

Sexual Assault Response Teams

Resource Guide for the Development of a Sexual Assault Response Team (SART) in Tribal Communities

September 2008



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A PRODUCT OF THE TRIBAL LAW AND POLICY INSTITUTE

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TRIBAL LAW AND POLICY INSTITUTE PUBLICATIONS ON SEXUAL ASSAULT

This publication was made possible through a cooperative agreement between the Office on Violence Against Women (OVW) and the Tribal Law and Policy Institute (TLPI). TLPI entered into a series of partnership agreements with the Southwest Center for Law and Policy (SWCLAP) to author two of four comprehensive publications on tribal response to sexual assault.

The four publications include:

1. SEXUAL ASSAULT CODE DEVELOPMENT RESOURCE GUIDE

A strong response to sexual assault starts with strong laws. This publication is designed to help your tribe draft (or revise) criminal laws and sex offender registration laws. We recommend you start with this publication.

2. LAW ENFORCEMENT SEXUAL ASSAULT PROTOCOL

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. Co-authored by Southwest Center for Law and Policy.

3. PROSECUTOR SEXUAL ASSAULT PROTOCOL

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. Co-authored by Southwest Center for Law and Policy.

4. DEVELOPMENT OF A TRIBAL SEXUAL ASSAULT RESPONSE TEAM

Victims of sexual assault deserve a coordinated, comprehensive response from a variety of community agencies. The Sexual Assault Response Team (SART) publication is a guide to developing a SART.

Part One

INTRODUCTION

PURPOSE OF THIS RESOURCE GUIDE

American Indian and Alaska Native women are raped at rates higher than any other race. Despite the alarming rates, sexual assault is still the most underreported crime. In response to this crisis occurring in Indian Country, tribal nations are developing culturally appropriate programs and adapting existing response models to create appropriate responses to sexual assault. One such model is the Sexual Assault Response Team (SART). SART establishes a multidisciplinary team that collaborates to create a coordinated response to sexual assault.

The SART manual will assist communities in instituting effective, integrated policies and procedures for the investigation, prosecution, and provision of services in sexual assault cases. As these policies and procedures become institutionalized tribal communities can expect increased justice for Native women who are survivors of sexual violence.

This resource guide includes:

- background of sexual assault in Indian country;
- background of the SART model;
- exercises that may be helpful as you begin the work of developing your SART; and
- an appendix containing additional resources (including sample protocol language) that may be useful to your team.

WHAT THIS RESOURCE GUIDE CAN DO

The goal of this resource guide is to provide a starting point for tribal organizations who wish to develop a comprehensive response to sexual assault utilizing the SART model.

This resource guide is helpful in developing practices and protocols that are responsive to the immediate needs of adult victims of sexual assault and is designed to assist tribal communities in creating and sustaining an integrated, effective community sexual assault response team.

This resource guide is designed to be an interactive tool for developing a system that works best for your community. Each tribal community has unique circumstances that call for a customized approach.

We encourage you to create a committee to discuss the ideas in this guide and develop a plan for moving forward. A facilitator can be helpful in working through the exercises in this book, but is not mandatory.

Point of Discussion: What questions should our community ask?

Answering these six questions helps build a strong tribal SART which addresses victim safety and offender accountability.

1. WHO should respond to sexual assault?
2. WHAT does a victim of sexual assault need?
3. WHERE will a victim interact with members of the SART?
4. WHEN will the SART protocol be followed?
5. WHY will a SART be formed?
6. HOW will the SART work?

WHAT THIS RESOURCE GUIDE CANNOT DO

This resource guide does not teach about the dynamics of sexual assault. The exercises and language assume that you have a basic understanding about sexual assault. If you do not have training in this area, we strongly encourage you to contact one or more of the following organizations for information and training:

Sacred Circle
National Resource Center to End Violence Against Native Women
722 Saint Joseph Street
Rapid City, SD 57701
877-RED-ROAD
www.sacred-circle.com

Mending the Sacred Hoop
202 East Superior Street
Duluth, MN 55802
218-722-2781
www.msh-ta.org

Clan Star, Inc.
P.O. Box 1835
Cherokee, NC 28719
www.clanstar.org

Southwest Center for Law and Policy
4055 E. 5th St.
Tucson, AZ 85711
520-623-8192
www.swclap.org

IMPORTANT: *Responding to child sexual abuse disclosures or incidents is beyond the scope of this resource guide. Child sexual abuse should never be handled the same way adult sexual assault is handled for variety of important reasons. For more information, please contact:*

Tribal Law and Policy Institute
2221 E. Northern Lights, Suite 200
Anchorage, AK 99508
907-770-1950 ~ www.tlpi.org

TERMINOLOGY USED IN THE MANUAL

Sexual Assault Response Team (SART): A Sexual Assault Response Team is a multi-disciplinary team that provides specialized immediate response to victims of recent sexual assault.¹ More detail on what constitutes a SART is discussed later.

Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE): A health care provider (e.g. physician, physician assistant, nurse, nurse practitioner) who has completed special clinical requirements to perform a sexual assault exam.²

Use of female pronoun: Based on statistical data and anecdotal evidence, it is clear that the overwhelming majority of victims that are sexually assaulted in Indian Country are female and the majority of their perpetrators are male. In recognition of that fact, we use female pronouns when referring to victims and male pronouns when referring to perpetrators as well as for ease of reading. However, the discussion in the manual applies equally to male victims or female perpetrators unless otherwise specified.

Victim/survivor: A person who suffers physical, mental, emotional, and/or spiritual harm due to the behavior of other(s). Throughout this workbook, the term victim is the term most commonly used when referring to a person who has been sexually assaulted. We realize that words carry a lot of power and their meanings can be interpreted in different ways. Some of the people we are working with may be offended by the use of the term “victim.” Still others may feel the term “victim” is an accurate depiction. At the time of contact with members of the SART, few women have moved from victim to survivor in their healing process. Each discipline may use different terminology. For example, medical personnel usually refer to the victim/survivor as a “patient”.

Victim Centered: The systematic focus on the needs and concerns of a sexual assault victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner.

Protocol: A set of policies, procedures and agreements to be followed by an individual, agency or group.

See Glossary for additional term definitions.

¹ U.S. Department of Justice, *National Protocol for Sexual Assault Medical Forensic Examinations* (2004), pg. 53. Available at: <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>. Last accessed 3/14/08.

² *Ibid.*, pg 18.

Part Two

OVERVIEW OF SEXUAL ASSAULT

STATISTICS

Sexual violence against Native women is one of the most devastating threats to contemporary Indigenous culture³. In 1999, Bureau of Justice statistics revealed the disturbing statistic that American Indian women experience sexual assault at a rate 3.5 times higher than all other ethnicities⁴. In a more recent study released by the U.S. Department of Justice, Bureau of Justice Statistics, 1992-2002:

- American Indians were twice as likely to experience a rape/sexual assault compared to all races;
- strangers committed 42% of the violent crimes against American Indians during 1992-2001; and
- nearly 4 in 5 American Indian victims of rape/sexual assault described the offender as white.

Point of Discussion: Statistics

Look at your local statistics relative to sexual assault and answer the following:

1. How many people have reported a rape to a local advocacy service provider in the last year? 3 years?
2. How many people have reported a rape to law enforcement in the last year? 3 years?
3. How many people have been seen at the emergency room for rape exams in the last year? 3 years?
4. How many people have been charged with rape in the last year? 3 years?

³ Sarah Deer, "Toward an Indigenous Jurisprudence of Rape," 15 Kan. J. L. & Pub. Pol'y 121 (2004).

⁴ U.S. Department of Justice, *American Indians and Crime*, Bureau of Justice Statistics (1999). Available at: <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic.pdf>. Last accessed 3/14/08. For more information, see also: Amnesty International. *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the U.S.A.* (2007). New York: Amnesty International. Available at: <http://www.amnestyusa.org/women/maze/report.pdf>. Last accessed 3/18/08.

5. How many perpetrators have been successfully prosecuted in the last year? 3 years?

Tribal nations may work with federal or state authorities to obtain these statistics. Although this guide focuses on SART development for individual tribal nations, it does not preclude developing a SART together with appropriate federal agencies such as the Federal Bureau of Investigation (FBI); local district's U.S. Attorney's Office; Bureau of Indian Affairs Law Enforcement; Indian Health Service or for tribal nations within PL280 states, partnering with local law enforcement agencies, medical personnel from private hospitals and clinics and the appropriate state prosecution agency.

Sexual assault is the most underreported crime with recent statistics indicating that 70% of sexual assaults are not reported.⁵ Any discussion of sexual assault in American Indian or Alaskan Native communities must ask the question, "why is sexual assault of Indian women the most underreported crime?"

Point of Discussion: Barriers in Your Community

1. What are the unique barriers and challenges which discourage victims from reporting a rape or seeking services?
2. What do victims experience when they disclose/report their sexual assaults to advocacy? Law enforcement? Medical agencies?

IMPACT OF SEXUAL ASSAULT ON YOUR COMMUNITY

Prior to colonization, sexual assault was virtually nonexistent within tribal communities due to traditional values and belief systems based in gender equality. Women were considered sacred, important decision-makers and central to the wholeness and wellness of the family unit and the overall community. With colonization, Indian women became targets of oppression, violence and dehumanization. It is a commonly held belief that because Indian women are of central and primary importance to the family

⁵ *Ibid.*

and the community, an attack on an Indian woman is an attack on the Indian Nation. It is important to consider the rape of an Indian woman as an assault both on her and on her community. Until women are restored to a level of wholeness and wellness, the family and the community will continue to suffer.

Rape is one of the cruelest forms of criminal violence. Regardless of the type of sexual assault, it goes against all Native beliefs and cultural values.

IMPACT OF SEXUAL ASSAULT ON THE VICTIM

The impact on the victim can be devastating regardless of the type of assault, whether or not there was penetration. Power and control is the primary motive for sexual assault. Having lost her power, the victim feels powerless and believes that her life will never be the same. This is the reason victims of sexual assault refer to it as a *life-altering trauma*. Following a sexual assault, victims are left with many feelings, some more obvious than others including but not limited to:

- Fear
- Terror
- Embarrassment
- Shock
- Humiliation
- Anger
- Sadness

Victim response varies and each person responds in her own way. There is no one right way to respond. Sometimes the response is influenced by her need to maintain some normalcy. Perhaps she is wearing the face of courage so as not to alarm her children, family, or relatives. Many Indian women have had to endure many hardships, have experienced multiple victimizations and have learned to cope in their own personal way. They may internalize many of the feelings and wait for a better time to express them.

There are many myths about sexual assault and what constitutes “normal” reactions. When the response doesn’t fit within those preconceived ideas of what the reaction should be, there may be an assumption that the rape really didn’t happen -- that the victim is lying. First responders refrain from

making any assumptions about the victim's reaction and are prepared to respond with sincere compassion and sensitivity.

Sexual assault impacts the person in a holistic way: physically, emotionally, intellectually and spiritually. It is often believed that a sexual assault is merely a physical attack. It may be helpful to think of sexual assault as an assault on a person's humanity affecting the whole person and as a result, healing and recovery may be prolonged.

Point of Discussion: Holistic Impact

Discuss the ways the victim may be affected in each of the four areas: Emotions, Spirit, Body, and Mind.

1. What kind of emotions or feeling did the victim experience?
2. How has her body been affected?
3. How has her mind, her decision-making abilities been impacted?
4. Do you suppose her ability to recall specific details of the assault may be affected?
5. How might she be affected spiritually?

RIGHTS OF SEXUAL ASSAULT VICTIMS

- * To Be Believed**
- * To Be Safe**
- * To Be Supported**
- * To Heal**
- * To Have a Sense of Justice**
- * To Be Re-Empowered to Make their own Choices**
- * To Have Options and Good Information**
- * To Not be Re-Victimized**
- * To Have Rights Protected**

Jurisdiction Effects on Sexual Assault Response

Jurisdiction refers to the power or authority of a court over a particular person, territory and subject matter. When a sexual assault occurs on tribal land, the jurisdiction or authority over the criminal action may be in more than one court. On some tribal lands the jurisdiction is in tribal and federal court and on other tribal lands it is in tribal and state court. This varies depending upon whether federal law has given a state jurisdiction over the criminal matters of a particular tribe.

A tribal court must base its criminal jurisdiction on tribal laws. Some tribal governments have not passed sexual assault laws, so their tribal courts do not exercise jurisdiction. Some tribes have no criminal court system. Many tribes, however, choose to exercise criminal jurisdiction over sexual assault by adopting laws against sexual assault.

In Native communities, tribal criminal jurisdiction is limited by federal law. It is important to understand these limits. The U.S. Supreme Court decision *Oliphant v. Suquamish*⁶ limits the ability of tribal governments to try and punish non-Indians. Therefore, tribal governments cannot criminally prosecute a sex offender who is not considered “Indian”.

The Indian Civil Rights Act⁷ (ICRA) limits a tribe’s ability to incarceration for any one crime to one year in jail and/or a \$5,000 fine. If a person is convicted of more than one crime (kidnapping and rape, for example), federal law allows up to one year for each offense. ICRA does not limit other sanctions a tribe might use; including restitution, banishment, and probation. It is important to note that although federal law has limited jurisdiction, it has not eliminated the tribe’s ability to prosecute crimes.

As mentioned earlier, generally when a sexual assault takes place on tribal land, more than one government can take action. This is called concurrent jurisdiction. In most cases of sexual assault on tribal land, a tribe may share criminal jurisdiction with either the federal (United States) or the state government. If the state or federal government prosecutes a person for sexual assault, this does not eliminate the authority of the tribe to prosecute.

⁶ 435 U.S. 191 (1978)

⁷ 25 U.S.C. §1301-1303

The added complexity of concurrent jurisdiction requires consideration in the development of the SART. Clearly understanding the possibilities of prosecution is important. Consideration should be given to tribal, state, or federal law enforcement attempts to enforce their sexual assault laws and the court systems in which they may be prosecuted. The involvement and cooperation of all will lead to improved enforcement of sexual assault laws.

For a more in depth discussion on jurisdiction refer to the Resource Guide for Drafting or Revising Tribal Criminal Laws Against Sexual Assault and Stalking.

Part Three

OVERVIEW OF SEXUAL ASSAULT RESPONSE TEAMS

MAINSTREAM SART HISTORY

In mainstream society, the concept of developing multidisciplinary response to sexual assault began around 1980. In California, Laura Slaughter, M.D., in collaboration with nurses at San Luis Obispo County General Hospital, started the first SART. The team conducted joint interviews of sexual assault victims. The team consisted of law enforcement officers, sexual assault advocates, and on-call physicians.

This new approach was a more victim-centered response to sexual assault crimes. It called for the development of *multidisciplinary teams* representing law enforcement, medical personnel and advocacy as the first tier responders (responders with victim contact shortly after the rape). Other service providers were invited to participate as second tier responders in order to achieve a more community-wide response to sexual assault. Sexual Assault Response Teams are springing up all over the country. Each of these teams has developed their own definition for their team.

