understanding (MOU) which incorporates the local advocacy program. You may wish to refer to this example protocol for ideas on language and approach. This protocol has generally worked well at Hannahville.

Disadvantages: Hannahville has a very small reservation, therefore the language may not be translatable to larger tribes with a large land base. Moreover, the protocol assumes a federal component in investigation and prosecution. Therefore, tribes impacted by Public Law 280 or other state jurisdiction may need to make adjustments to the language and scope.

Ramsey County (Minnesota) Adult Sexual Assault Response Protocol Law Enforcement²

Mission Statement: The goal of the Law Enforcement agencies of Ramsey County is to treat all members of society with appropriate dignity and respect, balancing the needs of the victim with law enforcement requirements. And so, to that purpose we ascribe to the following protocol:

TELECOMMUNICATOR 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 present, or the victim is extremely distraught, the telecommunicator will stay on the line with the victim until the police arrive on scene. The telecommunicator must recognize that in cases where the suspect is still present, it may not be safe for the victim to remain on the phone with the telecommunicator and that 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.

² This law enforcement protocol is provided as an example of one of the best non-tribal protocols in the nation.

THE FOLLOWING FACTORS MAY BE DOCUMENTED, BUT WILL NOT INTERFERE WITH THE REPORTING AND INVESTIGATIVE PROCESS:

- Marital status, sexual orientation, race, gender, culture, disability, age, economic, social or professional position.
- Belief that the victim will not cooperate with the criminal prosecution or that an arrest may not lead to a conviction.
- Disposition of previous police calls involving same victim.
- Drug or alcohol use by the victim.
- Immigration status of the victim.

PATROL OFFICER PROTOCOL:

- Attempt to calm and reassure the victim that the victim is now safe and that what happened was not the victim's fault. It is helpful and appropriate to tell a victim you are sorry this happened to her/him. Make every effort to ensure the victim is as comfortable as possible. Take a few minutes to explain to the victim the processes she/he 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. Obtain the victim's signature on a medical release form.
- Secure crime scene to ensure that evidence is not lost, changed or contaminated.
- Obtain necessary information on victim, suspect and witnesses including alternate phone numbers. It is especially important to obtain a phone number where the victim can be reached in the following days.
- Obtain assistance of an advocate if the victim wishes.
- Interview victim and witnesses as to what has transpired. Provide interpreter if needed. It is best not to use a family member, neighbor or friend to interpret unless you are primarily obtaining suspect information on an incident that only recently occurred. Limit interview to information immediately needed to assess situation when the victim will be going directly to the hospital.
- If a victim is making a delayed report, document the reasons 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 do not believe her.

- Ask open-ended questions such as “*And then what happened?*” rather than questions that convey judgment such as “*Why didn’t you scream, fight, or call the police?*”
- Attempt to locate and interview the first person the victim told about the assault.
- Ask if the suspect took something 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.
- Record officer’s observations of crime scene, including demeanor of suspect and victim, as well as documenting any injuries 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 sexual assault happened within the past 72 hours. SCS kits can be collected on children up to 72 hours after sexual assault.
- Before transporting a victim to a medical facility, have dispatch contact the facility to alert them.
- Accompany the victim to and from the medical facility. SANE personnel will perform a CSC exam, interview the victim and collect a CSC kit. Regions, United, Unity, Mercy, St. John’s, St. Joseph’s, & Woodwinds Hospitals are all equipped to perform the required exam and all follow the protocol. Officers will be present with the victims consent during the interview, will document events, and ask additional clarifying questions. Do not tape the interview.
- If the assault just happened and victim is immediately brought to hospital for an exam, the interview can be conducted with Law Enforcement, SANE, and advocate all present if the victim so desires.
- Collect and inventory the CSC kit as evidence. Evidence can be collected 24/7 as follows: Regions – Regions lab (651) 254-4795 (Others listed) Hospitals will fax Sexual Assault Reports and Hospital Lab Reports to law enforcement during regular business hours. See where to pick up Evidence and Reports table under the Medical tab for more information.
- Officers shall not conduct an in-depth interview with a sexual assault victim age 12 and under. Sexual assault victims age 12 and under should be taken to Children’s Hospital where arrangement will be made with Midwest Children’s Resource Center for a clinical

