

Connections

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Washington Coalition of
Sexual Assault Programs

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Building Relationships & Resources with Tribal Communities

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Letter from the Editor

Kelley Richardson – Advocacy Specialist, WCSAP

This issue of *Connections* focuses on advocacy with Tribal communities. The Department of Justice reports that Native Americans are two and one-half times more likely to experience sexual assault than all races in the United States combined.

This is especially relevant in Washington, where the National Congress of American Indians lists 29 federally recognized Indian Tribes and one additional state-recognized Tribe. It is imperative for community sexual assault advocates to understand how to work effectively with Tribal communities to support Native American survivors and end sexual violence against Native American people.

We chose to focus this issue on how community advocates can work effectively with Tribal

communities and Tribal programs because we heard from you that this information was needed. I want to thank the advisory workgroup: Debbie Medeiros, Beatriz Blue-Arakawa, and Joddie Johnson, who not only contributed articles to this issue, but gave input and influenced which advocacy topics were included. One thing that we felt was important for this issue was to share information from the perspective of Tribal programs and Native American/Indigenous people. So, you will see that all of our contributors and interviewees are members of a Tribe or identify as Indigenous, and/or work for a Tribal program.

In this issue, Jessica Yee, Executive Director of the Native Youth Sexual Health Network, shares a broader context for looking at sexual assault against Native American and Indigenous people and what actions we can take to respond to it. Additionally, we hear from WomenSpirit Coalition about historical trauma, and acknowledge that Native American survivors who experience the trauma of sexual assault may also experience historical trauma and ongoing oppression.

Also in this issue, we interview two law professors for an overview of legal jurisdiction over sexual assault in Indian Country, and provide a look at legislation that could alter that framework. Finally, four Tribes from communities around Washington share strategies for building relationships with Tribal communities, tips for working with Native American survivors, and ideas for outreach to Native American people about sexual assault.

We hope that these articles and the additional resources provided at the end of this issue help you as you build and sustain relationships with Tribal communities and advocate for Native American survivors.

References

American Indians and Crime, Bureau of Justice Statistics
<http://bjs.ojp.usdoj.gov/content/pub/pdf/aic02.pdf>
National Congress of American Indians <http://www.ncai.org/tribal-directory>





WCSAP
Washington Coalition of
Sexual Assault Programs



**Building
Relationships & Resources
with Tribal Communities**

The mission of the Washington Coalition of Sexual Assault Programs is to unite agencies engaged in the elimination of sexual violence through education, advocacy, victim services, and social change.

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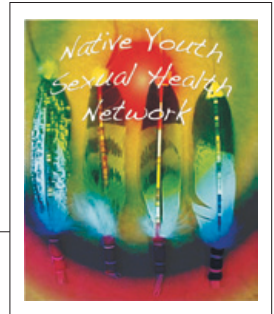
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Voice from the Field

Jessica Yee - Executive Director
Native Youth Sexual Health Network



Many people have wondered aloud to me why someone who works in sexual health would care so much about the issue and prevalence of violence, or moreover the importance of the education about it. Those of you who are passionate about the fields of sexual and reproductive health can probably attest to the fact that while you really want to spend more time on sexual violence and the prevention/awareness of it, various systems and policies make it difficult if not impossible to do it all at the same time. The exact same can be said vice-versa; I meet many folks who work in sexual violence who would love to be able to talk more about healthy sexuality and sexual pleasure but are repeatedly told they can't, or don't have the resources to do it. It often leaves people to become "social justice maniacs," trying to cover all the bases themselves.

Now, even if I wanted to think that way and only stick to sexual health issues, I really can't. Why? Because I'm Indigenous, and as such the violence in our communities, especially against our women, exists at rates that are extremely abhorrent and exceedingly high. We HAVE to talk about it all because to not talk about it is to ignore, for example, some 80% of the population of our women who have experienced intimate partner violence. The other important reason I can't ignore the incidence of violence is because as an Indigenous person I come from a culture and a people who believe that EVERYTHING is related, and we take that teaching seriously.

The other important reason I can't ignore the incidence of violence is because as an Indigenous person I come from a culture and a people who believe that EVERYTHING is related, and we take that teaching seriously.

So today my work at the Native Youth Sexual Health Network INCLUDES everything from comprehensive, culturally based sex education to reproductive rights to environmental justice to violence prevention and awareness. We've been very honored to work with an incredible network of youth, elders, and communities all across the United States and Canada who tell us exactly why we shouldn't back down from working on all these issues together. Of course we experience so many of them at the same time, because since when isn't land connected to bodies connected to spirit? However from my Indigenous/feminist/harm reduction/sex-positive/Two-Spirit/bisexual/sex-working point of view, I've got a few issues to raise about the ways that attention is and in many instances ISN'T being paid to violence against Native/Indigenous women, regardless of the areas of passion/justice/activism we are coming from.

First of all, isn't the fact that Native American women experience violence almost three times more than any other group of women in the United States, 86% of the time by non-Native men, an inherently cross-sectional feminist issue? WHY don't the women in our Native communities measure up in priority? I would think that the occurrence of violence against this many Native women would have every single feminist group up in arms.

I've been reflecting a lot on why it is that violence against Aboriginal women is all of a sudden receiving more mainstream media attention. Ask anybody from an Indigenous community or nation and you will hear that this has been going on for 500+ years. I certainly don't feel like the violence is subsiding or going away, but I'm acutely aware of how long it's been going on and how deeply entrenched it is in many of our communities, to the point of lateral and internalized violence and oppression.

Furthermore, so much of the violence is committed against young Indigenous women under the age of 25, and I have yet to read more than one or two stories that actually featured the voices of Native youth talking about their own experiences and opinions. It makes sense for the standard sexual health folks to get involved with this issue and vice-versa for sexual violence. Or, at least we could all get together more, so we can look at root causes and collectively make a better concerted effort to involve the unusual suspects, starting right at the community level.