Some examples of SART definitions from mainstream community are listed below:

- A SART is a community approach to provide compassionate and innovative care to sexual assault survivors.⁸
- A SART is a multidisciplinary team working collaboratively to provide services for the community by offering specialized services for victims of sexual assault. The team includes at a minimum, a

⁸ Developing a Sexual Assault Response Team: A Resource Guide for Kentucky Communities, January, 2002. Available at: <http://www.kasap.org/site/pdfs/SANE-COMMUNITYRESOURCE.pdf>. Last accessed 3/14/08.

medical director, a sexual assault forensic examiner (SAFE), a sexual assault counselor/advocate, a law enforcement representative and a Commonwealth's attorney.⁹

- A SART is a multidisciplinary, interagency, sexual assault intervention model. It is a team approach to implementing a comprehensive, sensitive, coordinated system of intervention and care for sexual assault victims.¹⁰

PURPOSE OF A SART

The most critical work of a SART is its function as a vehicle for collaboration, relationship building and education among and between professionals.¹¹

The primary purposes of a SART are to:

- coordinate immediate response to *adult* victims of sexual assault;
- provide immediate responses such as crisis intervention, emotional support, information and referral, and advocacy for victims, family members and relatives by trained sexual assault advocates;
- prevent the victim from having to repeat personal accounts of the assault;
- provide victim-centered services to minimize/eliminate further trauma to the victim;
- utilize tribally specific practices of helping, healing and justice in order to ensure the safety and well-being of victims and the community;
- prevent confusion among professionals trying to meet the needs of the rape victim as she works her way through the maze of service providers and jurisdictional authorities;
- provide timely, thorough, and professional medical evaluation, treatment, forensic evidence collection, documentation, and

⁹ Sexual Assault Response Team Guidelines, Pennsylvania Coalition Against Rape, 2002. Available at: http://www.pcar.org/med_adv/guidelines_final.pdf. Last accessed 3/14/08.

¹⁰ California Sexual Assault Team Response Team (SART) Manual, California Coalition Against Sexual Assault, CALCASA. Available at: <http://www.calcasa.org>. Last accessed 3/14/08.

¹¹ SART Handbook, Version II, June 2006, Oregon Attorney General's Sexual Assault Task Force 3. Available at: <http://www.oregonsatf.org/documents/ORSARTHandbookVersionII.pdf>. Last accessed 3/14/08.

- preservation of evidence in an effort to reduce trauma through the use of appropriately trained sexual assault nurse examiners;
- enhance the ability of law enforcement agencies to obtain evidence that will aid in the successful prosecution of sexual assault cases;
 - provide a venue for the sharing of information among law enforcement agencies across jurisdictional boundaries;
 - identify resources and opportunities for RN's or other health care providers to become Sexual Assault Nurse Examiners (SANE's);
 - provide a vehicle for all appropriate agencies, tribally based or non-tribally based, to work collaboratively on developing victim-centered responses;
 - develop discipline specific protocols, provide cross-discipline training on such protocols and sign memorandums of understanding; and
 - function as a demonstration project for other tribal communities who may wish to replicate SANE/SART.

TRIBAL BELIEFS ABOUT A COMMUNITY RESPONSE

In mainstream communities, contemporary response by service providers to sexual assault, by-and-large, is case-centered in focus. Those who respond to sexual assault focus solely on the professional roles and functions of their respective disciplines. Each of them has a job to do and often performs their duties with limited resources and with limited coordination, cooperation and communication with other responders. The focus is often on fact-finding and moving “the case” on to the next step in the investigative and prosecution process. The person who is harmed by the violent crime is rarely consulted and rarely kept abreast of decisions made regarding her case.

This case centered model is in conflict with Indigenous models of helping. The traditional Indigenous response when someone in the village experienced a tragedy is a response of people or relatives encircling that person or family with support, resources, caring and compassion. This traditional model requires those establishing a SART to shift from a *case-centered* response to a *victim-centered* response. This model is based on the belief that, victims are needed throughout the process for agencies within the criminal justice system to effectively exercise their duties.¹²

¹² Minnesota Model Sexual Assault Protocol Project. See: http://www.mncasa.org/svji_smart.html.

Victim-Centered:
The systematic focus on the needs and concerns of a sexual assault victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner.¹³

Point of Discussion: Traditional Values

Collaboration is not a new concept for Indian people. The idea of everyone working together for a common goal and for the greater good of the people is centuries old.

1. What are some of the ways and under what circumstances did people band together in your community?
2. What are some examples of helping traditions?
3. What was the goal in helping traditions?

Collaboration was particularly important in tribal communities for other reasons. It was important due to the survivalist nature of tribal communities and the need to be ready to respond to imminent threats to the village. Everyone had to be prepared to act and know what their respective roles were. If the tragedy affected a member of the village, the “people” would gather around that person and create a support net. Each person had a role to help the person who was harmed and everyone respected one another’s role in that circle. Although each person had a role in that circle, the primary focus was the victim who was at the center of that circle.

¹³ Denver Interagency Council. See: <http://www.denversaic.org>.



Point of Discussion: Victim-Centered Approach

A question for each discipline: What does it mean to be victim-centered from the time of disclosure to disposition of the case?

THE BENEFITS OF A SART IN TRIBAL COMMUNITIES

SART programs established across the country have resulted in many benefits for communities where they are implemented. Though the work of developing tribal SART programs may be time intensive, requiring a great deal of commitment, the results can be extremely beneficial to victims, to service providers and more importantly the community. Where there are established SART programs around the country, there appears to be increased trust in the criminal justice system and service providers. In tribal communities, word travels fast. When a victim feels that the services and the response were sensitive and respectful, that information is soon spread throughout the community.

There is clear evidence that SART/SANE programs increase reporting and conviction rates in jurisdictions where they have been established in mainstream communities. The SART model is a useful tool to aid tribal communities that decide to create victim-centered, multi-disciplinary responses to hold offenders accountable.

Removing Barriers to Reporting

A focus group of Indian women, sponsored by NSVRC,¹⁴ was asked about the barriers that discourage or prevent Indian sexual assault victims from reporting and/or seeking services. They listed the following:

- lack of support services such as advocacy for victims;
- several miles to medical services;
- IHS (Indian Health Service) inconsistent in providing rape exams, providing emergency contraceptives and STI (Sexually Transmitted Infection) treatment;
- victim excluded from decision-making and information regarding the criminal case;
- lack of interagency coordination and collaboration;
- cases falling through the cracks;
- complexity of jurisdiction that results in delays in response and investigation;
- geographic challenges;
- economic barriers;
- fear of victim blaming attitudes by service providers;
- unwillingness to be treated by service providers who are not aware of the tribal specific needs of the victim; and
- lack of anonymity.

¹⁴ Report, Information-gathering Focus Groups on Creating a Tribal SART, July 2001, by Susan Lewis, Suzanne Blue Star Boy, NSVRC. Available at: <http://www.mincava.umn.edu/library/read>.

HOW CAN A SART HELP?

Barriers To Reporting Sexual Assaults In Tribal Communities	Tribal SART Effectively Removes Barriers
<p>PRIVACY <i>"Everyone will know."</i></p>	<p>Individual agencies share their policies on client confidentiality. The SART adopts intra-agency policy and protocol on safeguarding victim's anonymity and confidentiality.</p>
<p>CONSISTENCY <i>"The police are sympathetic but the prosecutor is not."</i></p>	<p>SART members are trained to implement interdepartmental protocols and also provide cross discipline training and training on the victim-centered approach to service delivery. As non-tribal agencies are also invited to participate in the SART as collaborators, training on providing culturally appropriate services is provided.</p>
<p>BLAMING <i>"They'll say it was my fault because I was using."</i></p>	<p>Community involvement in the development of the SART, requires SART members to utilize their positions and knowledge to build awareness of sexual assault which removes long held myths and victim blaming attitudes in the community.</p>
<p>TRIBAL-SPECIFIC <i>"This system doesn't work for my tribe."</i></p>	<p>This resource guide has been developed to assist tribal communities to look to their own tribal traditions in developing their community response to sexual assault and to implement traditional customs that were meant to protect women and hold offenders accountable.</p>
<p>SAFETY <i>"What if he or his family comes after me?"</i></p>	<p>The safety of women is a high priority in the development of multidisciplinary protocols and the development of safe places. Safe places may include but not be limited to safe waiting areas in the hospital and in the courts; added security measures to reduce the possibility of the perpetrator returning to harm the victim; and working closely with shelters for battered women to create space for women who have been raped.</p>
<p>HEALTH CARE <i>"The local clinic says they don't do exams."</i></p>	<p>Healthcare agency representatives including those from the Indian Health Service local service unit will be invited to participate and given an opportunity to look within their</p>

	existing policies and protocols to ensure consistency in providing needed services. The SART may also collaborate with other community healthcare agencies to create additional/alternative resources for needed services so women do not have to travel long distances.
<p>ACCESSIBILITY <i>"I don't have the money and/or transportation to get the help I need."</i></p>	By creating services that are more accessible to victims in the community, victims become more willing to report because they won't have to travel long distances for needed services.
<p>CONTROL <i>"The system will take over and not let me live my life."</i></p>	The SART model is often seen as a victim-centered model meaning SART members are encouraged through training and protocol development to keep her involved and informed and to allow her to make decisions as appropriate.
<p>COORDINATION <i>"I don't feel like the right hand knows what the left hand is doing..."</i></p>	The SART model brings all disciplines that respond to sexual assault crimes to the table in order to share information and resources and develop not only interagency protocols but also intra-agency protocols that determine how all agencies will work together when a sexual assault is reported.
<p>JURISDICTION <i>"Who is supposed to investigate? The feds or the tribe?"</i></p>	It is important for any tribal SART team to invite all agencies that have jurisdictional authority to participate in the SART. Coordinating response efficiently and speedily through protocols is vital to preserve important evidence, to detain/apprehend suspect and protect the victim from further harm.
<p>TRUST <i>"It's not like anyone is going to do anything anyway..."</i></p>	The SART ensures that best practice methods of sexual assault response are in place as evidenced by newly developed or revised protocols. These protocols stress the importance of keeping victims safe and holding offenders accountable. Community members will soon learn that service providers are working in the best interest of the community.

Helping and Honoring Victims

In the aftermath of an assault, a victim is struggling with many questions, including “How do I stay safe?” And “What happened to me?” It takes time to make sense of the crime and deal with the intense feelings and emotions.

A victim of sexual assault may face victim-blaming, denial and silence in her community. She may also deal with many of the systemic and cultural barriers imposed by service providers who lack training in showing respect to Native women who are sexually assaulted. In essence, Indian women often experience a second tier of victimization.

The development of a SART could have many benefits for victims of sexual assault including, but not limited to:

- shorter wait times in hospital emergency rooms as sexual assault cases are viewed as higher priority cases by hospital/medical services personnel;
- shorter wait times to receive response from law enforcement as there is increased collaboration and communication about issues related to jurisdiction and protocols for response time;
- providing the option (consistently) to have an advocate present during the forensic examination and after the forensic examination to help with support services;
- reducing the number of times that the victim is expected to tell the details of the sexual assault as the interview process can be set up as a joint interview;
- increasing privacy and safeguards with the availability of specially designated waiting and examination rooms;
- receiving examinations by skilled medical service personnel/nurses trained in forensic evidence collection;
- receiving treatment with sensitivity by professionals who are trained to understand the cultural needs of raped American Indian women;
- being kept informed of case outcomes in a timely fashion; and
- being seen as credible and important to the case.

Improving Offender Accountability

After a sexual assault occurs, law enforcement may be the first agency that is called. Tribal law enforcement have many challenges including patrolling large geographic areas alone, limited access to advanced training on sexual assault, lack of state of the art forensic equipment, shortage of officers, inadequate 911 systems, shortage of jails and the additional challenges created by the complex maze of criminal jurisdiction.

The SART may not alleviate all of these problems but can significantly improve many of them. Some of the ways that the SART may benefit tribal law enforcement are:

- reducing some of the confusion over jurisdiction;
- reducing some of the isolation experienced by service providers;
- improving cross-discipline communication and sharing of evidence
- increasing cross-discipline training and greater sense of camaraderie;
- improving case outcomes;
- improving evidence collection protocol;
- providing a victim-centered, sensitive response in emergency rooms resulting in increased trust in all disciplines that respond to sexual assault crimes;
- increasing prosecution rates;
- reducing costs by sharing resources;
- reclaiming, regenerating traditional customs of community response;
- exercising inherent sovereignty by improving tribal rape laws and strengthening criminal prosecutions through improved evidence collection; and
- maximizing existing resources that are often very limited.

Improving Health Care System

SART programs can benefit health care systems such as the Indian Health Service facilities/hospitals and other private medical care institutions located on or near tribal communities, and in particular hospital emergency rooms. Some of the benefits to healthcare providers include, but are not limited to:

- using specially trained forensic nurse examiners, which frees up the E.R. nurse and physician to attend to other life threatening cases;
- reducing some of the confusion over who should pay for procedures related to the sexual assault and related injuries;
- providing the opportunity to create and implement protocol, thereby creating a more efficient emergency room;
- providing an opportunity for medical facility to collaborate with the community to create sensitive care for the victim of sexual assault;
- reducing confusion over the handling and storage of evidence; and
- increasing trust in health care providers.

Making Communities Safe

Sexual assault affects not only the victim, but also the victim's family, community and nation. For too many years, victims have suffered in silence. Most often, victims do not tell anyone what happened. In the rare instances when victims tell, they are often met with disbelief, apathy, blaming, silence and injustice. Where there is no justice, there is no healing.

Collective silence and denial has resulted in multigenerational abuse, which results in harm to the entire community. It is time to end that silence and denial and regenerate age old customs of helping and traditional forms of justice that could ultimately provide collective healing.

The SART is a way that your community can come together within a collective framework to change the way victims are treated. The benefits to your community include:

- conveying an environment of collective compassion in the community for those harmed by sexual violence;
- sending a message to the community that sexual violence is intolerable and offenders will be held to the fullest measure of the law;
- maximizing the utilization of limited resources through information sharing, communication and cooperation;
- providing guidelines to disciplines for providing victim centered services; and
- restoring hope in the community that the leaders and service providers are making concerted efforts to respond to crime in a holistic, tribally appropriate way.

WHAT ARE THE CHALLENGES OF FORMING A SART?

In the initial stages of garnering community interest and support for the development of a SART, you will likely face some challenges and obstacles. Outlined below are some of the barriers that other communities have experienced.¹⁵ Be aware of these challenges and develop a plan for addressing them.

Community Challenges

- Lack of statistics to support need for program
- Cost of setting up a separate facility
- Lack of space for a program
- Finding a site for exams
- Determining an administration location

Criminal Justice System Challenges

- Prosecutors, judges and law enforcement officers may be unaware of the SANE's expertise in examination and evidence collection procedures
- Difficult to have numerous law enforcement jurisdictions work together in collaboration
- Decision-makers not educated about sexual assault

Financial Challenges

- Cost of training
- Lack of funding for SART program
- Hospital reluctant to cover costs for forensic equipment
- Responsibility for funding costs for the facility if separate from existing ER, equipment, medications and supplies

¹⁵ Developing a Sexual Assault Response Team: A Resource Guide for Kentucky Communities, January, 2002, A90. Available at: <http://www.kasap.org/site/pdfs/SANE-COMMUNITYRESOURCE.pdf>. Last accessed 3/14/08.

Health System Challenges

- Not aware of the benefits of SANE/SART programs
- Physicians and administrators unwilling to allow nurses to perform rape exams without physician intervention
- Administration allotting limited time for nurse training

- Hospitals develop SANE program separately and will not collaborate
- Lack of RN's (medical personnel) interest, knowledge of SANE or time

General Challenges

- Apathy, silence and denial
- Resistance to change
- Professionals refusing to take on another project
- Minimization of the problem and not understanding the need to form such an initiative
- Prioritization of other problems or initiatives such as economic development

Jurisdictional Challenges

- Difficulties obtaining participation of federal authorities on SART
- May encounter difficulties in developing multi-disciplinary response protocol to sexual assault without full participation from all relevant jurisdictions

WHAT ARE THE ROLES OF SART MEMBERS?

Your community's SART should be unique to the needs of your community. Generally a Sexual Assault Response Team is a two-tier model with the first tier being the first line responders -- the agency representatives that have initial contact with a victim after a sexual assault. The second tier includes other professionals who have a vested interest in creating a coordinated, victim centered response to sexual assault.