- interview and physical exam. Interviews will be conducted by MCRC or Corner House according to agency policy.
- In circumstances where the victim is a child 13 – 17 years of age and the crime is interfamilial (i.e. committed by a relative regardless of residence) or by any other person who resides regularly or intermittently in the home, or the crime is committed by a caretaker or person in authority over them (parent, teacher, priest), MCRC will examine them.
 - MCRC may also accept requests for evaluation of an individual who is mentally impaired or on a case-by-case basis. The investigations often benefit from the type of videotaped interview MCRC does.
 - Broadcast suspect information to other squad cars and notify immediate supervisor as department policy requires.
 - Make arrests when and where appropriate. In the case of delayed reporting it may be advisable to delay an arrest to allow time to locate and interview witnesses. Inform the victim of Ramsey County's policy of notifying the victim after the suspect is released.
 - When trained to do so, process the crime scene and collect all pertinent physical evidence or follow agency policy of contacting the Hennepin County or Ramsey County Sheriff's Crime Scene Unit. A crime lab unit should be called to the scene 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 case, and a list of victim service agency phone numbers.
 - The patrol officer and investigator should evaluate cases involving children to ensure that they will not be left in a vulnerable environment. Child protection services and the Shelter Program may be necessary.
 - To prevent losing physical evidence, an intoxicated person who claims to be a sexual assault victim should be taken to a hospital for a CSC exam before being taken to Detox.
 - 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 cognizant that other prescription and over-the – counter medications can cause similar reaction, therefore all other medications consumed by the victim in the past 24 hours should be documented.

INVESTIGATIVE PROTOCOL

- 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 cannot 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 that the victim is in control and that the investigation will go forward only with the victim's approval.
- Explain to victim the importance of the interview for clarification purposes and that some questions may seem pointed but need to be asked in order to gather more evidence for the prosecutor.
- Where applicable, provide interpreter during the interview.
- Obtain the victim's medical records. Some sexual assault records are available within 1 day of exam and can be faxed to the investigator if a medical release has been signed. Lab reports from the hospital are generally available within 7 – 14 days and require a follow-up request.
- Visit the scene of the crime if necessary. Obtain search warrants when necessary.
- Ensure that CSC Kits are taken from the hospital and sent to BCA for DNA identification in stranger rapes and CSC where a suspect has been identified but denies any sexual assault.
- When necessary, obtain consent to search or execute a search warrant for a buccal swab or blood draw on a suspect. The investigator can do

- the buccal swab. Medical personnel are not needed. Blood samples taken by medical personnel must be witnessed by Law Enforcement.
- Document all interviews from victim, witnesses or suspects. Interview should be conducted in person whenever possible.
 - Obtain a copy of the 911 tape from the communications 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 when the prosecutor's phase of the case begins. In the event of a case being declined by the County Attorney, inform the victim of the reason for the declination. If the victim has further questions, refer the victim to the charging attorney.
 - Explain the Consent for Future Contact Form and obtain the victim's permission and signature.
 - Remain available to the charging attorney and the trial attorney for any follow-up investigation.

BIA SEXUAL ASSAULT PROTOCOL
District V Law Enforcement Services
Law Enforcement Handbook
Volume 5, Page 4.6.49
Revised October 1, 2002³

Section 6. Sexual Assault

General Information.