So much of the violence is committed against young Indigenous women under the age of 25, and I have yet to read more than one or two stories that actually featured the voices of Native youth talking about their own experiences and opinions.

It appears as if sexual assault and healthy relationships aren't important topics for young people to be knowledgeable about. When parents, teachers, and adults in general treat sexual assault as if it's a taboo, dirty topic, it sends a clear message to youth that they too should view it that way and be less open to discussing it frankly. As well, the delay and secretiveness around such topics in the name of "waiting until they are old enough to understand," allows students to be exposed to and believe sexist and oppressive ideals about relationships and sexual assault.

Social exclusion as it pertains to sexual assault can be defined as the following: gendered racism, systemic discrimination, and lateral violence. It is perpetuated by colonization, patriarchy, and capitalism. Understanding this equation of social exclusion makes it fairly evident why sexual assault and violence are so prevalent to this day.

The dialogue on sexual education must also expand to support culturally competent initiatives. When we talk about the ability to make healthy sexual "choices," we must encompass ethnically and racially diverse voices and realize that the concept of "choice" falls short when placed against the backdrop of poverty,

race, culture, and oppression. This agonizing history is shared with so many communities of color, whose Western World invaders (whether through forced Christianization or removal of nations into slavery), sought to take away one of our most powerful human abilities – our sexuality – and use it against us to control, destroy, colonize, and mold us into exactly what they wanted us to be.

Culturally-insensitive, “one-size-fits all” education fails to use relevant traditional knowledge to teach Indigenous youth about their own bodies, equip them to set and respect limits when it comes to relationships and conflict, or give them the language to report sexual violence when it occurs.

There are only too many examples in racialized communities which are not only disproportionately represented in the higher-end negative statistics regarding sexual health, but do not receive the appropriate education conducive to their lived realities and cultural identities. Yet there is much in Native history, traditions, and ceremonies to support understanding of and respect for women and sexuality more generally that needs to be included and promoted in sexual health programs. We have different ceremonies and traditions that we’ve been practicing for centuries to back this up. Although we are vastly diverse in terms of societal structure, whether matriarchal or egalitarian, it is clear that the right to govern one’s own body and take care of it the way we choose is a foundational principle shared amongst many of us.

Our long history of genocidal oppression, whether through colonization, Christianization, residential/mission/boarding schools, or just blatant racism, has drastically severed the ties where traditionally we might have received the knowledge that would enable us to carry on these crucial teachings. The reality is that many of our communities are reluctant to go anywhere near the topic of sex because it is now viewed as “dirty,” “wrong,” or a “Whiteman’s thing.” We have also carried a long history of being sexually exploited, which can be seen anywhere from the early Pocahontas and Squaw days, right up until the modern over-sexualization of “easy” Native women, which still permeates much of the media. However the more we sweep “sex” under the rug, the further we are ostracizing the very issues our communities are paying the price for now.

Violence comes in many forms, and it’s important not to categorize all Indigenous nations into the same box of what our past and traditions were/are - we are extremely diverse. At the Native Youth Sexual Health Network, we strongly encourage youth to self-determine their rights over their own bodies and spaces by understanding their inherent connection to both land and spirituality. It is then that empowerment, both self and social, can happen. There is so much knowledge and strength to draw on in our past that is directly related to what we now term as “healthy sexuality.” We must become the stewards of the information going out about us, and not allow anybody to take claim on what our people actually started. The consequences of a lack of information and a lack of awareness have everything to do with fundamental issues of empowerment and justice and are profound enough to warrant a public outcry.

Reference

Sexual Violence and Native American Women in the U.S.
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A proud Two Spirit youth, Jessica Yee is the founder and Executive Director of the Native Youth Sexual Health Network (<http://www.nativeyouthsexualhealth.com>), the first and only organization of its kind in North America by and for Indigenous youth working within the full spectrum of sexual and reproductive health throughout the United States and Canada. Jessica currently serves as the first Chair of the National Aboriginal Youth Council on HIV/AIDS at the Canadian Aboriginal AIDS Network as well the International Indigenous HIV/AIDS Working Group, the first North American youth representative at MenEngage International Alliance for Gender Equality. She is the North American co-chair for the Global Indigenous Youth Caucus at the United Nations Permanent Forum on Indigenous Issues. She is a strong believer in the power of youth voice and agency, and you can see her writing on sites like Racialicious, or watch her monologues about activism and justice on TV Ontario. She is the author and editor of “Sex Ed and Youth: Colonization, Communities of Colour, and Sexuality” and “Feminism FOR REAL: Deconstructing the Academic Industrial Complex of Feminism” released in February 2011.

Understanding the Importance of Historical Trauma



WomenSpirit Coalition –
Washington State Native American Coalition Against Domestic Violence and Sexual Assault