At a minimum, this first response team needs to include:

- Victim advocate from community based advocacy program
- Representative/s of appropriate law enforcement department
- Forensic nurse examiner or health services provider who does the forensic examinations

The second tier may include

- Prosecutor/s from the appropriate federal, state, tribal courts
- Victim witness advocates
- Forensic crime lab personnel
- Director of Private Hospital/Emergency Room
- Director of Indian Health Services
- Tribal government, tribal leaders
- Corrections and probation personnel
- Child and/or adult protective services agencies
- Staff such as counselors, security personnel from tribal colleges, universities
- Mental health
- Social services
- Judges/court personnel
- Tribal elders or spiritual leaders
- Other advocates
- Tribal, state, or federal representatives from other agencies that have a vested interest in improving sexual assault response

Welcoming involvement from others with an interest creates a comprehensive and broad base of support and encourages the community to take ownership of the problem and the solutions. Representatives from both tiers will collaborate through the entire process of developing protocol and

creating a victim-centered response. However, keep in mind that selecting too large a group for the SART may increase the chance of having personality conflicts, personal agendas and provide more opportunities to stray from relevant tasks.

HEALTH CARE PROVIDER

The Role of the Sexual Assault Nurse Examiner (SANE) or Other Health Care Provider

In many tribal communities, it is generally medical personnel such as emergency room physicians and nurses who perform forensic sexual assault exams. The use of specially trained nurses often referred to as Sexual Assault Nurse Examiners (SANE) or Sexual Assault Forensic Examiners (SAFE) is becoming best practice. The SANE/SAFE is an important member of the SART.

In mainstream models, SANE's are registered nurses who are on-call on a 24-hour basis and respond primarily to hospital emergency rooms or other medical facilities. They are specially trained to respond sensitively to victims of sexual assault with duties to include:

- conducting quality forensic sexual assault examinations;
- providing sensitive response to victims;
- providing exam findings to the appropriate law enforcement agency; and
- maintaining the chain of custody of evidence and providing courtroom testimony for prosecution in criminal court.

When informed of a victim who needs a forensic exam, the on-call SANE arrives at the exam site within a time frame determined by the SART. The SANE, the law enforcement officer/s and the advocate work as team of first responders in the forensic gathering phase of the response.

The training required of a nurse to receive certification as a Sexual Assault Nurse Examiner-Adult/Adolescent Certification (SANE-A) is provided by the Forensic Nursing Certification Board founded and in coordination with the International Association of Forensic Nurses. Anyone interested in receiving certification as a Sexual Assault Nurse Examiner must fulfill the requirements to be certified and complete the application process. Interested individuals can go to the following link on the IAFN web site, to review the qualifications and the application process.

www.iafn.org/certification/certHome.cfm

One of the primary problems of recruiting and retaining trained Sexual Assault Nurse Examiners in tribal communities is the issue of certification. Sexual Assault Nurse Examiners are required to perform a minimum number of examinations in order to maintain their certification. Due to under-reporting of sexual assaults and small tribal communities, it may be that only a small number of victims of sexual assault actually present at hospital emergency rooms. Sometimes, this means that SANE's are unable to maintain the requirements for certification. There may be ways that this could be addressed so SANE's in tribal communities can maintain certification.

You are encouraged to consult with the International Association Forensic Nursing for assistance or the Sexual Assault Forensic Examination Technical Assistance Project, at: www.safeta.org which includes the National Protocol for Sexual Assault Medical Forensic Examinations.

Developing a relationship with IHS or other health care providers may take time and you may consider several options. Some tribal communities have chosen to work with a non-tribally based medical facility to provide forensic examinations and the tribally based victim service agency provides the needed support to victims such as transportation and accompaniment.

Point of Discussion: Should our SART work collaboratively with IHS?

1. What are the possible challenges of collaboration with health care providers?
2. Do we want to meet with a Hospital Administrator to discuss the possibility of collaboration?
3. Do we want to consider alternatives for developing a site where exams can be done?
4. Is there a tribally based health administrator that we can meet with?

In tribal communities, it is often challenging to identify/recruit nurses who are willing to take on additional duties of a 24 hour on call calendar.

Point of Discussion: Other Options for Recruiting/Identifying Nurses

1. Can we recruit trained nurses who work in other tribal programs such as Community Health Representatives (CHR) programs?
2. Can we recruit from local nursing schools or contact recently retired nurses for their willingness to obtain specialized training?
3. Can we look to other health care providers such as physician assistants who may be willing to work with the SART?
4. Is it feasible to explore the possibility of utilizing individuals such as midwives or other professionals that have training in women's health?

Payment for the Examination Under VAWA¹⁶

Understand the VAWA provisions related to exam payment. Under the Violence Against Women Act (VAWA), grantees of the STOP Violence Against Women Formula Grant Program must meet certain requirements concerning payment for the forensic medical exam in order to receive funds. The STOP Program is a formula grant program which provides funds to all States, Territories, and the District of Columbia.¹⁷

Each of these entities certifies each year that it is in compliance with the requirements of VAWA. Specifically, the State, Territory, or the District of Columbia must certify that it or another governmental entity "incurs the full out-of-pocket cost of forensic medical exams" for victims of sexual assault. If one part of a State or Territory, such as a county or city, is forcing victims to incur these costs, then the State or Territory will not be able to certify and will be ineligible for the grant funds.¹⁸

¹⁶ National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents; U.S. Department of Justice, Office on Violence Against Women, September 2004, NCJ 206554 page 49

¹⁷ Its purpose is to assist these jurisdictions in developing and strengthening law enforcement and prosecution strategies to combat violence against women, as well as in developing and strengthening victim services in cases involving violence against women.

¹⁸ Under 42 U.S.C. § 10607, for Federal cases, the Federal investigating agency that investigates the sexual assault shall pay for the cost of a forensic exam "which an investigating officer determines was necessary or useful for evidentiary purposes."

Definitions under VAWA: For the purpose of the VAWA requirement, the term "forensic medical examination" means "an examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law."¹⁹ According to regulations of the STOP Program, the exam should include, at a minimum, "i) examination of physical trauma; ii) determination of penetration or force²⁰; iii) patient interview; and iv) collection and evaluation of evidence²¹." The inclusion of additional procedures (e.g., testing for STIs) to obtain evidence may be determined by the State, Indian tribal government, or unit of local government in accordance with its current laws, policies, and practices.²²

By regulation, "full out-of-pocket cost" means "any expense that may be charged to a victim in connection with a medical forensic examination for the purpose of gathering evidence of a sexual assault²³." Examples of such expenses may include the full cost of the exam or a fee established by the facility conducting the exam. Often, medical services that are not related to evidence gathering will not be covered by this requirement.

It is important that victims are advised of jurisdictional policies regarding payment for the medical forensic examination. Victims must be aware of exam facility and jurisdictional policies regarding payment for other medical care related to the sexual assault. Typically, all costs related to the exam and to medical care are not paid for by government entities even if a report is made. Thus, involved responders are encouraged to assist victims in identifying and accessing jurisdictional resources to cover the costs of the exam²⁴. For example, responders can help them apply for crime victims' compensation (if available) or arrange a payment plan with the exam facility²⁵. When victims are billed by the exam facility for costs that are

¹⁹ 28 C.F.R. § 90.2(b). Note that the term "medical forensic examination" is used throughout the protocol, rather than "forensic medical examination" as used in the VAWA requirements.

²⁰ The analysis of evidence gathered during the exam, along with examiner documentation of findings, may help determine whether penetration occurred or force was used. Examiners, however, are not responsible for drawing conclusions about how injuries were caused or whether an assault occurred or not, although they can note consistency between patients' statements and injuries they identify.

²¹ 28 C.F.R. § 90.2(b) (1)

²² 28 C.F.R. § 90.2(b) (2)

²³ 28 C.F.R. § 90.14(a)

²⁴ Victims in Federal cases should first apply to the State or Territory crime victims' compensation program for reimbursement of costs that are their responsibility. If they are unable to obtain reimbursement via this channel, they should work with victim-witness specialists in the Federal agency investigating or prosecuting the case to identify other possible sources of funding or reimbursement.

²⁵ Exam facilities are sometimes willing to waive some related medical care costs that are not covered by government entities

their responsibility, procedures to protect their privacy should be incorporated into the billing process. Personnel in facility billing departments should be educated regarding coding and billing practices in these cases, as determined by facility and/or jurisdictional policy.

ADVOCATES

Role of the Sexual Assault Advocate

The role of the sexual assault advocate is to provide individual support, information and referral, accompaniment, advocacy and other services such as transportation, financial, housing and child care. Advocates play a vital role in bearing witness to the experience of the victim; they do this by listening, believing, empowering, serving as a buffer, interrupting victim blaming and honoring the choices that a victim makes.²⁶ Advocates are available to provide one-to-one support to the victim immediately after a sexual assault and can continue providing longer term services as needed and requested by the victim.

There are four basic types of sexual assault advocates:

- community based (grassroots);
- hospital based;
- prosecutor based; and
- law enforcement based.

The type of services that the advocate can provide will depend upon the agency where they are employed. Generally, a community based sexual assault advocate is someone who received a specialized, 40 hour sexual assault advocacy training as outlined in many state guidelines. (Tribal nations, of course, can develop their own guidelines for advocates). Completion of this training is often a prerequisite for claiming the advocate-victim privileged relationship in court. If advocate-victim communication is “privileged” communication, private communication would not be subject to disclosure even by subpoena. The advocate would not be expected to testify in court.

The Tribal Law & Policy Institute has plans to develop a Sexual Assault Advocate Protocol – see www.tlpi.org

²⁶ SART Handbook, Version II, June 2006, Oregon Attorney General’s Sexual Assault Task Force, 3. Available at: <http://www.oregonsatf.org/documents/ORSARHandbookVersionII.pdf>. Last accessed 3/14/08.

Point of Discussion: Advocate/Victim Privileged Communication

Tribal SART programs should examine their tribal code to determine if it protects the advocate/victim relationship as privileges just as a physician/patient or attorney/client relationship.

A community based advocate is an advocate employed by a tribally based sexual assault program, a battered women's shelter or other victim service department or a nonprofit program that provides services to Indian women who have been sexually assaulted. The advocate would generally be available to provide the following services to victims of sexual assault:

- provide 24 hour crisis intervention services;
- provide one to one support;
- accompany/meet victims in hospital emergency rooms for the examination process;
- provide assistance as identified by the victim such as resources needed for food, clothing, shelter, transportation, or child care;
- explain all procedures and victim rights;
- provide emotional support to victims who obtain forensic rape examinations;
- ensure that the victim receives victim-centered, appropriate services from all disciplines so as to reduce/eliminate re-victimization;
- assist the victim in obtaining adequate protection from the court and working with the victim to identify other safety options such as assistance with filing for protective orders;
- provide other needed resources to reduce the degree of harm and stress encountered in the aftermath of the sexual assault such as identification of spiritual support as requested by the victim;
- provide support and ancillary services to secondary victims of sexual assault (to the relatives, family, significant others); and
- identify resources that may help with medications needed due to the assault.

LAW ENFORCEMENT

Role of Law Enforcement

The law enforcement agency is often the first point of contact for a victim and that contact often results in the activation of the multidisciplinary response.

The role of law enforcement is to:

- ensure the safety of the victim and the community;
- conduct the investigation of sexual assault;
- interview the victim;
- transfer forensic evidence;
- maintain appropriate chain of evidence;
- apprehend/arrest the suspect;
- prepare a report for the appropriate prosecuting attorney's office; and
- participate in criminal proceedings as necessary.

The Tribal Law and Policy Institute and Southwest Center for Law and Policy has developed a Law Enforcement Sexual Assault Protocol Development Workbook – see www.tlpi.org

Point of Discussion:

1. What different law enforcement agencies are involved in the response to sexual assault in your tribal community?
2. What prosecution agencies are involved in prosecuting cases of sexual assault in your tribal community?

PROSECUTOR

Role of the Prosecutor

During the course of the sexual assault investigation, the prosecutor from the district attorney's office, U.S. Attorney's office or the tribal prosecutor's office will work with appropriate law enforcement officers to obtain key evidence and determine whether there is sufficient cause to arrest a suspect for the sexual assault. The primary responsibility of the prosecutor's office is to issue an indictment/press criminal charges against the suspect based on the elements of the case and the key evidence.

The Tribal Law and Policy Institute and Southwest Center for Law and Policy has developed a Prosecutor Sexual Assault Protocol Development Workbook – see www.tlpi.org

Part Four

PROTOCOL DEVELOPMENT

WHY ARE PROTOCOLS IMPORTANT?

In order to more clearly explain roles and responsibilities, teams across the country are choosing to develop written protocols for each discipline within the SART. A protocol is a set of policies, procedures and agreements to be followed by an individual, agency or group. The established protocols can serve as a roadmap to the provision of victim-centered services.

Most tribal nations are still struggling to provide adequate services, often with very limited resources. When a sexual assault occurs in any Indian community, an immediate, victim-centered response can be further hampered by confusion with jurisdictional authority, lack of formalized agreements and MOU's (memorandum of understanding) on interagency collaboration and breakdowns in communication and cooperation. This can ultimately lead to cases falling through the cracks, victims not feeling safe, victims not being kept informed of case disposition and the time delays often resulting in lack of offender accountability, resulting in the potential of greater harm and risk to the victim, victim's family and community.

The benefits of effective protocols include:

- reduction in the confusion over jurisdiction;
- reduction in isolation experienced by service providers;
- delineation of roles and responsibilities;
- improvement in cross-discipline communication;
- providing victim-centered, sensitive response in emergency rooms, including a reduction in wait time, and reducing the number of times victims have to tell their stories;
- enhancement of evidence collection procedures;
- improvement in case outcomes;
- improvement of trust in criminal justice system resulting in increased credibility;
- regeneration of traditional customs of community response;

- an opportunity to exercise of inherent sovereignty by improving tribal rape laws and strengthening criminal prosecutions through improved evidence collection; and
- maximization of existing resources that are often very limited.

Sexual Assault Protocol Development

Tribal Law and Policy Institute has two additional publications which are helpful in protocol development for sexual assault cases. One is designed specifically for law enforcement and one specifically for prosecutors. It is recommended that these two publications be utilized in the development of sexual assault protocols for those departments.

PROCESS FOR PROTOCOL DEVELOPMENT

A model that has been successfully utilized by other communities is the “Eight Step Model for Developing Protocol.”²⁷ The eight-step model, called the Protocol Development Cycle, is designed to create community-specific protocol to improve response to crime and its victims. This model utilizes a cyclical approach where once the eight steps are completed, they are repeated. The development of protocol is a cyclical process, with the results of each completed cycle used during the next cycle as the basis for making adjustments to the protocol.

This model can be an appropriate approach for tribal communities as it is not a “one size fits all” approach. In addition, this approach can address the reality of tribal diversity and jurisdictional authorities.

This process involves the following eight steps:

1. Inventory of Existing Services
2. Victim Experience Survey
3. Community Needs Assessment
4. Writing Protocol
5. Adopt Protocol and Renew Interagency Agreements
6. Training
7. Monitoring
8. Evaluation

²⁷ Boles, Anita B., and John C. Patterson. 1997. *Improving Community Response to Crime Victims, An Eight-Step Model for Developing Protocol*. Thousand Oaks, CA: Sage Publications.

1. Inventory of Existing Services

The purpose of taking inventory of the existing services is to examine areas in the community currently addressing victims of sexual assault and to become aware of all services and resources available to these victims. The inventory should be as comprehensive as possible, and it should include services from law enforcement agencies, prosecutors' offices, medical facilities, mental health programs, victim service organizations, and other social service organizations that are available to assist victims of sexual assault.²⁸

The result of the inventory of existing services can be used as a comprehensive directory of agencies and organizations providing services to victims of sexual assault within the community.

A sample questionnaire can be found in the appendix.

It is important to collect information from all of the resources and services available to victims within the community for the following three purposes:

- 1) to determine if there are adequate services available for all victims of sexual assault in the community;
- 2) to ensure that the interdisciplinary/multi-agency protocols accurately reflects the agencies and organizations available in the community to serve victims of sexual assault;
- 3) to provide a comprehensive list of quality referrals for victims of sexual assault.