1. ***Support of Victims.*** Sexual assaults (rape, sodomy, incest, child molestation, exploitation of children and attempts thereof) are personal violent crimes that have great psychological or physical effects on the victims. The law enforcement program assists sexual assault victims in a supportive manner, using appropriate crisis intervention skills.
2. ***Importance of Diligent Investigations.*** Because of the seriousness of these offenses and the delicate nature of the investigations involved, it is important to conduct diligent investigations to increase the reporting of these crimes. Reducing recidivism through the apprehension and prosecution of the assailants is a priority.
3. ***Awareness of Community Services.*** The Special Agent in Charge ensures that law enforcement personnel are aware of community services available (sexual assault crisis centers/hotlines, mental health centers, medical clinics, victim assistance program) to victims of sexual assault.
4. ***Training Requirement.*** The Special Agent in Charge ensures that law enforcement personnel are trained and knowledgeable about sexual assault investigation and its impact on victims. (See Illustrations to this policy).

³ This law enforcement protocol is provided as the Department of Interior approved process for BIA law enforcement officers.

5. **Communication Skills.** Program personnel use appropriate communication skills when interacting with sexual assault victims.
6. See also Volume 6, Chapter 1, Section 2, **Victim Witness Assistance**, for additional information about services to victims.
7. See also Volume 6, Chapter 5, Section 5, **Domestic Violence Calls**, for additional information about dispatch activities around domestic violence and assault calls.
8. See also Volume 5, Chapter 5, Section 2, **Child Abuse**, for information about interviewing child victims.

Definitions.

1. **Incest.** This is a sexual involvement with a blood or step relative. The most frequent offender is the father and the most frequent victim is the daughter, but other possibilities exist: mother/son, grandfather/granddaughter, uncle/niece, etc. Coercion is built on trust and love rather than violence. The offender is often immature with low self-esteem and unsure of his own sexual needs. The victim doesn't want to be rejected. Incest can range from fondling to full intercourse. The victim's feelings are very often confused because of the relationship with the offender and the rewards/threats by the offender.
2. **Rape.** This is forced sexual attack against the will of the victim. It may include many different sexual acts, i.e., vaginal, oral, anal intercourse, foreign object intercourse, plus other humiliating acts (urination by offender, lewd remarks, physical injury). Rapists commonly have low self-esteem, desire for dominance, frustration and instability. They may be anti-social and violent. Social pressures many times trigger a rape. Common reactions of victims are shock, embarrassment, anger, fear, guilt, confusion, and lack of power (control).
3. **“Sexual Assault.”** Those offenses involving sexual penetration or contact with any person by force, fear, or intimidation, or any attempts to force sexual penetration or contact on any person are considered sexual assaults. Any forced sexual contact or unwanted sexual touching is a crime, whether persons are married or not. Indirect assaults include obscene phone calls, exhibitionism, and indecent exposure. Direct assaults include rape, incest, child molestation, sodomy, and attempts thereof.

Dispatcher Responsibilities

1. If hospital personnel call in the sexual assault report, the dispatcher obtains initial information only (name and location of victim, reporter's name and job title, victim's condition).
2. The dispatcher confirms that a sexual assault support person has been contacted for the victim, if possible.
3. If the victim calls to make a report, police intervention may or may not be requested.
4. If the victim wants no law enforcement response, the dispatcher:
 - A Tries to obtain as much information as possible concerning the crime details.
 - B Does not insist on the victim's identity.
 - C Explains to the victim that she or he does not have to prosecute even if she or he makes a report.
 - D Encourages the victim to go to the hospital for treatment and evidence collection.
 - E Advises the victim that the law enforcement program may pay the costs associated with evidence collection.
 - F Even if no report is made, refers the victim to a sexual assault crisis center/witness program for further assistance.
5. If the victim wants police response, the dispatcher:
 - A Obtains initial information only--name, present location, telephone number, basic incident details, and victim's condition.
 - B Ensures the victim's safety by:
 1. Dispatching a patrol car immediately.
 2. Asking for name, if known, description of the assailant, possible location or direction and means of flight from the scene, and the time elapsed since the crime.
 3. Staying on the line until the officer arrives, if possible. Be supportive and use crisis intervention skills. (See Victims Service Policy Appendices.)
 - C If the assault occurred within the last 72 hours, the dispatcher explains to the victim the necessity of not washing self or clothes, not douching, not combing hair or putting on make-up, and not touching or moving anything at the crime scene. If the victim has already destroyed some evidence, the dispatcher reassures the victim, but asks the victim not to do any more "cleanup."