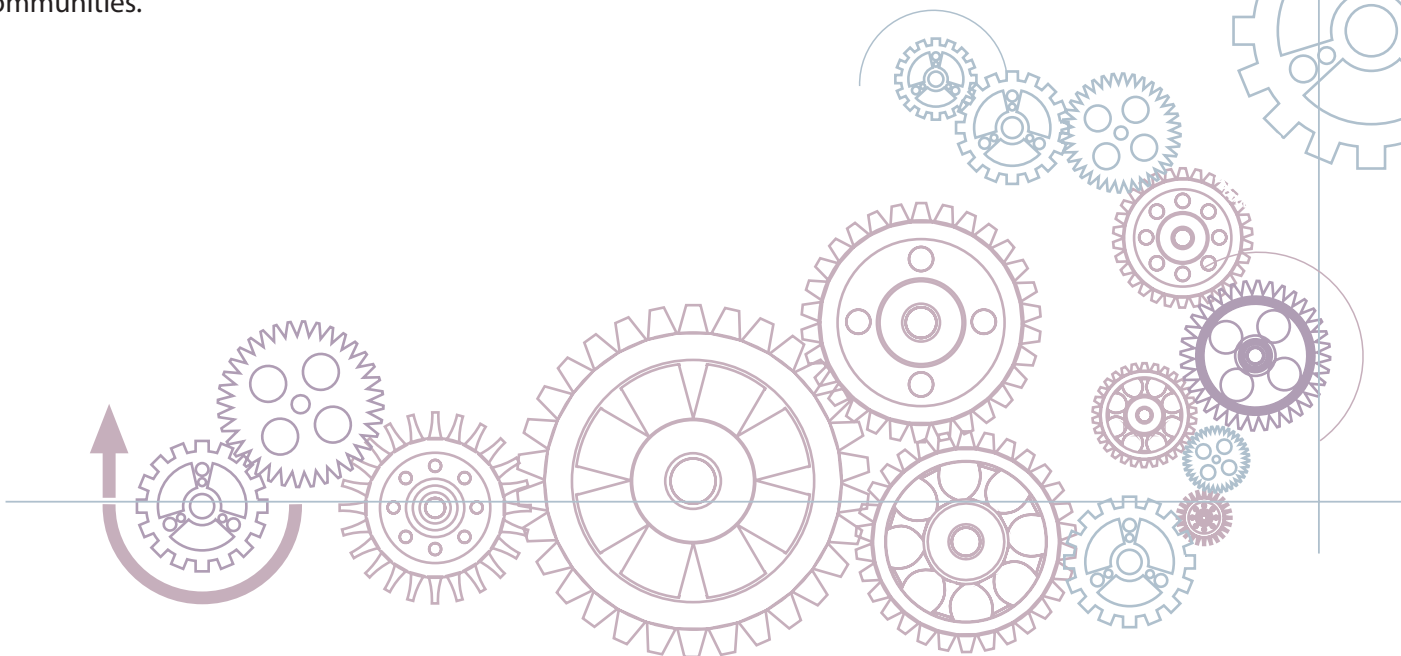
WCSAP: What does historical trauma work mean to Tribal communities and Native American/American Indian/Alaska Native people?

WSC: Most of the historical trauma work we do in Indian Country began with a Lakota woman named Dr. Maria Yellow Horse Brave Heart. We use Paulo Freire's work on internal oppression and lateral violence as a foundation, along with Vine Deloria, Jr. and others. There is a Lakota word used by Brave Heart, *Takini*, meaning "a survivor or one who has been brought back to life." In my [Dee Koester] Salish language, we have *Sayu"? x Wey*, meaning, "the life force that propels one forward in life." WSC has an online program named *Sayu"? x Wey* Institute that strives to educate Native survivors about their abuse and trauma, guides them with activities that lead them through recovery to healing, and eventually cultural reparation within their communities.

WCSAP: How should historical trauma inform advocacy work with Native American/American Indian/Alaska Native sexual assault survivors?

WSC: The trauma exists and persists today. Unresolved trauma equals unresolved grief equals unrealized healing. This reality has gravely impacted the inability of American Indians/Alaska Natives to make real strides today in raising the health status of American Indians.

Native Advocates are in the best position to begin the healing process for their people. Intergenerational healing must begin within. No "group" can do another "group's" healing. The identification of trauma and the narrative construction is Sacred Work.



Editor's Note: Dr. Maria Yellow Horse Brave Heart, currently an Associate Professor at the Columbia University School of Social Work, is internationally recognized for her work developing historical trauma theory, "historical unresolved grief theory," and "interventions among American Indians." She defined historical trauma as "cumulative emotional and psychological wounding over the lifespan and across generations, emanating from massive group trauma."

For additional support in your work, the Alaska Network on Domestic Violence and Sexual Assault, has developed a toolkit, Real Tools: Responding to Multi-Abuse Trauma (<http://www.andvsa.org/v2/wp-content/uploads/2011/05/FINAL-Combined-Real-Tools.pdf>). It is a resource created to help advocates better respond to survivors who are suffering from multiple traumas, including a focus on historical trauma.

The identification of trauma and the narrative construction is Sacred Work.

References for Editor's Note

Welcome to Takini's Historical Trauma

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

Dr. Brave Heart's Faculty Bio from Columbia University

<http://www.columbia.edu/cu/ssw/faculty/profiles/braveheart.html>

Dee Koester, MS, Lower Elwha Klallam, started working in Tribal social services in the mid 1980s. She earned her MS in Agency Administration and went on to develop and manage many programs and agencies that served children, youth, and families in Indian Country. As a survivor of domestic violence, stalking, dating violence, and sexual assault, she worked for a county domestic violence agency. She has served as Law and Justice Planner for the Thurston County Prosecuting Attorney's Office. Since 2002, she has been organizing and directing the Washington State Native American Coalition Against Domestic Violence and Sexual Assault - WomenSpirit Coalition (<http://www.womenspiritcoalition.org>). Dee is an Elder and enrolled Lower Elwha Klallam Tribal member, with ancestry in the Quileute and Makah Tribes. Dee is also a mother and grandmother, as well as a minister in Universal Ministries.

Alma Goddard, Southern Ute, Mexican Indian, has been an activist in the movement to end violence against women for 25 years. She is not only the WomenSpirit Coalition Outreach Manager, but also facilitates workshops and trains in the areas of domestic violence and sexual assault. Alma's work in Indian Country includes presentations and workshops about internalized oppression, historical and intergenerational trauma, and healing.