²⁸ *Ibid.*

2. Victim Experience Survey

This confidential survey is conducted to determine victims' views of how well the system is responding to their needs. The survey should determine the feelings of victims regarding how their cases were handled and how they were treated by each discipline's representative. To obtain information on how each agency responds to sexual assault victims and the effectiveness of those services, it is important to seek victims' input throughout the criminal justice process, including those whose cases:

- are not reported to authorities;
- are not pursued because the perpetrator is not apprehended;
- are not filed (or dropped) after the initial investigation;
- are pled out before or during trial;
- are completed through trial, but may or may not obtain a guilty verdict; and/or
- result in a guilty verdict with sentences that may or may not include incarceration.

Each agency can take responsibility for conducting this survey. However, it is often easier for law enforcement and and/or victim services to develop the survey as they are often the agencies that have most contact with victims. You can develop surveys that are mailed to victims on a lottery system to ensure randomization. Once the surveys are returned and results compiled, the findings can be used in the third step of the cycle. It is important to select a time frame when the surveys are conducted such as 6 months after the sexual assault occurs.

A sample victim experience survey can be found in the appendix.

Caution: As there is a high priority for protecting victim safety and for anonymity for victims who don't want their family members or relatives to know about their assaults, this step in the cycle should be approached with caution. Some options to maintain confidentiality/anonymity are listed below.

- Surveys can contain no information about sexual assault but indicates agencies wanting feedback from the public.
- Surveys can be distributed within each discipline's offices, rather than mailed.
- Enclosed with the surveys a return address with postage prepaid.

Please note that your tribe may have a "research review board" that would need to review your research plan before you mail out a survey. Please check your tribal regulations. In addition, some federal agencies and other funding sources have requirements about research that is undertaken with their funds. If you are undertaking this survey under a grant, please check with your funding agency about any research review boards.

You could make surveys available at common public places such as health offices, clinics, community centers. By making surveys available there, you may obtain feedback from victims who do not report their assaults, why they don't report and to whom they disclose their assaults. Surveys would need to include questions that would elicit this information.

3. Community Needs Assessment

This step is focused on gathering information from your community about the needs of sexual assault victims. Many communities collect this information through public hearings/forums.

This step is intended to answer two primary concerns:

- 1) What services does the community require to meet the needs of sexual assault victims?
- 2) What should the SART do to meet these needs?

Each tribal community may have different ways to gather this public information. Two ideas are listed below.

Public Hearing for Service Providers

You can organize public hearings or focus groups to obtain testimony from service providers. Individuals representing organizations should be encouraged to identify:

- 1) successful aspects of the current service delivery system;
- 2) barriers to effective delivery of services to their constituencies; and
- 3) services that organizations can provide to their victim service collaborative partners. To ensure a broad spectrum of representation, notices and invitations to testify should be sent to representatives from:
 - sexual assault/battered women advocacy
 - general crime victim advocacy groups
 - medical facilities/hospital emergency room/ clinic personnel
 - elected officials
 - social service agency workers
 - high school, college and university student bodies
 - teachers, faculty, and administrators from all educational
 - institutions

Public Hearings for the Community at Large

Sexual assault is a community problem and requires community support to resolve. Although sexual assault is a problem in most tribal communities, it

is often difficult for Indian people to come forward to speak about the issue. You may need to develop creative ways to encourage input. Often it is helpful to offer food, transportation and child care to enable people to participate. The public hearings should be held in locations that are easily accessible to the community. The planning of such hearings must include considerations for maintaining a non-threatening atmosphere. It is recommended to hold focus groups in already existing women's support groups as an alternative to a more public forum. Regardless, every effort must be made to ensure safety for anyone offering testimony.

You can distribute a public announcement of the hearings/forums to a variety of groups, including local media (including a reservation radio station and tribal newspaper); community centers; churches; restaurants; laundromats; grocery stores. Be sure to provide the general public with logistical information, such as time and place. Explain that you will be asking for input from community members who wish to contribute information and testimony at the hearing.

A sample public hearing announcement can be found in the appendix.

Point of Discussion: Why is community input so important?

One of the important tasks that must be accomplished is the development of broad base support from all segments of the tribal community. The future success of the SART is dependent upon the type of buy-in that the task force is able to garner and the level of communication and collaboration that is conducted with the tribal community.

READY TO WRITE!

You are now ready to write the needs assessment using findings from the inventory of existing services; victim experience survey, the public hearings and data collection analysis. Your community needs assessment report is a comprehensive examination of sexual assault crime in the community.

The community needs assessment might include the sections listed below.

- Introduction
- Community data on sexual assault victimization
- Inventory of existing services
- Victim experience survey
- Results from the public hearings
- Conclusions from the SART based on the findings
- Priority concerns for the SART

4. Writing Protocol – How will the SART operate?

After you develop your community needs assessment, you will be ready to begin designing victim-centered, interdisciplinary protocols that pay particular attention to communication and collaboration across agency lines to ensure the best response for victims. Protocols should address problems identified by the community, service providers and victims.

The process for writing protocols may include the following steps:

- 1) Review the community needs assessment
- 2) Appoint a committee of writers from each discipline
- 3) Gather examples of other SART protocols
- 4) Draft protocol

After your team protocol is written, it is then appropriate for each discipline to present the intra-agency protocol to the entire SART for comment and recommendations.

In Minnesota, some of the SART programs have taken their discipline specific protocols and have condensed them to bullet point checklists and printed that in laminated, pocket size, spiral books for easier access and portability.

5. Signing Interagency Agreements

Once the protocol is finalized, each agency should also sign formal agreements that implement the protocol. These signed agreements commit resources to ensure that all affected staff are fully trained in their responsibilities. This is a good time to recruit additional members for the SART.

A sample memorandum of understanding can be found in the appendix.

Interagency agreements are critical in the development of effective long-term relationships within a multidisciplinary approach. These agreements clearly define roles and responsibilities as well as an agreed upon process or protocol. Having interagency agreements signed by the person in the highest position of power within that agency demonstrates the support of the agreement and commits each agency to abide by the agreement. However, if you apply for grant funds to support the work of your SART, you may need a new MOU specific to the scope of the grant proposal.

These agreements can serve as a method of conflict resolution because it describes what everyone has agreed to do.

Interagency agreements are useful as evaluation tools as well. If you revise your interagency agreements every two years (recommended), it gives the SART clear information on what has worked, what is no longer relevant and what is missing as the agreement of yesterday is compared with the current practice.²⁹

It may be beneficial to your SART to clearly define role and responsibilities within the MOU (see sample in Appendix) such as the title of the person who will represent each agency, including the responsibility of that representative to attend monthly SART meetings, who will host each SART and based on hosting responsibilities, location of each SART meeting. The purpose of clearly delineating roles and responsibilities in the MOU will eliminate future conflicts and misunderstandings.

²⁹ Attorney General's Sexual Assault Task Force, Sexual Assault Response Team Handbook. Available at: <http://www.oregonsatf.org/documents/PDFVersionofSARTHandbook.pdf>. Last accessed 3/14/08.

6. Training

In most communities, all agencies who sign the SART protocol will participate in multidisciplinary *mandatory* training to ensure full understanding and implementation of the agreed upon protocols.

This mandatory training requirement may be included in the agreement signed by each department head. To achieve this, the training program may call for a commitment of time and energy by all discipline partners by enabling each and every one of their personnel that will be providing services to receive the training from dispatchers, patrol officers, criminal investigators, prosecutors, court personnel, advocates, medical personnel, and SANEs. The training may need to be offered more than once to accommodate the scheduling needs of all participants. To ensure that this training is completed successfully the training committee, generally composed of one person from each discipline, will:

- develop a training curriculum/outline (*a sample training outline can be found in the appendix*);
- select instructors (it may be beneficial to use more than one person from each discipline to train on their respective protocol);
- develop a training schedule (this may require working closely with department heads in order to accommodate everyone's participation particularly law enforcement because they need to have officers to remain on duty to provide daily coverage);
- inform all disciplines of the training dates, times, location by mailing registration forms;
- arrange for refreshments; and
- develop evaluation forms, handouts, video and equipment on hand for training day.

7. Monitoring

Once your SART is in operation, you will want to develop a way to monitor the progress. Monitoring is designed to ask two main things:

- 1. Are the protocols being properly implemented?**
- 2. Are the protocols achieving the desired results?**

There are a variety of ways you can monitor a SART. Your SART may use meetings to discuss the successes as well as the challenges since the protocols have been written and utilized. These findings can be documented in the minutes of SART meetings. You will likely refer to these findings in the next cycle of the protocol development process.

8. Evaluation

Evaluation is usually more formal than monitoring. A positive evaluation will justify the need for a SART and can help leverage additional resources to maintain the SART. This step is evaluating not just the protocols and their effectiveness but also evaluating the SART and the success of your collaboration.

You should plan on designing a process to measure at least three things:

- the extent to which system problems have been improved or eliminated;
- the extent to which victims feel supported through the process; and
- the extent to which agencies have improved their response to incidents of sexual assault.

Your evaluation can include the minutes of SART meetings and explain how the meetings have improved interagency collaboration and communication. The evaluation may include the results of ongoing victim experience surveys.

You may want to hire someone who has expertise in developing evaluation tools and conducting evaluations. The evaluator may want to speak individually to SART members to receive their individual feedback.

Part Five

SUSTAINING & STRENGTHENING THE SART

TEAM BUILDING

Many SART programs across the country have experienced problems keeping the team invested in the process as challenges and problems surface. It is almost a given that one or all of these problems or challenges surface during the life of the SART. Some of these problems are related to the way the SART works collaboratively yet other issues are related to interpersonal conflicts that come up.

Potential problems/challenges include:

- confidentiality/problems with anonymity;
- conflicts of interest;
- conflicting goals;
- fear of giving up control;
- turnover in team membership;
- attendance;
- conflict management from tribal perspective; and
- obtaining necessary resources to fully implement the protocols and maintain the SART.

Team building is a process by which people get to know one another, become comfortable with one another and build trust. Consider ways to engage in team building activities to introduce teams to one another as stated earlier. Team building can be implemented at the early stages as well as during later stages of the development continuum.³⁰

³⁰ California Sexual Assault Team Response Team (SART) Manual, California Coalition Against Sexual Assault, CALCASA. Available at: <http://www.calcasa.org>. Last accessed 3/14/08.

Some team building methods include:

- educating all team members about the nature and scope of each organization, their mission, and the challenges and barriers faced by each agency;
- using humor to enable people to relax and to be more open with one another;
- engaging in an activity in which people share something about themselves;
- hiring a meeting facilitator or arranging a facilitator to donate time to help with this process; and
- planning off-site retreats because they allow people casual and/or recreational time to become acquainted.

FUNDING ONGOING WORK OF THE SART

It is possible that your SART can operate without funding in the early stages of development. This is possible if each agency contributes resources to support the work of the SART. Once the SART is designed, you may be able to request implementation funding from tribal governments, state and federal grants, and private foundations.

Some of the resources needed may include:

- Staff time for team members to attend meetings and perform tasks as identified (travel, phone, time away from normal duties)
- Victim services and provisions needed to ensure victim safety and comfort (transportation, clothes for victims to wear home following a forensic rape exam, food vouchers, money for gas)
- Costs associated with implementing a fully operational SANE/SART program such as equipment to gather forensic evidence (digital camera, colposcope, exam table, computer equipment, office furniture, salaries for specialized law enforcement officer/s)
- Public relations
- Community education materials (printing costs, newspaper ads)
- Training expenses
- Meeting expenses (space, beverages)
- Other _____

Possible sources of funding or in-kind contributions include:

- In-kind contributions from agencies represented on the team:
Personnel time of a nurse to coordinate Sexual Assault Nurse Examiner component such as recruitment, training and supervision of nurses conducting exams
- Hospital/hospital foundations: Provide a room where exams can be done, needed equipment and supplies for forensic examination
- Local, state and federal funds
- State funds for victim service organizations
- Federal funding through the Department of Justice, Office on Violence Against Women. For online information:
<http://www.usdoj.gov/ovw>
- Civic groups
- Grassroots fundraising

Part Six

SART DEVELOPMENT WORKBOOK

INTRODUCTION

STEPS TO DEVELOP YOUR SART

The next section of this resource guide describes specific steps that the task force can take. Not all of these steps are necessary in every community. In addition, you may need to re-order the steps to fit your unique circumstances. These steps are provided as some guidance as you move forward.

We encourage tribal SARTs to look at more tribal specific language to refer to someone who's been harmed or is suffering due to the behavior of others.

Point of Discussion: What should our SART be named?

Your community should consider adopting a name and definition for your response team using tribal language and customs and beliefs that best describe the purpose and scope of your team. Consider:

- Traditional ideas of helping those who've been harmed by the acts of others
- Tribes unique social systems such as clan systems response to crime
- Tribal justice system response to crime
- Traditional beliefs about sacredness of women
- Traditional concepts of restoring healing and wholeness

STEP 1 Inform Elected Officials and Tribal Leaders

Your tribal leaders must be aware of the problem of sexual violence against women in their communities. As leaders, it is imperative they take a collective stand against sexual violence by supporting changes needed to keep Indian women safe and to hold perpetrators accountable. Unless they take a strong stance against these criminal acts, the problem of sexual violence will continue to have a profound impact on future generations.

The success of a SART in your community may be affected by the knowledge of your tribal leaders. If sexual violence is a priority for your leaders, then you can gain more support (and funding) for your SART³¹.

Meeting with tribal leaders is critical. Some ideas include:

- Meeting with a prospective ally from the council
- Getting on a council meeting agenda
- Inviting council representative/s to a SART task force meeting

Point of Discussion: What type of information should we share with our tribal leaders?

- information on rape: epidemic rate of sexual violence, underreporting of assaults, historical basis for problem of sexual assault and traditional solutions;
- critical needs of sexually assaulted Indian women;
- importance of keeping women safe and holding offenders accountable;
- description of the SART and protocol development project for the reservation;
- resources needed to develop a SART; and
- possible tribal code revisions that may be needed in the future.

³¹ If your tribe is using federal funding to establish the SART, then lobbying of tribal officials is prohibited with grant funds. You will need to consult with your grant manager at OVW before engaging in this activity.

STEP 2 Decide Who Should be on a Cross-Jurisdictional Task Force

When thinking about a SART, consider forming a task force. A task force is an ad hoc group of community members. This group can lay the necessary groundwork for the SART. Therefore, consider inviting those individuals who are vested with authority to represent their agency on issues related to the development of sexual assault policy and practice for the community (examples include: Chief of Police, Chief Prosecutor, Executive Director). Your tribe's task force should fit the realistic needs of your community.

Points of Discussion: Who should be on our task force?

- 1.** Who benefits from a SART? Who are the stakeholders? Who has a vested interest in improving the community's response to sexual assault?
- 2.** Who works with victims of sexual assault in our community?
- 3.** What first responders are most responsive to this concept?
- 4.** Who has decision-making abilities in the agencies that are invited to the table from law enforcement, prosecution, and medical service agencies such as IHS?
- 5.** Do we want a policy maker at this meeting?
- 6.** What types of skills do we need on this task force and who possesses those skills, e.g., a fundraiser, community organizer, elder, victim/survivor
- 7.** Who has the knowledge about the unique challenges, e.g., attorney with knowledge of jurisdictional issues, forensic expert?
- 8.** To what are we asking individuals to commit?

STEP 3 Convene the Task Force

At that initial meeting of your task force, be sure to spend time building relationships. Spend time becoming acquainted with each other and learning the role of each agency. The agenda may include an opportunity to discuss services you provide to victims of sexual assault or your involvement in prosecution. This discussion is very important to set the tone for future work together.

Point of Discussion: What should we discuss at our task force meeting?