- D If the assault occurred more than 72 hours earlier, the dispatcher recommends that the victim seek medical attention anyway and dispatches an officer.
- E The dispatcher asks the victim if he or she wishes the presence of a sexual assault crisis worker, family member, or friend for further support (at the hospital or police station).
- F The dispatcher asks if the victim has transportation or not.
 - 1. The dispatcher asks the officer go to wherever the victim is, if possible and transport the victim to the hospital or law enforcement offices.
 - 2. The dispatcher explains that an officer will meet the victim at the specific location.
 - 6. The dispatcher gives a complete report of information obtained to the patrol officer assigned to the case before he or she initially contacts the victim.

Patrol Responsibilities

1. The officer has certain immediate responsibilities:
 - A The primary concern is the victim's physical well being by attending to the victim's emergency medical needs and ensuring his or her safety.
 - B The officer preserves the crime scene and notifies the appropriate investigations unit.
 - C The officer should be alert to any suspect in the vicinity and gives a crime broadcast, if applicable.
 - D The officer explains to the victim his or her role, what will be done at the scene, and what will occur through follow-up.
2. The officer obtains detailed information essential to determine what offense (or offenses) actually occurred.
3. The officer obtains preliminary statements from victim and witnesses and tries to establish rapport, but gets only the needed information.
4. The officer informs the victim, preferably in writing, of counseling services available in the area and asks whether the victim would prefer to have a support person (sexual assault worker, family member, or friend) present if the dispatcher has not already done this.
5. The officer arranges for the transportation or transports the victim to the hospital for a sexual assault examination, if appropriate (if assault occurred within the last 72 hours).

- C The officer explains the medical and legal necessity of this exam (See Illustration 2.)
- D The officer informs the victim to take a change of clothing along.
- E The officer may provide transportation back home following the exam.

Investigator Responsibilities (Initial Contact)

1. The investigator obtains a complete report from the patrol officer assigned to this case.
2. The initial contact with the victim may happen in different ways:
 - A If the contact occurs at the crime scene, the patrol officer protects the crime scene while the investigator establishes rapport with the victim, transports the victim to the hospital, and begins the preliminary investigation.
 - B If the contact occurs at the hospital, the investigator arranges for the collection of evidence needed for prosecution, explains sexual assault exam procedures, and establishes rapport for further interviews. The investigator has the victim sign a consent form in order to obtain a copy of the victim's hospital/medical report.
 - C If the contact occurs at the police department, before interviewing, the investigator reviews the patrol officer's report and establishes rapport with the victim by allowing her or him to talk.
3. The investigator allows the sexual assault crisis worker to be with the victim as support if the victim desires.
4. If the victim prefers to talk with a female investigator, every attempt to provide one should be made; if none is available, the investigator explains the reasons and encourages the victim to cooperate.
5. The investigator prepares the victim for each phase of the investigation by explaining what must be done and the reasons why; the officer encourages the victim to cooperate.

Follow-up Investigations

1. The investigator conducts follow-up interviews in private.
 - A The investigator chooses a quiet room at the police station or goes to the victim's home.
 - B A support person to aid the victim may be helpful to the investigation.