Building Relationships & Resources

How Community Sexual Assault Programs Can Work Effectively With Tribal Communities and Organizations



Debbie Medeiros - Domestic Violence/Sexual Assault Program Manager
Cowlitz Indian Tribe's Pathways to Healing Program

Effectively working with Tribal communities or Tribal-affiliated programs can be extremely rewarding for both the Tribe and the community program. This article provides some seemingly simple and complex ideas for building and maintaining these relationships. Just like other relationships that need to be fostered and cared for, relationships with culturally specific communities require work and understanding of each other's differences.

Just like other relationships that need to be fostered and cared for, relationships with culturally specific communities require work and understanding of each other's differences.

The fundamental basis for understanding these differences is recognizing that Tribes are more than a program providing victim services or your usual nonprofit organization. Tribes function as sovereign nations and governments. This difference can impact how you form your relationship with a Tribe or Tribal program. Understanding how the Tribal government operates will be imperative for a strong relationship. Due to governmental processes, sometimes building relationships with Tribes can be a slow process, especially if you are requesting specific items that require government approval. Each Tribe has its own constitution, language, culture, and traditions.

Honoring these traits will provide a foundation of respect when working to build relationships.

Understanding that Tribes all operate differently will also be helpful in understanding the differences in the structure of each community. While most community programs have a director, prevention specialist, advocate, legal advocate, child advocate, and so on, Tribal programs usually do not have as many staff nor do they use the same job titles or functions. This can be challenging when trying to find your counterpart in a Tribal program. Most Tribes have limited funding to provide victim services so they may have staff that do many job functions or work in multiple departments. When building relationships with Tribal communities this key concept will be vital in making lasting connections.

When building a relationship, or networking with other agencies or government programs, it is important to ask yourself, "Why this relationship or partnership?" Identifying the mutual benefits of relationship building will help facilitate the process of fostering relationships that will be sustainable. Some key questions to ask before you start the process could be:

1. Why do we want to work with the Tribe?
2. What does having a relationship mean (working on projects, trainings, joint meetings, and/or service provision)?
3. How will it benefit both of us?

Like all of our relationships, communication is key! When contacting Tribes, understanding how they are structured will improve the communication. Due to limited funding, staff time, and the size of the Tribe, communication can be challenging. Some Tribes do not have daily operations, offices, or business hours. If trying to contact a Tribe becomes frustrating, don't give up; keep trying different ways to communicate with them. Open communication and being able to ask questions is a great part of building relationships. When working with a Tribe it is okay to ask questions or ask for clarification to help you honor and recognize differences. With technology and other ways to communicate with each other, it is important to not lose the personal touch or forget building relationships. Personal "meet-and-greets" and face-to-face conversations provide a more welcoming connection than just an email or phone call. When a relationship is established, evaluate how best to communicate.

To effectively communicate with any partner, it is important to know who and how to contact them. Who should you contact within a Tribe to start relationship building? In every Tribe this will be a different person. If you know the Tribe your program is close to and they already provide services, then it would be best to contact the program directly. If the Tribe is not providing services you could always contact the Tribal Administrator (or similar position) to start the conversation and request contact information for the person who would be appropriate to contact for your specific needs. A great resource for general contact information for Tribes is the Governor's Office of Indian Affairs (www.goia.wa.gov).

Recognizing that your program values may be different than a Tribe's values is okay, and honoring and understanding those differences is what makes for good relationships.

Every Tribe and community has values that are important to who they are and how they connect as a community. Understanding the values of your partners and people with whom you are building relationships is just as important as understanding who they are. Unlike most service-driven programs,

Tribes integrate spirituality and holistic healing into their services and daily operations. Recognizing that your program values may be different than a Tribe's values is okay, and honoring and understanding those differences is what makes for good relationships. One example of how values may impact relationships could be that there are times when Tribes must deal with community issues that require healing and grieving, such as death or illness. During these times some – not all – Tribes will shut down their daily operations. If you are working with a Tribe or community when this happens, know that it is okay to offer help and support, and ask when it would be appropriate to make contact with them again.

One way to keep Tribes active in the relationship is to include them in other conversations and groups. If your community has a Multi-Disciplinary Team, Child Protection Team, or Task Force, invite a representative to attend. Many times there are meetings and work groups, such as these, and community organizations may not have thought to have a Tribal representative at the table, but this is important for the community. As a community program it may also be beneficial for your staff members to attend Tribal events such as Pow Wows, trainings, conferences, or other special events.

When building relationships with Tribes or Tribal programs, it is important to remember the purpose of these relationships and that they are designed to help survivors of violence. With a little hard work and some open communication, a long-lasting and meaningful relationship can evolve.

Debbie Medeiros is a member of the Cowlitz Indian Tribe. She is the manager for the Tribes Pathways to Healing program (<http://www.cowlitz.org/index.php/cultural-resources/health-and-human-services/29-pathways-to-healing-program>) with offices located in Clark and Cowlitz Counties, WA. Her victim focused work spans over seven years and reaches local, state, and national levels. She participates in many activities within her community and serves as an elected official of the Tribe. Debbie's passion to provide victim services that are culturally appropriate, holistic, and person centered has allowed Native American/Alaska Native individuals and families to receive equal access to services in the state of Washington.

PROGRAM HIGHLIGHTS



Makah Indian Tribe

Joddie Johnson - Advocate, Makah Indian Tribe

WCSAP: What is your role in working with Native American survivors of sexual assault?

JJ: My role is mainly support; translate the process that needs to happen or is happening and to lay out options for them to make a choice; to listen and listen some more.

WCSAP: What have been your successful outreach strategies to Native American survivors of sexual assault?

JJ: It is like a secret, quiet, nameless, type of one-on-one contact (personal, not via phone); always be there for them. We have a group we call "Healing Gathering." We bring drums, songs, stories, and elders visit, as we make a stand to take back our families one at a time. We all have hearts that hurt that need healing – where do we begin, how do we agree where to begin...right now it is just being consistent – a very powerful tool. We serve food, share a meal, visit, share challenges or stories, play the drums to release healing sounds to minister to all – at times no one shares but the drums heal.