- 1.** What are our reasons for wanting to develop a SART?
- 2.** What will the benefits be for our community in forming a SART?
- 3.** What is the general attitude about sexual assault in our community?
- 4.** Are there recent cases of sexual assault that are on people's minds?
- 5.** What are the agencies and departments that may be supportive of such an initiative? Are there individuals in key positions that have been supportive of other similar projects/initiatives that need to be invited?
- 6.** Are there tribal leaders that are seen as allies in addressing violence against Indian women?
- 7.** Will there be adequate support for the formation of a SART?
- 8.** What are some potential barriers for obtaining the needed support?
- 9.** How will a SART fit into other similar collaborative and multidisciplinary efforts in our tribal community?
- 10.** Has there been any community education/awareness on sexual assault?
- 11.** Are there medical services available to women who've been raped? Are there nurses or physicians that might be interested in discussing the possibility of forming a SART?
- 12.** Is there a representative from a local law enforcement agency that may be willing to discuss the possibility of forming a SART?
- 13.** Is there a tribal prosecutor/district attorney's office/US attorney's office that would be supportive of a SART?
- 14.** Is there a tribally based advocacy program? Is there someone from this advocacy program who may be willing to provide some initial leadership for forming a task force? To make some initial contacts? Send out letters, make some phone contacts? To chair the initial meeting of the task force?
- 15.** What are the resources/decisions needed for this task force? Things to consider would be meeting space, coffee, donuts, someone to take minutes, etc.

STEP 4 Determine the Need for a SART in Your Community

Before moving forward with the work of developing a SART for the community, have a discussion about the current response to sexual assault in your community.

Point of Discussion: What is currently happening in our community?

Answers to these questions will provide greater insight to those that will be developing the SART and will reaffirm the need for a tribal specific SART.

1. What are some of the attitudes that exist in the community around sexual assault?
2. What happens when someone is sexually assaulted?
3. Does the community need better services, better responses to victims?
4. To whom are victims likely to disclose their reports?
5. Are victims likely to report their assaults to law enforcement? Why or why not?
6. Is there a hospital or medical facility that does rape exams for women in your tribal community? Where is the facility located? How far must victims travel? Do they offer the full range of services needed by victims?
7. Who is committing these crimes? Acquaintances? Strangers? Native? Non-native?
8. Are perpetrators being held accountable for sexual assaults they commit?
9. Are there recent incidents of sexual assault that people have been talking about?
10. What do you see as some of the improvements that need to be made to create better responses to victims?
11. How will your task force educate the community about this task force and about the SART model? What are the most effective ways to get the information out and to get support for this team?

Your task force may also discuss the benefits of doing a community needs assessment such as the one described in the *Eight-Step Protocol Development Model*.

STEP 5 Identify the Geographic Area To Be Served by the SART

What geographic area will be served? The answer to this question may be a challenging one for your team to answer due to the reservation and population size of your tribal nation. For smaller reservations and tribal communities, you may choose to serve the entire reservation population.

Your team may find it difficult to exclude anyone from receiving needed services but in the early stages of development, it may be necessary to set some parameters if the geographic area of your reservation and the population is very large. This may be necessary so as not to set your team up for failure. By focusing on one or two communities on your reservation, you could focus efforts in the beginning and expand as resources become available.

Points of Discussion: Where are our geographic limits?

- 1.** If we limit our service area, what are possible negative consequences for such a decision?
- 2.** What other resources are available for victims of sexual assault that are not within our service area such as IHS service units, law enforcement departments and advocate programs?
- 3.** Will we see an ample number of victims if we limit our service area?

STEP 6 Decide Who Should be on Your SART

Cross-jurisdictional SART membership is important for effectiveness, but this can sometimes be the most challenging aspect. It is important, but difficult, to bring key people to the table such as representatives from local, state and federal law enforcement agencies and prosecution departments. This process may involve a series of meetings inviting key officials and department managers to discuss the opportunity to collaborate with your tribal nation.

It is important to carefully consider the selection of the official members. Anyone who agrees to participate must be willing to make a commitment by attending meetings and doing the necessary work to accomplish the goals of the SART. Sometimes small groups (8-10 people) work better than larger groups (20-25 people). Each community is different.

Point of Discussion: How do we identify SART members?

- 1.** Within each agency, who has been seen as an ally in the work to address violence against Indian women?
- 2.** Should you seek guidance from the local advocacy programs for recommendations?

Up to this point, the task force has done some of the preliminary work to prepare for the development of the SART. The following is a checklist that can be used as a starting point to determine key stakeholders that need to be invited to join the SART.

STAKEHOLDERS CHECKLIST

Each community is different. This checklist is a starting point.

First Responders

- Advocates
- Medical personnel
 - Emergency medical response / ambulance
 - Indian Health Service
 - Local hospital / clinic
- Law enforcement officers
 - Tribal law enforcement
 - Bureau of Indian Affairs law enforcement
 - County sheriff / local municipal police
 - Federal Bureau of Investigation
- Others: _____

Second Tier Members

- Prosecutor/s from the appropriate federal, state, or tribal agencies
- Victim witness advocates
- Forensic crime lab personnel
- Director of private hospital/emergency room
- Director of Indian Health Services
- Tribal government, tribal leaders
- Corrections and probation personnel
- Child and/or adult protective services agencies
- Staff such as counselors, security personnel from tribal colleges, universities
- Mental health
- Social services
- Judges/court personnel
- Tribal elders or spiritual leaders
- Other advocates
- Tribal, state, or federal representatives from other agencies that have a vested interest in improving sexual assault response

STEP 7 **First SART Meeting**

Once a SART is organized, it is time to bring everyone to the table for formal meetings. At the first formal meeting of the SART, build time for members to get to know each other (“ice-breaker” exercises can be helpful).

Point of Discussion: What should we discuss at the first SART meeting?

At this first meeting some of the topics for discussion may include but not limited to:

- background of SART, benefits to communities that have SART;
- each representative talking about their department/agency’s services to adult victims of sexual assault;
- discussion of some of the challenges of their work;
- dialogue on how the team can benefit each discipline’s response to sexual assault by discussing needs of each discipline; and
- each representative discusses their perceived role in a sexual assault case.

At this first meeting, you may also want to invite community members who have expressed interest or support for a SART or individuals you feel would be good allies but not necessarily members of the SART.

Point of Discussion: What are the priority questions?

At subsequent meetings, the SART team will need to make some key decisions regarding the work of the team.

1. What agency will take the lead role in coordinating the SART?
2. Will we rotate those responsibilities throughout all agencies represented in our SART?
3. What are the costs to implement the SART?
4. Who will research possible resources and how will the SART apply for those resources?

STEP 8 Determine Logistics for Meetings

- Where do we meet?

Consider holding the SART meetings at a community center, at least in the early stages. It is also beneficial to rotate meeting locations to each discipline's office so there is obvious presence of team work at each office.

- How often do we meet?

In some jurisdiction, teams may meet more frequently at the beginning of the SART creation. The team may choose to meet monthly and once committees are formed change to every 6 weeks. The frequency depends on the amount of time team members have available. Coordinating schedules can sometimes be very challenging. For this reason setting a particular day of the month is advisable so team members can plan accordingly.

- Who will facilitate?
- Who will take notes?

STEP 9 Develop a Purpose Statement

The next step for the team is to create a purpose statement reflective of a response to sexual assault based on tribal traditions unique to your community. The purpose statement makes it clear what you value and what is important to your community. It is important to incorporate tribal beliefs and values into your purpose, policy or mission statement.

Points of Discussion: What should be in our purpose statement?

- 1.** What is the goal of our SART?
- 2.** What do we hope to do together (that we cannot do individually) for sexual assault victims?
- 3.** Why does our tribal nation need a SART?
- 4.** How is a SART consistent with our values and traditions?

Sample purpose statements can be found in the appendix.

STEP 10 Plan the Agenda

Careful planning of your SART's meeting agenda is of vital importance to effectively accomplishing your goals. Your agenda in your initial meetings may focus on development, while later meetings may focus more on case review.

There are two distinct purposes for SART meetings, including:³²

- 1) Case reviews to improve overall team performance.

These reviews allow team members the opportunity to give each other feedback on SART response, problems needing resolution, and areas needing improvement. Cases are typically reviewed anonymously, without using victims' names or other identifying information. Tribal communities tend to be small, closed communities, where everyone knows everyone and where news travels fast. It is crucial that team members are very careful to not discuss information that could reveal the identity of the victim regardless of how insignificant it may seem.

During these discussions, it is important that the team respect the confidentiality of information in patients' medical records and information that the victim has shared with community-based advocates. Case reviews usually include only those SART members typically involved in immediate response. It will be important to inform the responders in advance that cases in which they participated will be up for team review in order to provide them with ample opportunity to attend the SART meeting. SARTs may choose not to take notes about cases reviewed to ensure that the case-related information is not shared with anyone outside of the meeting. The only notes that need to be taken are the outcomes of discussions related to the need for policy or protocol changes.

³² Adapted from U.S. Department of Justice, Office on Violence Against Women, *National Protocol for Sexual Assault Medical Forensic Examinations*, September 2004, 129. Available at: <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>. Last accessed 3/14/08.

2) To maintain and enhance the quality of the SART.

This task involves addressing system issues, such as creating and revising policies and procedures in response to local changes in governmental or community-based agencies, scientific or technological advances, and feedback from victims.

A typical SART meeting agenda may include, but is not limited to the following:

- I. Introductions (particularly important if new members are added or if there are guests attending meeting)
- II. Coordinator's report
- III. Reports from each of the sub-committees (committee chairs need to come prepared to provide updates on progress, challenges encountered, information/resources needed)
- IV. Case review: This is time the SART can discuss any current cases, without using names, by discussing elements of the case, particular problems encountered, how the SART can help with this problem.
- V. SART assessment/troubleshooting: Any problems/gaps in response and any need to make protocol or policy changes
- VI. Announcements
- VII. Location, date/time for next meeting as needed

STEP 11 Determine Need for Committees

You may want to discuss the need to form committees to work on specific tasks. Depending on the size of your SART, you may not have the luxury of dividing up the work. Different committees are necessary at different points of your development.

The following is a list of possible committees with a brief description of their responsibilities. Review the list and determine what committees you may need at the present.

You should add committees as they are needed and dissolve them when they are no longer needed. Always be clear about the responsibilities of each committee and develop a time line which holds them accountable to the full team.

COMMITTEES CHECKLIST

Each community is different. This checklist is a starting point.

Public relations/media committee

This committee will focus on “getting the word out.” The priority will be in identifying who may have frequent contact with individuals disclosing sexual assaults. (Examples: tribally based mental health, off reservation mental health, tribally based social service program staff and alcohol and other drug abuse treatment program staff, faith based clergy, traditional healers, corrections/probation, education staff and others.)

Fundraising committee

This committee will focus on identifying resources (including grants) for the ongoing work of the SART.

Protocol Development Committees

If your team decides to utilize the 8-step protocol development model or parts of the model, it may be beneficial to form committees to work on those steps. They include the following committees:

Inventory of Existing Services Committee

The duties of this committee are to:

- Draft a survey that can be mailed to all possible programs, both tribal and non-tribal, that may come in contact or provide services to victims of sexual assault;
- Compile a mailing list of all possible programs, organizations, departments;
- Contact those agencies that don’t return their surveys to facilitate their return; and
- Compile all the returned surveys into a resource directory.

Victim Experience Survey Committee

The duties of this committee are to:

- Design (or adopt an existing) confidential survey;
- Obtain permission from victims to send the survey;
- Mail the survey along with a cover letter explaining the purpose, confidentiality and anonymity (sample letter provided in appendix); and
- Tally results of survey.

Even if the team only obtains a small number of surveys, this information may be beneficial when developing victim-centered protocol.

Community Needs Assessment Committee

As stated earlier, this is an important part of protocol development and is designed to gather information from the community-at-large.

The duties of this committee include:

- plan for public hearings (where, when);
- decide on who will be invited to the hearings to include such representatives from tribally based and non-tribally based programs such as:
 - victim service organizations
 - mental health programs/departments
 - faith based groups
 - agencies that assist crime victims
 - medical facilities
 - educational programs, schools, tribal colleges/universities
 - elected officials
 - cultural programs
 - community members, victims of sexual assault;
- set the agenda for the public hearing;
- send invitations, requesting that representatives from these agencies/programs testify at the public hearing. When the hearings take place, team members need to be present to listen to the testimony. Additionally, there needs to be a recorder of the proceedings to incorporate into a formal report of the findings;
- plan for refreshments;
- notify the local media. Post public notices in public places or in local newsletters, newspapers and radio stations. Media people should be briefed before the hearing to set appropriate protocol for the meetings to ensure the privacy and anonymity of victims;
- analyze collected data; and
- write the community needs assessment report.

Protocol Development Committee

This committee may review the information provided by other relevant committees, review current protocols and suggest needed changes.

The duties of this committee include:

- review community needs assessment;
- gather examples of protocols from other Sexual Assault Response Teams;
- review existing protocol;
- develop checklists of discipline-specific responsibilities from the point of contact with the victim or the crime scene;
- ensure victim-centered response and victim safety;
- ensure collaboration with other disciplines;
- bring written protocol to the SART and representatives from each discipline prepared to answer questions from the team; and

- revise as needed based on feedback from team.

Training Committee

Ongoing cross disciplinary training is so important to effectiveness. This training is the focus for this committee. The training curriculum needs to include the protocols for each discipline. In cases where more than one discipline will interact at various times such as during the forensic rape exam, it may be important to have law enforcement, an advocate and a Sexual Assault Nurse Examiner present to discuss how they will collaborate

The duties of this committee include:

- develop a training curriculum/outline;
- select instructors (The trainers may be one or two representatives from each discipline and more than likely may be the individuals who wrote the protocols.); and
- establish a training schedule based on the availability of each discipline's personnel. (This can be very challenging because of understaffed, under-resourced departments and huge caseloads.)

Committee to Monitor the Protocol

This step may or may not involve a committee. If the team has a SART coordinator, it may best be done by the entire team. The monitoring process is accomplished by examining case review and discussion notes during team meetings. During discussions the team is generally trouble shooting and identifying approaches to improve the response. Notes from these discussions can provide useful information when revising protocols.

Evaluation Committee³³

It is sometimes helpful for the team to select a committee, even if it's a small committee of two people to help in the evaluation of the SART's effectiveness. Evaluating the impact of services and assessing the performance is important in assuring program improvements as well as helping secure program funding.

³³ Applicants may not use any OVW funds for conducting research. However, up to 1% of the budget may be allocated for the purpose of assessing the effectiveness of funded activities. For example, funds may be used to conduct pre and post testing of training recipients or victim satisfaction surveys. In conducting such testing or surveys, grantees may not collect analyze or disseminate any information identifiable to a private person during the course of assessing the effectiveness of funded activities.

The duties of this committee include:

- revise victim experience surveys and consent for future contact to receive ongoing feedback from victims about their experience with all disciplines;
- if funding and resources allow, determine if there is a need for an evaluator to conduct an external evaluation and identify appropriate resources to fund an evaluator;
- determine what type of evaluation is most appropriate such as program vs. process evaluation, external vs. internal evaluation; and
- work with evaluator in devising evaluation forms for each discipline to acquire their feedback on the SART process and the newly developed protocols.

STEP 12 Decisions on Important Cross-Departmental Issues

Now that you have a Sexual Assault Response Team in place, your team will need to discuss and make some decisions on how your SART will operate. It is beneficial for your team to discuss these factors and arrive at some consensus before the SART is actually implemented to avoid possible confusion later. Your decisions should be incorporated into protocols. The information and questions below should assist in the discussions.

A. Where will exams be conducted?

Review Existing Site

If your tribal community has an existing facility that provides forensic examinations, your team may want to focus your efforts on collaborating with that facility and improving response if it is found that improvements are warranted.

Your team may find it necessary to survey existing facilities including your IHS emergency room services in order to determine what services are currently being provided. The following questions may be helpful in your survey.