- C The investigator advises this person of his or her role and asks the person not to interfere with questioning.
2. At a minimum, the investigator must address the following questions:
 - A Assault circumstances: (where approached? How? Where occurred? When and how?)
 - B Assailant: (name, if known? color of hair? clothing? height/weight/ identifying marks?)
 - C Multiple assaults?
 - D What happened during the assault? Were weapons used? If so, describe them. Were threats made? What were they? Was there a fight or struggle? Injuries sustained? Drugs/alcohol involved? Sexual detail--what did he try/obtain? Other degrading acts? Did he ejaculate? Was there talk? What was said?
 - E How long was the assailant with you?
 - F What was done immediately after the attack?
 - G Feelings about prosecuting?
 3. At the conclusion of the interview, the investigator asks about any additional assistance needed. Counseling services are always recommended.
 4. The investigator encourages the victim to call later with additional details or to ask questions and provides a contact telephone number.

Evidence Collection--Sexual Assault

1. Consistent with the procedures outlined in Volume 5, Chapter 1, Section 10, *Evidence Collection and Preservation*, and Section 11, *Crime Scene Investigation and Control*, the first officers on the scene:
 - A Safeguard the crime scene and the evidence that is collected.
 - B Call an investigator, if available.
 - C Use caution not to damage, mark or contaminate evidence.
 - D Initial and date all items seized.
 - E Document chain of evidence in report.
 - F Place all evidence in appropriate containers, seal, and initial.
2. At the crime scene, officers:
 - A Collect undergarments, clothing, bedding, rugs, or other appropriate items that may contain semen, blood or be damaged.
 - B Collect washcloths or towels that may have been used.
 - C Collect bottles, glasses or other objects that may contain latent prints.

- D Search scene for foreign objects (buttons, hair, pieces of torn clothing).
 - E If the crime occurred outdoors, take soil samples from several areas and sketch the location of each sample taken.
 - F If crime occurred in car, gather sweepings from seats and floors, search floor mats for stains along with seat covers.
 - G If entry was forced into victim's house, gather samples of broken glass, paint samplings, and note any pry marks.
 - H Photograph crime scene.
 - I Photograph bite marks, scratch marks, or other signs of brutality or injury to the victim. Only female officers or medical personnel should photograph sexual areas.
3. Officers prepare notes regarding:
- A A description of exact location where each piece of evidence was found, i.e., one white bra, left strap torn, found on the ground in rear yard of (address), 6 feet south of rear stairs.
 - B Description of victim's appearance and behavior. Note: bruises or marks, facial discoloration, disarrayed clothing, smeared makeup, hair disheveled, confused or dazed behavior, bewilderment or disorientation, apparent hysteria or crying, and incoherent speech along with any signs of being under the influence of alcohol or drugs.
 - C Description of victim's clothing. Note locations of torn garments, dirt, stains--blood, semen, grass. etc.
 - D Description of suspect. Physical description as provided by victim with special attention to items that would not be readily visible if the suspect were clothed: scars, tattoos, moles, etc.
 - E Have all signs of trauma or injury, as well as emotional state of the victim, recorded on hospital record. Be certain that smears are taken from the vagina, anus, and mouth of victim.

Excerpt from:
**HANNAHVILLE INDIAN
COMMUNITY
LAW ENFORCEMENT PROTOCOL
FOR SEXUAL ASSAULT⁴**

The Hannahville Indian Tribal Council believes that Stalking and Sexual assaults are an immoral conduct that is contrary to the values of the Hannahville Indian Community. It is devastating to its victims and to any family and society in which it happens. It also harms the entire community, because violence endangers everyone's physical, emotional, mental, and spiritual health.

The purpose of this protocol is to ensure victims of proper services and care procedures. Including but not limited to victims advocacy, medical care and procedures, forensic examination, law enforcement and prosecution when applicable. Here in Hannahville we have a vast number of sexual assault, stalking, and domestic violence cases. With this protocol we hope to better help the victims, ensuring their rights are being upheld without allowing any personal judgment against the victims to interfere with proper care procedures.