WCSAP: What do you think would be important for advocates to know about working with Native American survivors of sexual assault and Tribal communities?

JJ: That the approach be to address their (victim) personal healing path – NOT addressing the "who done it." They want to see healing happening – as it is a community "thing" one hurts they all hurt, so healing is a powerful path to walk with them.

For those that work with or for Tribes to educate themselves on the "normal" of the Tribe they are working with, and that the education comes from Tribal people/elders. Through the education would come more of a connection to the community, people, and individual... for success one person at a time within a village setting is more powerful than anything.

Visit our website at: <http://www.makah.com/>

Lower Elwha Family Advocacy

Beatriz Blue-Arakawa - Program Manager/Victim Advocate, Lower Elwha Klallam Tribe

WCSAP: What have been your successful outreach strategies to Native American survivors of sexual assault?

BBA: I believe my successful outreach strategies have been when I visited house-to-house, provided newsletters to Tribal members and staff with program information, and being available to be contacted at any time.

WCSAP: What is the most important thing you've learned about working with Native American survivors?

BBA: Perseverance and giving guidance with choices and resources.

WCSAP: What do you think would be important for community sexual assault program advocates to know about sexual assault advocacy with Tribal communities?

BBA: It is hard to answer this because everyone is different; each Tribe/Nation/Reservation is different in ways of cultures and people. Though I cannot be certain that each Tribe receives individuals the same or that an advocate understands the value and uniqueness of each Tribe's sovereignty, culture, and people, it would be important for other advocates to know how and when to participate in community events, to get to know the people, connect with someone (program director or staff) that works in that Tribe/Nation, and don't be asking too many questions all at once (do not go there to investigate).

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An Overview of Justice in Indian Country and Considerations for Advocates

An Interview with Indian Law Professors Robert J. Miller of Lewis & Clark Law School
and Sarah Deer of William Mitchell College of Law
Kelley Richardson - Advocacy Specialist, WCSAP

Editor's Note: The accepted term for laws governing Native American/American Indian/Alaska Native people is Indian Law. The term Indian Country is defined by federal law as "all land within the limits of any Indian reservation, under the jurisdiction of the United States Government...including rights of way running through the reservation," "all dependent Indian communities within the borders of the United States," and certain other lands (18 U.S.C. § 1151).

Various reports have stated that up to 85% of the alleged perpetrators of these acts against American Indian women are non-Indians. Thus Tribal governments have no criminal jurisdiction over the perpetrators.

More than one in three American Indian/Alaska Native women report being raped in their lifetime, according to the findings from the National Violence Against Women Survey, a national telephone survey on rape, physical assault, and stalking (National Institute of Justice Research Report, November 2000). This staggering statistic is compounded by the complex web of legal jurisdiction over sexual assault crimes in Indian Country. To better understand the legal dynamics of sexual assault in Indian Country, and gain some insights for advocates working with Native American survivors, I interviewed Indian Law Professors Robert J. Miller and Sarah Deer.

WCSAP: What role does the federal government play in creating and enforcing laws in Indian Country?

RM: In essence...Congress can enact and enforce almost any law it wishes for or against Tribal governments and, in many instances, for or against American Indian peoples. Congress exercises a wide array of federal powers and programs, primarily through the Bureau of Indian Affairs and the Indian Health Service, which can have both beneficial and negative impacts on Indian Tribes and peoples.

WCSAP: Who has criminal and civil jurisdiction over sexual assault in Indian Country? What role does the Tribe play?

RM: This is a very complicated subject. Tribal governments have criminal jurisdiction over all Indians who create a crime in Indian Country. But in 1978, the United States Supreme Court held that Tribes do not have criminal jurisdiction over non-Indians (*Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 1978). This causes a major gap in criminal jurisdiction on reservations and contributes to sexual assault and

domestic violence problems. Various reports have stated that up to 85% of the alleged perpetrators of these acts against American Indian women are non-Indians. Thus Tribal governments have no criminal jurisdiction over the perpetrators.

Tribal civil jurisdiction is defined primarily in *Montana v. United States*, 450 U.S. 544 (1981) and Supreme Court cases that followed. In a nutshell, Tribes have civil, regulatory, and adjudicatory jurisdiction over anyone and their conduct if it occurs on Tribally owned and Indian owned lands within a reservation.

But, Tribes have very limited civil jurisdiction over non-Indians, and probably for Indians who belong to another Tribe, for their actions on lands owned in fee simple by the non-Indian or by the nonmember Indian on a reservation. *[Editor's Note: Fee simple is defined by Black's Law Dictionary as "an estate...in which the owner is entitled to the entire property, with unlimited power of disposition during his life."]*

Tribal governments have extremely important roles to play in protecting victims of sexual assault and domestic violence and to keep their communities safer for everyone. The jigsaw criminal jurisdictional puzzle present in Indian Country contributes to alleged perpetrators going unprosecuted and unpunished.

WCSAP: How is the criminal legal process for an assault that occurred on a reservation different from an assault that occurred outside the reservation? How do any added elements affect the steps a survivor must take to seek justice?

SD: A woman who is assaulted on the reservation may encounter jurisdictional challenges that don't apply off reservation. Depending on the particular community, the jurisdictional issues may delay or confuse the response from law enforcement and service providers. Ideally, a survivor of violence should not be in the position of doing legal analysis to determine which entity is responsible for investigation and prosecution, but often advocates and survivors do need to consider the jurisdictional issues before, during, or even after making a report. In addition, many reservations don't have a standard forensic medical response to assault. As a result, a survivor may have to wait for an exam or travel for an exam.

Some Tribes prosecute sexual assault cases, but most do not prosecute adult sexual assault cases regularly.