Checklist for Survey of Current Services

- Where do victims of sexual assault, currently go for medical treatment and for the gathering of forensic evidence following a sexual assault?
- How far is that facility from most tribally-based facilities?
- How many victims of sexual assault do they see in a year?
- Who provides those exams? ER physicians/nurses? Male/ female? SANE's?
- Are they trained in the most current methods of forensic evidence collection techniques? Where do they receive their training?

- Do they have written protocol? Would they be willing to provide a copy?
- Do they have a dedicated room for sexual assault forensic exams?
- What type of equipment do they currently utilize to gather evidence? Colposcope? Digital camera?
- Do they have forensic examination kits? Who ensures that an ample supply of unexpired kits are in stock?
- Do they offer “comfort” services for victims such as clothes to wear home, food/drink after exam if the victim needs/requests, transportation home, etc?
- Are there measures in place to ensure victim safety?
- Where is evidence stored? Is there adequate storage space?
- How long can evidence be stored at this facility? Is there written protocol or policy regarding storage?
- Does this facility have existing policy/protocol on the transfer of evidence to law enforcement maintaining chain of evidence?
- What’s their policy on calling a community-based/sexual assault advocate when a victim presents in their emergency room?

Develop alternate or new sites

Location of exam site is an important decision for the team to make. There are many advantages and disadvantages regarding site location that must be carefully weighed.

A community based site may offer more privacy for victims as it is less likely that they will encounter someone they know than in a busy hospital location. Hospitals are generally set up to attend to other medical problems

such as injuries that the victim may have sustained including equipment for further testing and x-rays.

Mobile units may be more accessible to victims yet there is great concern about protecting victims' privacy and anonymity. A mobile unit is easily seen and eventually easily identifiable. Victims are less likely to use the mobile unit if they think they will be seen and associated with such a unit.

Considerations in Selecting an Exam Site

Cost factors

1. Is there an in-kind contribution of an existing site or one that the tribe owns that has been provided to the SART?
2. What will be the cost for utilities?
3. Does the site require renovations?
4. Will there be a need to purchase equipment? (See Appendix for list of equipment needed to implement forensic examination site)
5. Is there any equipment already available or any that's been donated?

Privacy issues

1. Which site will provide the most safeguards to victim privacy?
2. Are there additional ways that the SART can provide added privacy protections such as creating a private entrance to the site?
3. Is this the only program that will be housed at this location?
4. What other programs will be housed there?
5. Has anyone spoken to other individuals that occupy the same space/building?
6. Is the site accessible?

B. How will the SART be activated?

How the SART is “activated” varies from one region to another. Your SART needs to develop agreements and a protocol for each situation that arises.

Consider the following checklist:

- A victim calls 911
- A victim calls a non-emergency law enforcement number
- A victim calls a local advocacy program (including a shelter)
- A victim discloses to law enforcement in person
- A victim discloses to a health care provider

What else might happen to trigger the need for the SART to activate?

The response provided by individuals from these agencies first focuses on the immediate needs of the victims such as safety and medical attention. Involving relevant agencies as soon as possible according to agreed-upon procedures may help quickly determine who has jurisdiction over a case and how to best assist each victim.

You need to consider:

- 1.** Who in the emergency room will call the advocate? Law enforcement officer/s from appropriate jurisdictions?
- 2.** When will those calls take place after the victim presents? Will the advocate be called immediately?
- 3.** Who asks the victim if she wants to report the crime to the appropriate law enforcement officer?
- 4.** What is the expected time of arrival for each of the responders?
- 5.** Will there be special provisions made to accommodate advocates such as parking permits, hospital ID badges, access keys to specially designated rooms used for interviews and the exam?

C. How will the interviews be coordinated?

Your SART needs to decide on the type of victim interview that is conducted in the emergency or other designated exam site. First responders need to make every effort to minimize the number of times a victim is asked to recount details of the sexual assault.

The type of interview conducted varies from one jurisdiction to another. In most jurisdictions, the appropriate law enforcement officer, with the proper jurisdictional authority, is the first responder to interview the victim. When possible, this interview includes an advocate to provide support for the victim and a nurse examiner to eliminate the victim having to recount a second time.

In other jurisdictions, the nurse examiner conducts the interview with the advocate and the law enforcement present. It is important for your SART to be aware of relevant laws.

It is important to note that the advocate should never interview the victim. If the advocate is interviewing and taking notes, there is a possibility that those notes could be subpoenaed for court proceedings.

D. Will there be mandatory reporting?

Your team will need to be familiar with the mandatory reporting requirements that apply to team members. In some locations, health care workers are bound by law to report some or all forms of sexual assault, regardless of patients' wishes. In other locations, the law says that no report of an adult sexual assault victim should be made without the consent of the victim. (Exceptions typically include cases involving vulnerable adults).

Responding to child sexual abuse cases is beyond the scope of this resource guide. Child sexual abuse cases cannot follow adult protocols for a variety of important reasons. Many mandatory reporting laws do not apply to adult victims who are not considered vulnerable.

In jurisdictions where mandatory reporting by health care personnel is required, patients should be informed of the legal obligations of health care personnel; what triggers a mandatory report; that a report is being made; and the contents of the report. Patients should understand that even if health care personnel make a mandatory report, they are not obligated to talk with law enforcement officials or make a formal complaint themselves.³⁴

Victims need to know that if they are not ready to report at the time of the exam, the best way to preserve their option to report later is to have the exam performed.

³⁴ *Ibid.*

E. How will payment for exams be handled?

Payment for exams will vary from one jurisdiction to another. Every SART must work with local entities to ensure that the victim will not have to pay for any part of the exam.

Under the Violence Against Women Act (VAWA), grantees of the STOP Violence Against Women Formula Grant Program must meet certain requirements concerning payment for the forensic medical exam in order to receive funds. The STOP Program is a formula grant program which provides funds to all states, territories, and the District of Columbia.³⁵

Each state, territory, or the District of Columbia must certify that it or another governmental entity "incurs the full out-of-pocket cost of forensic medical exams" for victims of sexual assault. If one part of a state or territory, such as a county or city, is forcing victims to incur these costs, then the state or territory cannot certify and is ineligible for the grant funds.³⁶

Possible Sources of Funding for Exams

- State crime victim compensation/VOCA funds
- Law enforcement agencies
- Hospital funds
- Other

³⁵ *Ibid.* Its purpose is to assist these jurisdictions in developing and strengthening law enforcement and prosecution strategies to combat violence against women, as well as in developing and strengthening victim services in cases involving violence against women.

³⁶ Under 42 U.S.C. § 10607, for Federal cases, the Federal investigating agency that investigates the sexual assault shall pay for the cost of a forensic exam "which an investigating officer determines was necessary or useful for evidentiary purposes."

F. How will we handle victim confidentiality?

The importance of protecting confidentiality and privacy rights for Native women who've been raped cannot be overstated. Native women may not seek help or utilize services if they don't trust the system. Many of these women have been threatened that if they tell anyone or seek help, they will be killed or harmed again. Many are concerned that someone they see during this process will not maintain confidentiality and will report seeing her utilizing these services or filing a complaint with law enforcement. The importance of protecting victims during this process is vital

- How will we make sure that the SART confidentiality process is in compliance with each agency's policies?
- How will confidentiality be explained to the victim/survivor/patient?
- Who will explain what to the survivor about confidentiality?

You should look at every aspect of the SART process to ensure that the confidentiality and privacy needs of sexual assault victims are given top priority in planning and implementation.

Confidentiality can be protected by policies and laws.

Discussion Point: Is confidentiality protected in the following areas of your process?

1. At the location of interview with law enforcement/ forensic examiner?
2. At the exam site?
3. When discussing cases even when not using victim names?
4. When discussing case over the phone while others listening?
5. Are there clear, understandable victim rights policies about confidentiality and privacy, right to consent/refuse services?
6. Is there a clear explanation of all procedures and medical treatment and a clear explanation to victim of who obtains this information?

- 7.** Is there a procedure for decisions on who provides services and maintenance of client files and records if the service provider is a relative or someone victim knows?
- 8.** Are there proper consent forms with clear explanations provided to victim?

G. How will we be HIPAA compliant?

Advocates may be concerned that the HIPAA's (Health Insurance Portability and Accountability Act's) privacy rules may limit their ability to provide needed services to victims of sexual assault. It is evident that healthcare facilities can call advocates providing they don't divulge any information about patient identity. To assist sexual assault programs better understand this rule and compliance issues, the Texas Office of the Attorney General in conjunction with the Texas Association Against Sexual Assault have developed the following fact sheets:³⁷

- Fact Sheet #1: HIPAA Privacy Guidelines and Their Impact on Sexual Assault Programs
- Fact Sheet #2: HIPAA Privacy Guidelines and Notifying Crisis Centers
- Fact Sheet #3: HIPAA Privacy Guidelines and Victim Advocates in the Emergency Room

These fact sheets are in the Appendix.

Your team may want to adapt these fact sheets to your community in order to use them as part of your SART. There is also an "*Authorization for Disclosure of Health Information*" form that can be adapted for your use.

³⁷ HIPAA Privacy Guidelines and Sexual Assault Centers, Office of the Attorney General in Conjunction with the Texas Association Against Sexual Assault. Available at: <http://www.ncdsv.org/images/HIPAAPrivavyGuidelinesSexAssCrisisCenters.pdf>. Last accessed 3/14/08.

H. How will we handle consent issues for treatment?

Adult victims of sexual assault have a right to consent or refuse the sexual assault forensic examination. A victim can stop the procedure at any time during the examination. It is important to provide all the information a victim might need to make the best decision.

Victims of sexual assault have the right to informed consent for:

1. Medical evaluation and treatment and
2. Forensic evaluation and evidence collection

In order to be able to make good decisions and provide informed consent to any medical treatment and evidence collection procedures, victims need information that they understand. Be sure that communication needs of patients are met and that information is given in a way they will understand.

A clear explanation is particularly important for individuals who may not previously have had a pelvic exam or medical care, or who have difficulty understanding what has happened and why they are being asked to undergo a medical forensic exam. Remember that some exam procedures may be uncomfortable and painful to patients, considering the nature of the trauma they have experienced.

By taking the time to explain procedures and their options, patients may be able to better relax, feel more in control, and make decisions that meet their needs. After providing the needed information, seek patients' permission to proceed with exam procedures.³⁸

³⁸ U.S. Department of Justice, Office on Violence Against Women, *National Protocol for Sexual Assault Medical Forensic Examinations*, September 2004, 129. Available at: <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>. Last accessed 3/14/08.

I. How do we ensure victim-centered care for victims with varying needs?

Sometimes a SART protocol needs to be adjusted for particular kinds of situations.

Point of Discussion

How does your response need to change to meet the needs of these victims?

- Youth
- Elderly
- Differently-Abled
- Intoxicated/Drug-Facilitated Assault

Youth

This resource guide focuses on adult victims of sexual assault. In some places, this guide *may* apply to teenagers.

Responding to child sexual abuse cases is beyond the scope of this resource guide. Child sexual abuse cases cannot follow adult protocols – for a variety of important reasons.

You need to determine to what extent your team responds to cases involving people under the age of 18.

Point of Discussion: Are young people able to access our services?

- 1.** Where do youth and minors go when they are sexually assaulted/abused?
- 2.** What are the existing resources for forensic examinations for youth/minors?
- 3.** Can youth, such as adolescents, receive confidential services if they want to report a sexual assault based on state/federal laws?
- 4.** What are the laws of your jurisdiction as it pertains to informed consent? Will parents be notified?

Elderly

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.

Point of Discussion: How can we best assist tribal elders who are victims of sexual assault?

- 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.

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.

It is also 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).

Point of Discussion: How can we best assist women with disabilities?

- 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.

Incapacitated/Intoxicated/Drug Facilitated Sexual Assault

Many victims decide not to report sexual assault because they were drunk, high, or drugged when they were attacked. They may blame themselves for the assault, or worry that they will be arrested for breaking the law. A SART protocol can emphasize that a victim's intoxication is not the priority for the criminal investigation. Sexual assault is a much higher priority than drug/alcohol use.

Your SART team should also acknowledge the fact that many sex offenders use alcohol/drugs in a purposeful way to make sure the victim cannot fight back. This may be done with or without the victim's knowledge. If a victim is too incapacitated to give consent, a crime has occurred. In these cases, the evidence that a victim was intoxicated needs to be documented for the prosecution.

If a victim appears to be intoxicated there are several important factors to consider:

- Level of victim's intoxication – is she able to consent to the exam?
- Should you gather evidence of alcohol or drugs?
- How can you avoid blaming the victim?
- Is it possible that the victim was intentionally drugged/ intoxicated?
- Was she able to consent to sex?

STEP 13 Promote Public Awareness of Exam Site/s

Your SART is not successful if victims don't know where to go for help. Promoting public awareness about sites is important given that victims may first disclose an assault to family members, friends, teachers, faith-based leaders, employers, coworkers, and others.

In addition, success depends on interagency cooperation in explaining options to victims and transporting them to the designated exam site (with their permission).

Point of Discussion

Your public relations or media committee, if one is selected, may brainstorm on promoting public awareness regarding the availability of designated exam site/s.

- 1.** What type of publicity materials are needed?
- 2.** What are the cost factors to develop materials?
- 3.** Where can materials be sent or posted?
- 4.** Is there a radio station that can be approached for a segment on sexual assault and the newly developed resources for the nation?
- 5.** How can the SART team members help with public relations?

GLOSSARY

The definitions in this glossary are meant to provide a general definition in common language to legal, medical and other terms that appear in this guide. The terms may have many definitions, but we attempt to define the terms as they are used in this guide.

Arrest: To take someone into legal custody.

Certification: A document which provides proof that someone has met certain educational or training requirements, e.g. SAFE certification.

Code: A collection, of laws, rules or regulations organized in a particular manner, usually by subject.

Collaboration: The act of working together with one or more people in order to achieve something.

Colonization: Refers to the domination and settlement of Native American territory by Europeans.

Colposcope: A medical instrument to examine the vagina.

Criminal jurisdiction: Power of a court to hear and dispose of criminal cases.

Crisis intervention: The act of entering a situation at a critical moment.

Dehumanization: To make someone less human by taking away her individuality, creativity and/or other interesting aspects of her personality.

Evidence: Testimony, writings, or objects offered to prove a fact at trial.

Forensic examination: Forensic science applies a wide range of sciences (anatomy, physiology, medicine, surgery, chemistry, physics and botany) to answer questions of interest to the legal system. The examination collects forensic evidence. This usually refers to an examination in which a medical professional collects evidence from the body of a sexual assault victim.

HIPAA: A federal law called the Health Insurance Portability and Accountability Act was enacted in 1996. Among other requirements, it has restrictions on privacy and confidentiality of medical records and information.

Holistic: Taking into account all of somebody's physical, mental, emotional and spiritual self.

Incarceration: Imprison, to put somebody in jail.

Indian Country: A legal term which refers to land within the boundaries of Indian reservations or dependent Indian communities within the U.S.

Indictment: A formal written accusation by a prosecutor against a person charged with a crime.

Inherent sovereignty: The natural authority to act as a nation or politically independent state.

Internalize: To deal with an emotion or conflict by thinking about it rather than expressing it openly.

MOU, Memorandum of Understanding: A legal document describing the agreement between or among parties.

Multidisciplinary team: A team composed of people from various occupations.

Multigenerational abuse: Describes abuse which continues from one generation to the next.

Myths: A widely held but mistaken belief.

Offender: A person who commits a crime.

Oppression: To subject a person or people to a harsh or cruel form of domination.

Perpetrator: A person who commits a crime.

Pled out: Refers to the past action of pleading guilty to a crime.

Privileged communication: Those statements made by certain persons within a protected relationship, such as husband-wife, attorney-client, which the law protects from forced disclosure on the witness stand.

Prosecution: A criminal action; a proceeding instituted and carried on according to the law before a court, for the purpose of determining the guilt or innocence of a person charged with a crime.