⁴ This protocol excerpt is provided as an example of an effective existing tribal law enforcement protocol. We have excerpted the Law Enforcement section of the Hannahville Protocol on Sexual Assault. In addition to the Law Enforcement Section, it contains a lengthy definition section, a Medical Protocol, a Prosecution Protocol and a Victim Advocate Protocol.

Law Enforcement

It is imperative that law enforcement work closely with the Prosecutors Office, Victim Advocate Office, Medical Professionals, Probation Officers and Correctional Facilities.

This law enforcement portion of the sexual assault protocol is designed to give a brief overview of some of the steps that may be considered when dealing with a sexual assault incident.

A. Dispatcher Responsibilities

1. Obtain all pertinent information
2. Names of all involved and location, etc.
3. Immediately dispatch Officers
4. Any weapons present
5. Sexual Assault Assessment
6. Record entire 911 call for “Excited Utterances”
7. Records Check through LEIN or NCIC
 - a. Court Orders
 - b. Concealed Weapons Permits
 - c. Previous calls to residence
 - d. Any registered weapons
8. Acquire written documentation of call

B. Officer Responsibilities

1. Immediate response
2. Officer request additional information from dispatch
3. Implement Officer safety measure
4. Initial scene procedures
 - a. Identify victim through field interview
 - b. Identify suspect through field interview
 - c. Determine if there is probable cause for arrest
 - d. Shall make an arrest if probable cause
5. Contact Victim Advocate
6. Secure Scene
7. Collect evidence
8. Officers determination of suspects past criminal history
 - a. LEIN and/or NCIC
 - b. Victim’s knowledge of suspects history

- c. Department and Tribal Court records
- d. Any other appropriate sources

C. Victim Interview

1. Determine Medical Needs
2. Reason for requesting police contact
3. Where / Who / What/ When / Why / How
4. Document information and excited utterances from initial interview of victim
5. (Obtain quotes and take notes)
6. Identify Relationship if one exists or existed
 - a. Dating
 - b. Living together or have lived together
 - c. Separated / divorced
 - d. Child in common
 - e. No relationship
 - f. Acquaintance

a) If a relationship existed

- Length of relationship
- History of violence
- How they met - Internet / Class Reunion / Friends / Other
- Actions of Suspect
- What the Victim has tried for prevention and or safety measures (if any) for self and or family
- Witnesses
- Victim's history of documented contacts
- Obtain written statement from
- Employers / Co-workers / Friends / Family / Witnesses / Any other pertinent agencies

b) How was breakup if relationship has ended

- When and how? In person, phone, other?
- What was the breaking point?
- Any contact since that moment?
- Suspect reaction following breakup.
- Immediate or Delayed?
- What started first? Timeline of occurrences

- Telephone calls, vehicle damage, being followed, etc.

c) If no relationship existed

- Possible suspects
- Victim's history of contacts by suspect
- Investigate location of reported activities
- Interview possible witnesses
- Obtain written statements from
- Employers / Co-workers / Friends / Family / Witnesses / Any other pertinent agencies

6. Collection of pertinent evidence

- Cards, letters, notes, e-mail, ph messages, cell phone records and/or messages, gifts or items left by suspect, photos of damage, physical evidence i.e. latent prints, foot or tire impressions, specimen collection, body fluids, photos of entire scene.
- Collections of manufactured evidence.

D. Suspect Information (From Victim)

1. Full Physical Description
2. Address of suspect if known
3. Description of Vehicle
4. Work and history
5. Drugs and / or Alcohol
6. Mental Problems
7. Military background
8. Martial Arts
9. Criminal history known by Victim
10. Suspect's Actions
11. Were any threats made
 - Get exact words
 - Lethality assessment
12. Other training history (i.e. Security, Computers, etc.)
13. Victim's knowledge of any weapons (either licensed or unlicensed or possible access to)
14. Behaviors noted such as:
 - Following or surveillance, inappropriate approaches & confrontations, appearing at place of work or residence,

telephone calls, leaving threatening gifts, threats, letters, violations of court Orders, maliciously reporting victim for various crimes, animal abuse, electronic pages or emails, damage to property, retrieving victims phone messages, physical assault, sexual assault, taking victim's mail or garbage