Ideally, a survivor of violence should not be in the position of doing legal analysis to determine which entity is responsible for investigation and prosecution, but often advocates and survivors do need to consider the jurisdictional issues before, during, or even after making a report.

Reporting to Tribal law enforcement, then, usually means that the Tribal law enforcement will have to work with state or federal law enforcement officials to follow through on the investigation.

WCSAP: What determines whether a case is prosecuted in federal, state or Tribal court?

RM: Congress has enacted several acts that impact this question. The Indian Country Crimes Act, 18 U.S.C. sec. 1152 and the Major Crimes Act, 18 U.S.C. sec. 1153 are relevant to whether a victim's case could be prosecuted in federal court.

In 1953, Congress enacted what is known as Public Law 280, and transferred criminal jurisdiction over the reservations of some Tribes, in some states, from the federal government to state jurisdiction. This act, and the reticence of state governments to expend limited resources protecting Indian Country, complicates, and eviscerates the protection of sexual assault and domestic violence victims in Indian Country. *[Editor's Note: To find out whether Public Law 280 is applied to a particular Tribe, you can contact the Tribe's legal department or Tribal prosecutor].*

Tribes retain, however, concurrent jurisdiction with the federal and/or state governments in most of these situations, except for non-Indians as mentioned above. But many Tribal governments lack the funding and resources needed to operate court systems, police departments, and incarceration facilities to handle these issues.

WCSAP: Would a survivor need to seek a civil protection order in Tribal, federal, and state court, or will protection orders from other governments/agencies be enforced?

SD: Any valid protection order for a victim of violence should be enforced across jurisdictional lines. If law enforcement officers in a particular community have expressed reluctance to enforce other jurisdictions' protection orders (usually the advocates in a community know this), then a survivor might consider getting protection orders in the jurisdictions where she lives, works, goes to school, etc. Even though the law does not require multiple protection orders, some survivors still choose to get more than one protection order in an effort to maximize safety.

There really isn't a standard way to get a federal protection order, so a civil order should be obtained from state and/or Tribal court. Federal judges do often include "no contact" orders in criminal cases, and those orders are supposed to be enforced under the Violence Against Women Act (VAWA) just like state or Tribal orders.

WCSAP: The Tribal Law and Order Act (TLOA) was passed in July 2010. It aims to change the framework of criminal jurisdiction in Indian Country to allow Tribes to prosecute cases more effectively. Are there any practical implications for advocacy with Native American survivors and Tribal communities?

SD: The two most important provisions of TLOA, which impact survivors of sexual assault, are the Indian Health Service (IHS) mandates and the increase in Tribal sentencing authority. It is still too soon to assess the effectiveness of these provisions. However, advocates are often in the position of educating law enforcement and prosecutors about the legal issues faced by survivors. Indian Health Service is in the process of ensuring that all IHS facilities have trained sexual assault forensic examiners. This would, ideally, improve the experience of survivors who report sexual assault. However, it will probably be several years before IHS fully implements this mandate.

Tribal court judges can now potentially sentence a perpetrator to more than one year in jail. However, most Tribes have not yet taken advantage of this sentencing authority because it requires advance approval from DOJ. For a survivor, a Tribal government that takes advantage of this opportunity is sending a message that sexual assault crimes (and other violent crimes) will result in a longer incarceration sentence.

WCSAP: The Stand Against Violence and Empower Native Women Act (SAVE Native Women Act) was

recently introduced in the United States Senate. What is your opinion of this bill?

SD: It's a step in the right direction. SAVE would allow Tribal governments to prosecute non-Indians who commit violent crimes against Native people on reservations. It is a very limited "fix" to *Oliphant* that would hold more offenders accountable. In addition, SAVE also offers provisions that will allow Tribal advocacy programs to provide services to victims of prostitution and trafficking.

WCSAP: What Tribal agencies/organizations could an advocate contact when working with a Native American survivor of sexual assault?

SD: It depends on where the advocacy program is – some Tribal governments have an advocacy program, but many do not. A non-Native advocacy organization should research their local community to find out what programs exist. A national organization, such as the National Indigenous Women's Resource Center or Clan Star, might have a directory of available programs.

WCSAP: What questions should an advocate ask when working with a Native American survivor, to ensure that the right agencies are contacted and the right steps are taken, if the survivor chooses to report?

SD: Where did the assault/abuse occur? Is that on Tribal lands? Is the perpetrator Native or non-Native? Have you reported any violence to law enforcement? If so, which law enforcement agency responded? Do you know if the Tribal court issues protection orders?

WCSAP: Are there any other jurisdiction issues that an advocate should be aware of when working with a Native American survivor?

SD: Be aware of "checkboarded" reservations, which result in a non-contiguous land base for Tribal governments. This means that even if a survivor recalls that her assault took place on the reservation, the particular plot of land where the assault occurred might not technically be "Indian Country" for the purposes of jurisdiction. This can be particularly confusing if the survivor was incapacitated, intoxicated, unconscious, or if the survivor was kidnapped and does not know exactly where the crime occurred. The only way to resolve these kinds of questions is to collaborate with law enforcement and prosecutors.

Possible prosecuting authorities for sexual violence against American Indian and Alaska Native women

Location	Suspect	Prosecutor
Indian Country	Non-Indian or non-Alaska Native	Federal
Indian Country	American Indian or Alaska Native	Tribal and/or Federal
Indian Country where Public Law 280 is applied or Alaska Native villages	Non-Indian or non-Alaska Native	State
Indian Country where Public Law 280 is applied or Alaska Native villages	American Indian or Alaska Native	Tribal and/or State
State land	Non-Indian or non-Alaska Native	State
State land	American Indian or Alaska Native	State

Amnesty International, *Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA*, April 2007, AI Index: AMR 51/035/2007, available at: <http://www.amnestyusa.org/pdfs/MazeOfInjustice.pdf>

Editor's Note: This article is not legal advice and should not be substituted for the advice of an attorney. For specific questions about applying this framework to a survivor's situation, advocates should consult an attorney or refer the survivor to an attorney.