Prosecutor: The person initiating and handling a criminal action for a government.

Protocol: The rules of correct or appropriate behavior for a particular group of people in a particular situation. For example, the hospital or police have a protocol for the handling of sexual assault cases

Randomization: To arrange or select items so that no identifiable pattern or order determines the resulting arrangement or selection process.

SANE: Sexual Assault Nurse Examiner, a nurse trained to provide sexual assault victims with compassionate care while skillfully collecting forensic evidence.

SAFE: Sexual Assault Forensic Examiners, medical professionals trained to provide sexual assault victims with compassionate care, while skillfully collecting forensic evidence.

Secondary victims: Refers to the victims' relatives and loved ones, who are also affected by a sexual assault.

Subpoena: A written legal order requiring a witness to appear before the court or requiring evidence to be submitted to the court.

APPENDIX

- One: Sample questionnaire - Inventory of existing services
- Two: Sample victim experience survey (and sample letter)
- Three: Sample public hearing announcement
- Four: Sample MOU
- Five: Sample training outline
- Six: Sample purpose statement
- Seven: List of equipment needed to implement forensic examination site
- Eight: HIPAA Fact Sheets

APPENDIX ONE:

Sample Questionnaire - Inventory of Existing Services³⁹

Inventory of Existing Services Referral Questionnaire

1. Agency Information

Name of Agency

Name of Contact Person

Street Address

City State Zip

Telephone Fax

2. Services Provided

What primary services do you offer to , or on behalf of, crime victims?

- Counseling Support Group Legal assistance
 Medical care Court advocacy/escort Reference
 Other (Please specific)

What support services is your organization able to provide to crime victims?

- Emergency funds Child care On call response
 Lock replacement Transportation Other (Please specific)

3. Charges for Services

Does your organization charge victims for its services?

Yes _____ No _____

If yes, what arrangements are available to assist clients with limited resources?

4. Sources of Annual Revenue for Services Provided

Please indicate sources of revenue for services to crime victims and an approximate percentage of organizational income from each.

- Federal government United Way/CFC/Etc.
 State and local government Crime Victims' Compensation
 Individual contributions Third party payments

³⁹ Boles, Anita B., and John C. Patterson. 1997. *Improving Community Response to Crime Victims, An Eight-Step Model for Developing Protocol*. Thousand Oaks, CA: Sage Publications. Reprinted by permission of Sage Publications.

5. Field Offices / Branch Locations

Does your organization have field offices or branch locations?

Yes _____ No _____

If yes, how many of them serve victims? _____

Locations: *If necessary, please attach additional pages with addresses of field offices or branch locations, hours of operation of each, proximity to public transportation, accessibility to individuals with disabilities, and foreign languages or interpreter services.*

Location: _____

Hours of operations: _____ to _____

Number of blocks to public transportation: _____

Accessible to individuals with disabilities:

Yes _____ No _____

Location: _____

Hours of operations: _____ to _____

Number of blocks to public transportation: _____

Accessible to individuals with disabilities:

Yes _____ No _____

Location: _____

Hours of operations: _____ to _____

Number of blocks to public transportation: _____

Accessible to individuals with disabilities:

Yes _____ No _____

Location: _____

Hours of operations: _____ to _____

Number of blocks to public transportation: _____

Accessible to individuals with disabilities:

Yes _____ No _____

6. Staff Information

How many paid staff provide services for, or on behalf of, crime victims? _____

Staff educational levels: Indicate the number of staff below reflecting their highest level of educational attainment.

____ high school diploma ____ bachelor's degree ____ master's degree ____ post graduate
____ other

Does your organization provide staff training? Yes _____ No _____

If yes, please describe your training program below. Indicate topics and number of hours of training provided pertaining to crime victims and victim services.

Formal training for new staff:

In-service training:

Specialized courses:

Provisions for conference and seminar attendance:

Does your organization participate in training programs related to crime victims provided by other agencies or organizations: Yes _____ No _____

If yes, please describe the training provided by other agencies or organizations:

APPENDIX TWO: Sample Victim Experience Survey and Sample Letter⁴⁰

Victim Experience Survey

Instructions:

Our Interagency Council is conducting a survey of crime victims to evaluate their perception other services they received after their victimization. The Interagency Council will use the information you provide to improve services offered to victims of crime. This is an anonymous survey and you need not give your name. You will be asked at the end of the survey if you would like to identify yourself for the purpose of participating in a follow-up survey. This is your option. All survey answers will be held in the strictest confidence.

The questions in the first section of the survey identify the initial agencies or organizations with which you had contact or which may have offered services to you. The following four sections ask about your satisfaction with the services you received from law enforcement agencies, prosecutor's office, victim assistance programs and medical services.

- If you did not receive services from one or more of these agencies, please check the appropriate box for that section and proceed to the next section.
- If there are questions within each section that are not applicable to your experience, please check the "Not Applicable" box.

Once you have completed the survey, please place it in the enclosed stamped, pre-addressed envelope and return it to the Interagency Council. The Interagency Council will compile the results of the survey without revealing the identities of the respondents.

If you experience emotional stress while completing the survey and would like to talk with a crisis counselor, please call the counselor listed below. If you are unable to complete the survey, please place the uncompleted survey in the enclosed envelope and return it to the Interagency Council.

Thank you for your help.

Counselor/Contact Person	Agency	Phone
--------------------------	--------	-------

1. General Information

- a. What was the first agency you were in contact with after you were victimized?

- b. How soon after the crime did the contact with the agency or organization in the previous question occur?

- c. Did the first agency contacted suggest you should contact other agencies or organizations for additional assistance? _____ Yes _____ No
- d. If you answered yes to the previous question, please list the agencies or organizations to which you were referred.

⁴⁰ *Ibid.* Reprinted by permission of Sage Publications.

e. If you answered yes to the previous question, please list the agencies or organizations to which you were referred.

2. Demographic Information (For Statistical Purposes Only)

a. Date of Birth: ___ / ___ / ___ b. Gender: _____ c. Ethnicity:

d. Years of Education: ___ High School ___ College ___ Grad, Post Grad
 ___ Technical ___ Other

3. Law Enforcement / Police

The crime committed against me was reported to a law enforcement agency.

Yes _____ No _____

If no, continue to Section 4.

If yes, name of agency: _____

Please indicate your satisfaction with each item by placing an "X" in the appropriate column.

	Not Applicable	Very Satisfied	Satisfied	Neutral	Dissatisfied	Very Satisfied
a. Concern by the 911 operator for your safety.						
b. Timelines of the response by patrol officers.						
c. Information given to you concerning what you might expect during the investigation.						
d. Sensitivity and professionalism of officers assigned to the case.						
e. Involving you in the decision making process related to the case.						
f. Accommodating your needs and schedule during the investigation.						
g. Referring you to community organizations that provide services to crime victims.						
h. Notifying you as soon as an arrest was made and the suspect was in custody.						
i. Addressing concerns about your personal safety while the suspect was not in custody.						

Comments on police involvement:

4. Prosecution

The crime committed against me was referred to the prosecutor’s office.

Yes _____ No _____

If no, continue to Section 5.

If yes, name of office:

Please indicate your satisfaction with each item by placing an “X” in the appropriate column.

	Not Applicable	Very Satisfied	Satisfied	Neutral	Dissatisfied	Very Dissatisfied
a. Talking with you about the case and possible outcomes.						
b. Discussing the case with you prior to a decision not to prosecute.						
c. Demonstrating sensitivity and professionalism during interviews.						
d. Attempting to minimize court schedule delays.						
<i>Plea negotiations</i>						
e. Involving you in discussions related to plea agreements.						
f. Attempting to provide you the opportunity to address court at plea hearing.						
<i>Trial</i>						
g. Preparing you to testify in court.						
h. Accommodations while waiting to testify.						
<i>Sentencing</i>						
i. Assisting you to prepare a Victim Impact Statement.						
j. Attempting to obtain restitution for your losses due to the crime and your participation in the criminal justice system’s investigation and prosecution.						
<i>Post-sentencing</i>						
k. Informing you about the custody status of the perpetrator after the sentence was imposed.						

Comments on prosecutor’s office involvement:

5. Victim Services Program

I received services from a victim services program.

Yes _____ No _____

If no, continue to Section 6.

If yes, name of program: _____

Please indicate your satisfaction with each item by placing an "X" in the appropriate column.

	Not Applicable	Very Satisfied	Satisfied	Neutral	Dissatisfied	Very Dissatisfied
a. Providing you emotional support to help you cope with the immediate crisis.						
b. Demonstrating a comprehensive knowledge about what you could expect from law enforcement and criminal justice system agencies.						
c. Assisting you in addressing your immediate concerns after the crime.						
d. Helping with family contacts and informing them of the crime.						
e. Obtaining you consent for services prior to delivery.						
f. Assisting you to complete an application for Crime Victims' Compensation.						
g. Facilitating communication with law enforcement and other criminal justice agencies concerning your case.						
h. Providing a victim advocate during interviews and medical examination (if any).						
i. Assisting with media inquires concerning your victimization.						
j. Referring to other agencies for additional services.						

Comments on victim services:

6. Medical Services

I received services from a medical facility or emergency room.

Yes ____ No ____

If no, continue to Section 7.

If yes, name of facility: _____

Please indicate your satisfaction with each item by placing an "X" in the appropriate column.

	Not Applicable	Very Satisfied	Satisfied	Neutral	Dissatisfied	Very Dissatisfied
a. Accommodations while waiting for the examination to begin.						
b. Obtaining your consent <i>prior</i> to initiation examination procedures.						
c. Explaining the procedures to be used.						
d. Addressing your questions about the injuries or possible physical consequences of the victimization.						
e. Attempting to minimize your discomfort during the examination.						
f. Facilitating your examination after your arrival at the medical facility through prompt and uninterrupted attention by medical personnel.						
g. Informing you about sexually transmitted diseases, HIV/AIDS and possible pregnancy, if sexual assault.						
h. Demonstrating sensitivity to your needs as a crime victim.						
i. Providing facilities for washing after the examination was completed.						
j. Providing replacements for clothing taken as evidence.						
k. Furnishing transportation to and from the medical facility.						
l. Taking the financial responsibility for the examination and evidence collection, if sexual assault.						

Comments on medical services:

7. Follow-up to this Survey

The Interagency Council would like to follow up with another survey in _____ months. If you would like to participate in this follow-up survey, please provide your name, address and telephone number where you prefer to be reached. All survey responses will be held in the strictest confidence.

Name

Street Address or Box Number

City

State

Zip

Telephone: _____

Is this a day _____ or an evening _____ number? (Please indicate)

Again, thank you for completing this survey. Your responses will help us to improve services for crime victims.

Sample Letter for Inclusion with the Victim Experience Survey (VES)

Dear (Ms. or Mr. Surname):

On behalf of the (name of community) Interagency Council, I would like to request your assistance in helping us improve our community's services for crime victims. You may recall that one of our staff members contacted you recently asking if you would mind responding to this survey. We appreciate that you expressed your willingness to complete the survey form enclosed.

The results of this survey will be used by all agencies of the interagency council to look for better ways to respond to the needs of crime victims. Your participation in this survey will enable us to more effectively assist individuals in the future who have shared experiences similar to yours.

We realize that some of the questions may cause you to recall difficult memories of your own case. If at any time the survey causes you to experience distress, please just return the form to us in the envelope provided and do not worry about completing the form. Also, you are encouraged to contact (name of crisis counselor) at (telephone number) with any questions or concerns you may have about the survey.

We wish to assure you that we will respect your privacy. The confidentiality of your responses is guaranteed. Again, your responses, along with those of all the crime victims participating in the survey, will be used to provide a comprehensive picture of how well we are meeting the needs of the victims, and will help ensure that future victims are spared additional trauma. Your completed survey would be most useful if received by (due date).

On behalf of the interagency council, I want to thank you again for taking the time to complete this survey.

Sincerely,
(Interagency Council Representative)

APPENDIX THREE: Sample Public Hearing Announcement⁴¹

Sample Public Hearing Announcement

The (name of community) Interagency Council will hold a public hearing at (time) on (day of week and date) in (name of place and address). The purpose of the hearing is to obtain information about the needs of crime victims in the community. The interagency council will draw on this information as it develops interdisciplinary/multiagency protocol for responding to crime and its victims.

According to (name of title of official spokesperson), there were (number of) crimes reported in (name of community) last year. The actual number of crimes is unknown because, as documented in several research studies, many victims are reluctant to report the crimes committed against them. For example, over 80% of sexual assault victims are reluctant to seek help after their assaults and, therefore, do not make a report. Substantial underreporting also exists in domestic violence and child abuse cases.

Representatives of law enforcement, medical, religious, social services, victim services, and criminal justice system agencies, as well as several elected officials, are expected to testify during the hearing. Invitations were also extended to organizations serving distinct populations of elderly, disabled, and minority groups to speak on behalf of their constituencies,

Individuals who wish to present information at the hearing should contact (name) at (telephone number). Due to time constraints, speakers will be limited to five (5) minutes each in which to make their statements. Additional written information will be accepted by the interagency council.

⁴¹ *Ibid.* Reprinted by permission of Sage Publications.

APPENDIX FOUR:
Sample Memorandum of Understanding (MOU)

Hannahville Indian Community's Protocol and Procedure for Sexual Assault

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 Court Prosecutor; Tribal Probation; Health and Human Services Director; Tribal Vice-Chair; Project Director We'Ve'Netth e ge'; Chief of Hannahville Tribal Police Department; Lt. Hannahville Tribal Police Department; VOCA Victim Advocate; and STOP Violence Against Indian Women Coordinator.

(List of names and agencies they represent inserted here)

APPENDIX FIVE:
Sample Training Outline for Protocol Training

- I. Invocation
- II. Short video of SART model & victim-centered response
Findings from first three steps of the *Eight-step Protocol Development* process (1 hour)
- III. Law Enforcement Protocol (1.5 hours)
- IV. Advocacy Protocol (1.5 hours)
- V. Sexual Assault Forensic Examiner Protocol (1.5 hours)
- VI. Prosecution Protocol (1.5 hours)
- VII. Questions (.5hours)
- VIII. Closing

APPENDIX SIX: Sample of Purpose Statements

California⁴²:

The purpose of the SART is to counter the experience of sexual assault with sensitive and competent multidisciplinary response, to support efforts to restore well-being to the victim, and to bring responsible person(s) to justice.

San Diego County, CA⁴³

The purpose of the SART is to improve the provisions of services to victims of sexual assault by providing sensitive, efficient, interdisciplinary services and to ensure accurate evidence collection to promote the apprehension and prosecution of perpetrators.

Oregon⁴⁴

The purpose of a community-based Sexual Assault Response Team is to ensure an effective, consistent, comprehensive and collaborative response to sexual assault that prioritizes the needs of sexual assault victims and brings responsible persons to justice.

⁴² California Sexual Assault Response Team (SART) Manual, California Coalition Against Sexual Assault, CALCASA. Available at: <http://www.calcasa.org>. Last accessed 3/14/08.

⁴³ San Diego County Sexual Assault Response Team, Standards of Practice for Members of the Interdisciplinary SART team, April 2001, 3. Available at: http://www.mysati.com/Downloads/SART_Standards.pdf. Last accessed 3/14/08

⁴⁴ Attorney General's Sexual Assault Task Force, Sexual Assault Response Team Handbook. Available at: <http://www.oregonsatf.org/documents/PDFVersionofSARTHandbook.pdf>. Last accessed 3/14/08.