E. Identifying Sexual Assault

1. What is the current crime being investigated?
2. Is there a pattern of conduct of behavior?
3. Other crimes, both reported and unreported
4. Suspicious Circumstances
 - a. Vehicle damage / Unwanted mailings
 - b. Telephone hangs-ups, etc.
5. Information about past reported crimes
 - a. Prosecution
 - b. No Prosecution
 - c. Unknown
6. Jurisdiction of crimes
7. Multiple crimes

F. Follow up investigation

1. Contact Witnesses
2. Canvass Neighbors
3. Obtain information about suspect from other witnesses victim confided in about suspect
4. Co – Workers
5. Children (If appropriate)
6. Establishing Suspect Contact
7. Document all findings

G. Prosecute if warranted

MEMORANDUM OF UNDERSTANDING

THE HANNAHVILLE INDIAN COMMUNITY PROSECUTOR OFFICE, THE HANNAHVILLE TRIBAL POLICE DEPARTMENT, THE VICTIMS OF CRIME OFFICE, THE HEALTH AND HUMAN SERVICES CLINIC, THE TRIBAL COURT OF THE HANNAHVILLE INDIAN COMMUNITY AGREE TO THE FOLLOWING COLLABORATION EFFORT TO DEVELOP AND IMPLEMENT A PROTOCOL TO ADDRESS THE NEEDS OF NATIVE AMERICAN WOMEN WHO ARE VICTIMS OF THE CRIME OF SEXUAL ASSAULT AND AGREE TO WORK TOGETHER AND IMPLEMENT THIS PROTOCOL AS A COMPREHENSIVE AND MULTI-FACETED APPROACH TO REDUCE VIOLENT CRIME AGAINST INDIAN WOMEN UNDER THE STOP VIOLENCE AGAINST INDIAN WOMEN DISCRETIONARY GRANTS PROGRAM.

Members of the above mentioned agencies have participated in a collaborative response effort, developing and enhancing an ever-expanding plan to provide the most effective response possible to address the crime of Sexual Assault on the Hannahville Indian Reservation.

All agencies agree that they participated in the development of this Sexual Assault Protocol individually and collectively with members of the We' We' Netth e ge' program staff, specifically with the STOP Violence Against Indian Women Coordinator and/or the VOCA Victims of Crime Advocate. To accomplish this effort all parties agree to work together to implement this protocol that identifies and addresses areas of concern regarding the crime of Sexual Assault on the Hannahville Indian Reservation. All parties agree to work to the best of their abilities to follow the duties as outlined and agreed to in the Sexual Assault Protocol.

All agencies are responsible for monitoring the internal operation of their respective departments and agree to meeting with the STOP Violence Coordinator and the Victims of Crime Advocate to discuss joint concerns and possible solutions to any problem areas that may arise during and after the implementation period. Responses to problem areas that can be

addressed internally with procedural changes and/or available on-site training will be supported and encouraged. However, programmatic changes that are necessary to enhance responses to victims of the crime of sexual assault and need support and development of funding enhancements are to be reviewed and prioritized for STOP grant planning.

It is agreed that the following individuals participated with the STOP Violence Against Indian Women Office in the development of the Sexual Assault Protocol and will be responsible for implementing the protocol in their respective program areas: Tribal Court Magistrate; Tribal Prosecutor; Tribal Probation; Health and Human Services Director; Tribal Vice-Chair, Project Director We' We' Netthege'; Chief of Hannahville Tribal Police Department; Lt. Hannahville Tribal Police Department; VOCA Victim Advocate; and STOP Violence Against Indian Women Coordinator.
(Individual names deleted)

NOTES

ADDITIONAL RESOURCES

BOOKS:

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