Reference

Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women
<https://www.ncjrs.gov/pdffiles1/nij/183781.pdf>

Robert J. Miller is a professor at Lewis & Clark Law School in Portland, OR. He is an enrolled citizen of the Eastern Shawnee Tribe of Oklahoma. He is also the Chief Justice of the Court of Appeals of the Grand Ronde Tribe and sits as a judge for other Tribes. His published works include articles, books, and book chapters on a wide array of federal Indian law issues and civil procedure. He was a board member of the Oregon Native American Business and Entrepreneurial Network for twelve years and the National Indian Child Welfare Association for nine years. He helped found and was on the executive committee of the Oregon State Bar Indian Law Section. Miller speaks regularly on Indian law issues across the U.S. and in other countries and has written three books on related topics.

Sarah Deer is an assistant professor at William Mitchell College of Law in Saint Paul, MN. She is a citizen of the Muscogee (Creek) Nation of Oklahoma and a nationally recognized expert in Native women's issues. She began her career in the U.S. Department of Justice, and later became staff attorney at the Tribal Law and Policy Institute, where she developed training programs and curricula for Tribal court personnel and victim advocates. She served as one of the primary consultants in the development of Amnesty International's *Maze of Injustice* report, which was one of the impetuses for the newly enacted Tribal Law and Order Act.



Effective Outreach & System Advocacy

Monica Henry - Program Manager/Victim Advocate
Quileute Indian Tribe's New Beginnings Program

WCSAP: What is the New Beginnings Program? How did it get started?

MH: The New Beginnings program provides advocacy services to those living on or near the Quileute Reservation, all Quileutes living off Reservation, and all Natives who are enrolled in a federally recognized Tribe and living in Clallam and Jefferson counties, who are, or have been, victims of domestic violence, dating violence, sexual violence, stalking or elder abuse. It also provides support to their family and friends.

I realized fairly early on that it is really difficult to talk about sexual assault in small communities and this is especially true for Native American communities. So, in order to make it a bit easier to talk about, and to encourage a greater participation, I combine a lot of our sexual assault awareness activities with something else.

New Beginnings was established in December of 2006, with the aid of a Tribal advisory committee and funding from the Department of Justice Office on Violence Against Women. The program was established to increase Tribal capacity to respond to domestic violence, dating violence, sexual assault, and stalking by addressing the following purpose areas:

- Develop a culturally appropriate sexual assault, domestic violence, dating violence, and stalking victim services program, including: legal advocacy, medical advocacy, advocacy based counseling, transitional housing assistance, legal assistance for civil issues, and access to emergency shelter and transportation
- Train Tribal law enforcement officers, judges, court personnel, prosecutors, social services staff, and health care providers to more effectively identify and respond to violent crimes against Indian women, including domestic violence, sexual assault, and dating violence
- Develop and disseminate culturally appropriate brochures and products to increase awareness of program services and domestic violence, dating violence, sexual assault, stalking, and elder abuse

Overall, I think that Talking Circles are an important part of the healing and growing process because they promote traditional values such as supporting your relatives . . .

WCSAP: How have you adapted sexual assault awareness and education activities to work better in the Tribal community your program serves?

MH: I realized fairly early on that it is really difficult to talk about sexual assault in small communities and this is especially true for Native American communities. So, in order to make it a bit easier to talk about, and to encourage greater participation, I combine a lot of our sexual assault awareness activities with something else. For example, when watching films on sexual assault, we also share a meal (a very important part of the Quileute culture) and work on things like dream catchers or beading projects. This makes it a little bit easier for people to participate (e.g. if someone isn't comfortable saying that they are going to watch a film on sexual assault, they are able to say that they are going because they want to make dream catchers, but they are still getting the information on sexual assault). This also makes it easier for people to participate in the discussion afterwards, because they are able to work on their projects while talking. It doesn't feel so invasive and like everyone is watching you. The film, *Listen to the Grandmothers*, made by the Tribal Law And Policy Institute in 2008, features Native American elders speaking about domestic violence and sexual assault. I have shown this film, followed by discussions, several times and it is always a popular one. It increases the community member's ability to relate and respond to the issues.

We have also organized quite a few Clothesline Projects. This year we expanded that to include shawl decorating, as the shawls are a traditional part of the Quileute regalia. Tribal members decorated shawls with messages of anti-violence and support for victims/survivors of sexual assault at our Third Annual Take Back the Night Event in August of 2011 and that was a big hit. Finally, for many in the Quileute community, healing ceremonies are an important part of recovery from a traumatic event. One method of this includes wrapping someone in a blanket (protection, love, support) at a ceremony. To support this, I have purchased Pendleton blankets and have made them available for individuals who wish to participate in this sort of ceremony.

WCSAP: Can you tell me about your Women's Talking Circle? Why does this type of outreach activity work with Native American survivors and/or Tribal communities?

MH: Overall, I think that Talking Circles are an important part of the healing and growing process because they promote traditional values such as supporting your relatives (and by relatives, I mean community members, Tribal members; not necessarily blood or marriage relatives) during difficult times. The sharing of food and listening are also very important. So, I started the Women's Talking Circle and described it as a group for individuals who have experienced, or have friends or family members who have experienced, any form of violence in their lives. Everyone has a "friend" who has experienced violence, right? We do a variety of things at the group. We have lunch together, work on a variety of crafts, talk about issues of violence and healthy and unhealthy relationships and healing, and sometimes just have fun and play games. It is a place where women are able to come and feel supported and loved; to have an hour to themselves.

WCSAP: What is the Quileute Justice Committee and how was it established?