APPENDIX SEVEN:

List of equipment needed to implement forensic examination site⁴⁵

- A copy of the most current exam protocol used by the jurisdiction.
- Standard exam room equipment and supplies for a physical assessment and evidentiary pelvic exam. The needs of patients with physical disabilities should be taken into account.
- Comfort supplies for patients, even if minimal. Suggested items: clean and ideally new replacement clothing, toiletries, food and drink, and a phone or at least easy access to a phone in as private a location as possible. It is also important during the exam process to help patients obtain items they request related to their spiritual healing. It may be useful for facilities to have items on hand that are commonly requested in that jurisdiction (e.g., things that are used for local tribal traditional healing practices) and policies for their use in the facility.
- Sexual assault evidence collection kits and related supplies. Related supplies might include tweezers, tape, nail clippers and scrapers, scissors, dental floss, collection paper, saline solution or distilled water, extra swabs, slides, containers, envelopes, paper bags, and pens/pencils.
- A method or device to dry evidence. Drying evidence is critical to preventing the growth of mold and bacteria that can destroy an evidentiary sample. With any drying method or device used, ensure minimal contamination of evidence, and maintain the chain of custody. The kit's design can also aid in the drying process (e.g., by providing clear instructions and supplies to allow drying to occur).
- A camera and related supplies (using the most up-to-date technology possible) for forensic photography during initial and followup examinations. Related supplies might include film, batteries, a flash, and an inch scale or ruler for size reference.

⁴⁵U.S. Department of Justice, Office on Violence Against Women, *National Protocol for Sexual Assault Medical Forensic Examinations*, September 2004, 129. Available at: <http://www.ncjrs.gov/pdffiles1/ovw/206554.pdf>. Last accessed 3/14/08.

- Testing and treatment supplies needed to evaluate and care for patients medically (follow exam facility policies). Also, testing supplies may be needed for forensic purposes that are not included in the evidence collection kit. For example, supplies for toxicology testing are often not in the kit.
- An alternate light source (using the most up-to-date technology possible) can aid in examining patients' bodies, hair, and clothing. It is used to scan for evidence, such as dried or moist secretions, fluorescent fibers not visible in ambient light, and subtle injury. While the exam can be done without a light source, it is a relatively inexpensive piece of equipment that is commonly used during exams.
- An anoscope may be used in cases involving anal/rectal trauma. This instrument can help in visualizing an anal injury, obtaining reliable rectal swabs (if there is a concern about contamination), and identifying and collecting trace evidence. Many health care facilities have anosscopes available.
- Written materials for patients.

In addition:

- A colposcope with photographic capability is strongly suggested. Although injuries can be detected visually by examiners without the colposcope, the colposcope is an important asset in the identification of microscopic trauma. Photographic equipment, both still and video, can be attached for forensic documentation.
- A microscope. In some jurisdictions, examiners are required to wet mount and immediately examine vaginal/cervical secretions for motile and nonmotile sperm.¹³¹ In these cases, an optically staining microscope is used to highlight cellular material and facilitate the search for sperm.
- Toluidine blue dye. In some jurisdictions, the dye is used to assist in identifying recent genital and perianal injuries.

APPENDIX EIGHT: HIPAA Fact Sheets⁴⁶

HIPAA Fact Sheet #1

HIPAA PRIVACY GUIDELINES AND THEIR IMPACT ON SEXUAL ASSAULT PROGRAMS

Recently, questions have arisen regarding the application of the Health Insurance Portability and Accountability Act ("HIPAA") to sexual assault programs. Specifically, some programs are concerned that the Privacy Rule may limit their ability to provide advocacy services to survivors of sexual assault. This fact sheet is designed to help sexual assault programs determine whether they are required to comply with the Privacy Rule.

Similarly, some hospital personnel may have concerns about whether they can continue to notify local sexual assault programs when a survivor is in the emergency room and about whether, once an advocate is in the emergency room, the hospital personnel can disclose private health information about the survivor to the advocate. Two separate facts sheets—*HIPAA Privacy Guidelines and Notifying Crisis Centers* and *HIPAA Privacy Guidelines and Victim Advocates in the Emergency Room*—deal with those issues.

Q: Who is Required to Comply with HIPAA?

COVERED ENTITIES. The Privacy Rule sets out practices that certain entities must implement to comply with HIPAA. Those entities are referred to in the Privacy Rule as "covered entities." There are three types of covered entities: (1) health plans; (2) health care clearinghouses; and (3) health care providers. A health plan provides or pays the cost of medical care. Health plans include, for purposes of HIPAA, insurance companies and health maintenance organizations. The second type of covered entity—a health care clearinghouse—processes or aids the processing of health information received from another entity. Included in this category are billing services and repricing companies. The final type of covered entity is a health care provider. A health care provider is "a provider of services, a provider of medical or health services, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business," and

who transmits health information in electronic form in connection with certain transactions. Hospitals and physicians are health care providers for purposes of the Privacy Rule.

Q: Is a Sexual Assault Program a Covered Entity?

MAYBE. Sexual assault programs are neither "health plans" nor "health care clearinghouses." However, a program may be considered a "health care provider," and thus a covered entity. To be considered a health care provider, a program must do all of the following: (1) furnish, bill, or receive payment for health care or health care services in the normal course of business; (2) conduct covered transactions; and (3) transmit those transactions in electronic form.

(1) Furnish, Bill, or Receive Payment for Health Care or Health Care Services in the Normal Course of Business:

To be eligible for Office of the Attorney General funding, a sexual assault program must provide the following basic services: a 24-hour hotline; crisis intervention; advocacy and accompaniment to medical facilities, law enforcement offices and prosecutor's offices; community and professional education; and volunteer training. Some of these services may be considered counseling, which is a health care service. Thus, sexual assault programs may "furnish . . . health care services in the normal course of business" to survivors of sexual assault as contemplated in the Privacy Rule.

(2) Conduct Covered Transactions:

The provision of health care services is not enough to bring sexual assault programs within the definition of "health care provider," and thus within scope of the Privacy Rule's regulation of covered entities; advocates, as providers, also must conduct covered transactions. Covered transactions are as follows:

1. health care claims transaction;
2. eligibility for a health plan transaction;
3. referral certification and authorization transaction;
4. health care claim status transaction;

Created by the Office of the Attorney General in conjunction with the Texas Association Against Sexual Assault

⁴⁶ Available at: <http://www.ncdsv.org/images/HIPAAPrivacyGuidelinesSexAssCrisisCenters.pdf>. Last accessed 3/8/08.

5. enrollment and disenrollment in health care plan transaction;
6. health care payment and remittance advice transaction;
7. health care premium payment transaction;
8. coordination of benefits transaction.

(3) Transmit those Transactions in Electronic Form:

Finally, to be considered a covered entity health care provider, a sexual assault program must electronically transmit any information in connection with these transactions. Programs that bill insurance companies and Medicaid or Medicare for their services are the most likely of all sexual assault programs to fall into the health care provider category.

The following link to the U.S. Department of Health and Human Services, Civil Rights Office website includes interactive tools that may help a sexual assault program identify whether it is a covered entity.

<http://www.cms.hhs.gov/bipaa/bipaa2/supprt/tools/decisionsupport/default.asp>

If a program determines it is a covered entity, it must comply with the Privacy Rule. The regulations containing the Privacy Rule can be found at Volume 45, Code of Federal Regulations, sections 160 and 164.

Q: What is a Business Associate?

The Privacy Rule also contemplates the transmission of protected health information from covered entities to their business associates. Before a covered entity may share protected health information with its business associates, the covered entity must enter into a written agreement with its business associate assuring that the business associate will appropriately safeguard the information. To be considered a “business associate” of a covered entity under HIPAA, an entity must do one of two things: (1) provide specific services to a covered entity; or (2) act on the covered entity’s behalf.

Q: Is a Sexual Assault Program a Business Associate of a Covered Entity?

NO. Sexual assault programs do not provide any of the services specifically enumerated under HIPAA to covered entities. Furthermore, programs do not act on a covered entity’s behalf. Instead, they act on the behalf of survivors. Because sexual assault programs are not considered “business associates” of health care providers, covered entities are not bound to enter into business associate agreements with sexual assault programs. Nevertheless, a program may determine that entering into an agreement to protect information with providers is in the program’s and a survivor’s best interests. The U.S. Department of Health and Human Services, Office for Civil Rights has provided a sample business associate agreement on its website. You can access that sample at the following web address:

<http://www.hhs.gov/ocr/bipaa/contractprov.html>

HIPAA Fact Sheet #2

HIPAA PRIVACY GUIDELINES AND NOTIFYING CRISIS CENTERS

There has been a great deal of publicity recently about the new privacy rules governing patient health information under the federal Health Insurance Portability and Accountability Act ("HIPAA"). The HIPAA privacy rules went into effect April 14, 2003, and many hospitals are still struggling to understand the new law. In particular, some hospital emergency rooms ("ER") may have concerns about whether they can still notify the local crisis center when a sexual assault survivor is in the ER, and what information they can reveal, if any, about the survivor.

Some hospital personnel may have concerns about how HIPAA affects the whole concept of victim advocates in the emergency rooms. That issue is dealt with in a separate fact sheet, *HIPAA Privacy Guidelines and Victim Advocates in the ER*.

Q: Can a hospital notify a sexual assault program that a survivor is in transport to, or is currently present in, an emergency room?

YES. A hospital may notify the program of a survivor's presence in the ER. The hospital may do so as long as it provides only "de-identified information" to the program. At a minimum, the hospital can tell the crisis center the following information about the survivor:

1. Gender;
2. Ethnic or racial background;
3. Age, if the survivor is 89 or less (if the survivor is older than 89, use the term "elderly"); and
4. Primary language

We encourage you to make arrangements to receive such information from your local hospital as soon as possible. An agreement between the hospital and your program will not only facilitate the exchange of such information between the hospital and your

program, but will also ensure that the survivor receives the best possible service and care.

Q: What type of information is a hospital prohibited from sharing without patient authorization?

HIPAA was drafted by Congress to protect patient privacy while still allowing a hospital to do what is necessary to give the patient the proper care. Despite the initial cautiousness of some hospitals, HIPAA allows hospitals to release a patient's protected health information *after it has been made anonymous or, in other words, de-identified*. Once the following identifiers have been removed, a hospital may share freely a patient's health information:

1. Names;
2. Address, including city, county, and zip code;
3. All dates that could be used to identify the patient, like a birthday or admission/discharge dates, and ages for patients over 89;
4. Phone numbers;
5. Fax numbers;
6. E-mail addresses;
7. Social security numbers;
8. Health record numbers;
9. Account numbers;
10. Certificate/license numbers;
11. License plate numbers, vehicle identifiers, and serial numbers;
12. Device identifiers and serial numbers;
13. URL address;
14. Internet Protocol address numbers;
15. Biometric identifiers, including finger and voice prints;
16. Full face photographs; and
17. Any other unique identifying number, except one created by the hospital or health care provider to re-identify the patient's information.

Q: Our local hospital is still insisting that HIPAA prevents them from calling us when they get sexual assault survivors in the ER. What can I do?

You can set up a meeting with the hospital employee responsible for HIPAA compliance. (HIPAA requires the hospital to have someone in charge of privacy policies and procedures.) TAASA and OAG staff can help you get ready for this meeting. You may provide copies of these fact sheets to the hospital employee at your meeting.

Q: Does HIPAA affect how our crisis center works with law enforcement?

NO. HIPAA only applies to information held by hospitals and other health care providers. Law enforcement is free to work with the crisis center, especially in an active criminal investigation. If your local hospital is being uncooperative, ask local law enforcement to call the crisis center before the survivor arrives at the hospital.

Q: What can the advocate expect upon arrival at the ER?

The hospital may require the survivor to fill out a form to authorize disclosure of personal health information to the advocate. The HIPAA authorization form included in this packet has been prepared to allow you to handle this situation. For further details, please consult the fact sheet on *HIPAA Privacy Guidelines and Victim Advocates in the ER*.

HIPAA Fact Sheet #3

HIPAA PRIVACY GUIDELINES AND VICTIM ADVOCATES IN THE EMERGENCY ROOM

There has been a great deal of publicity recently about the new privacy rules governing patient health information under the federal Health Insurance Portability and Accountability Act ("HIPAA"), which went into effect April 14, 2003. Some hospitals have interpreted HIPAA to conflict with Texas law guaranteeing a survivor's right to have an advocate in the emergency room ("ER"). In response to these concerns, TAASA and the Office of the Attorney General have created an authorization form designed to educate survivors about their rights while addressing the legal concerns of hospital personnel.

Some hospital personnel may also have concerns about whether they can still notify the local crisis center when a sexual assault survivor is in the ER. That issue is addressed in a separate fact sheet, *HIPAA Privacy Guidelines and Notifying Crisis Centers*.

Q: At what point will I need this form: when I first get to the ER, when I first meet the survivor, etc.?

It depends on the hospital, and possibly on the person you encounter in the ER. The authorization form contains a check list at the top, which gives survivors a choice among three options:

1. meet the advocate immediately;
2. share contact information for future services; or
3. have no contact with the crisis center.

In general, once you have arrived at the ER and the survivor has asked for you to come in, you should not have problems getting access to the survivor. If the hospital staff is reluctant, you can provide to them the authorization form, and the survivor can use the form to communicate her wishes. However, it is more often the case that hospital personnel are concerned about sharing the survivor's contact information with the advocate. When appropriate, an advocate can just ask the survivor for the

information. In other circumstances it may be more appropriate to get the survivor's contact information from hospital personnel, and in that case the hospital may well require the authorization form.

Q: Is it a good idea to meet with our local hospitals ahead of time to discuss this?

YES, absolutely. You can meet with hospital staff on these HIPAA issues and agree on a set policy, so that ER personnel will have a clearer understanding of how to handle these situations. We have also provided a legal memorandum on HIPAA disclosures that will assist you with your local hospitals.

Q: Can we take the authorization form and customize it for our center?

YES, to some extent. The privacy rule requires the authorization form to contain specific information; the provided form meets the Privacy Rule's requirements. Deleting or changing anything on the form may render it unenforceable. You may, however, personalize the form with your center's name and address, put the form on your center's letterhead, or add the name and address of your local hospital.

Q: What if the hospital has its own authorization form, and wants us to use that instead?

As long as the hospital's form does not put any additional burdens on the survivor, the sexual assault program, or create other problems, you may use that form. The authorization form we have provided contains ALL the information required by state and federal law, and is designed specifically to educate survivors about their right to have an advocate with them in the ER. If you use another form, you will also have to specify what information you need from the survivor, e.g., contact information for follow-up visits with the survivor, etc.

Authorization Form

USING THE HIPAA AUTHORIZATION FORM

The Health Insurance Portability and Accountability Act (“HIPAA”) Authorization Form we have provided is designed to help you gain access to survivors and their health information with ease. We encourage you to arrange to meet with your local hospital’s HIPAA compliance officer to discuss your mutual expectations regarding the exchange of survivors’ health information. At this meeting, we recommend that you present the HIPAA compliance officer with a copy of the HIPAA Authorization Form. Explain to the privacy officer that the authorization frees the hospital to disclose health information about the survivor to an advocate without violating the Privacy Rule. Ask the privacy officer to make arrangements with emergency room (“ER”) personnel to present the authorization to all survivors once they arrive in the ER. Assuming the survivor authorizes the disclosure of her health information to an advocate, the hospital can immediately contact a sexual assault advocate and explain the survivor’s circumstances.

The HIPAA compliance officer may propose that you use the hospital’s authorization form rather than the one we have provided. The authorization form we have provided meets the standards imposed by the HIPAA Privacy Rule. As long as the hospital’s form does not impose additional burdens on the survivor or the advocate, you may agree to use that form.

If your local hospital refuses to present survivors of sexual assault with the authorization form upon their arrival in the ER, you may make arrangements similar to those suggested above with local law enforcement. Or, the advocate may carry the authorization form with her, and present it in person to the survivor. It is important for the advocate to ensure she has a completed authorization form before the survivor leaves the hospital. The survivor herself can fill out the form, or the advocate may fill it out for her, and the survivor or a minor survivor’s parent, guardian, or authorized representative must sign the form for it to be valid and enforceable.

If you have any questions about how to use the form, or would like clarification on its meaning, please do not hesitate to call one of the contacts we have provided you.