MH: I needed to form a Sexual Assault Response Team and a Domestic Violence Community Task Force, the Court needed to establish a Court Review Committee, and the Police Department needed to establish a Review Committee. We realized that these involved the same players and that we were all more or less meeting and speaking on a regular basis anyway (a benefit of working in a small community) so we decided it was best to combine these groups.

Quileute Tribal Council approved the formation of the Justice Committee in March of 2011. The Committee consists of the Quileute Tribal Court Prosecutor, Defense Attorney and Administrator, La Push Police Department Office, the Quileute Tribal School Counselor, Quileute Indian Child Welfare (ICW), the Quileute Health Clinic, the Quileute Probation Officer, and me. The Justice Committee meets at least quarterly, to review issues relating to community

justice, including domestic violence and sexual assault, in order to ensure that the justice system and related service providers are meeting the needs of the Quileute community. The Committee provides suggestions to the concerned departments/agencies (court, law enforcement, health clinic, victim services, etc.) to encourage coordination and cooperation of services, and provides recommendations to the Quileute Tribal Council on matters relating to codes, policies or procedures involving the criminal justice system.

We have addressed several issues, including: (1) the finalization of our policies and procedures for our Sex Offender Registration and Notification System, (2) review and update of petition for protection order forms, (3) update of sexual assault codes, and (4) establishment of drop boxes at the police department and court house so that paperwork, especially returns of service for protection orders, are received in a timely manner. We are currently working on establishing Tribal Law Enforcement Sexual Assault Protocols as well as protocols relating to sexual assault for the Prosecutor.

We are also working with the Forks Abuse Program as they are attempting to establish a SART (Sexual Assault Response Team) for their community. Because of the jurisdictional issues (and location of the hospital and Sexual Assault Nurse Examiners, or SANEs, in Forks), it is important that we all work together so that we meet the needs of all sexual assault victims in our communities.

WCSAP: Can you tell me a bit about your new Elder/ Youth Healthy Relationship Mentoring Program and why you thought it would be beneficial to implement?

MH: There are 194 Tribal members under the age of 17, comprising 26% of the Tribe's population. Traditionally, elders in the Quileute community are shown a great deal of respect and have served as mentors to the youth. We are hoping that this project will strengthen that connection and provide youth with an increased support network. The program will be responsible for organizing traditional and culturally relevant activities between Tribal elders and youth that will serve as an opportunity for elders to work with youth on fostering healthy relationships. All events will feature an educational component focused on domestic violence, dating violence, sexual assault, stalking, elder abuse, healthy relationships and/or substance abuse awareness. Traditional activities may include: Regalia making, carving and painting, beading, basket weaving, cedar hat weaving, cooking fish on a stick, making smoked salmon, dream catcher making, storytelling at the beach, knitting traditional patterns into hats, and drum and drumstick making.

Life lessons such as these were traditionally taught to the youth by their elders while they participated in the above-mentioned activities, so we feel that this will be an appropriate and effective method to disseminate this information.

Life lessons such as these were traditionally taught to the youth by their elders while they participated in the above-mentioned activities, so we feel that this will be an appropriate and effective method to disseminate this information.

Monica Henry is the Victim Advocate/Program Manager for the Quileute Tribe's New Beginnings Program (<http://www.quileutenation.org/new-beginnings>). Monica wanted to note that she is not Native American; she grew up in the community of Forks, WA, 15 miles from La Push, WA, the location of the Quileute Indian Reservation. After she received her BA in Political Science, with a minor

in Communication Arts, from Linfield College, she served as a Peace Corps volunteer in Nepal. She then went on to receive her MA in Gender and Peace Building from the United Nations mandated University for Peace in Costa Rica. She returned home to work for the Quileute Tribe in 2006.

Question Oppression



Exploring the Connections Between Sexual Violence & Oppression

Use these questions to explore the connections between sexual violence and oppression with staff, volunteers, or board members. Try discussing one or more at a staff meeting, in-service, volunteer training, or board retreat.

What barriers might a Native American survivor face to seeking help from a community sexual assault program? Consider what culturally appropriate services for this community would look like at your agency.

As many as 85% of sexually violent crimes against Native American people are committed by non-Native people. What does this say about the history of oppression and its relevance to our work today?

What do relationships with Tribal organizations look like in your community? Do the different values and norms impact relationship-building? How can you recognize and honor those differences to improve relationship-building?

Resources



WCSAP members have access to check out our library materials through the mail. Browse the catalog online!

Turning Points: A Commitment to Build Stronger Tribal Communities

Type: Curriculum

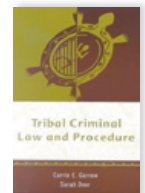
A training curriculum focusing on awareness and prevention on violence in Tribal communities.



Tribal Law and Criminal Procedure

Type: Book

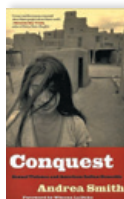
A textbook about Tribal justice systems; Tribal courts, Tribal legal systems, jurisdiction, child welfare, civil rights, and models of peacemaking.



Conquest: Sexual Violence and American Indian Genocide

Type: Book

An exploration between forms of violence and their impact on Native American women.



Native Americans and the Christian Right: the Gendered Politics of Unlikely Alliances

Type: Book

An examination of American Indian activism, feminism, and Christianity and building alliances.



Club Native

Type: DVD

A documentary about preconceptions of blood quantum, the clash between love, growing up biracial, and preserving a close-knit community.



Related Websites

- **Clan Star** - <http://www.clanstar.org/>
- **Mending the Sacred Hoop** - <http://www.mshoop.org/ta-project/>
- **Minnesota Indian Women's Sexual Assault Coalition** - <http://www.miwsac.org/>
- **National Indian Child Welfare Association** - <http://www.nicwa.org/>
- **National Indian Justice Center** - <http://www.nijc.org/resources.html>



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We would also like to feature highlights of your agency and the advocacy work you are doing.

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