



*Sexual Assault  
In Indian Country*

**Confronting  
Sexual Violence**

# NSVRC

NATIONAL SEXUAL VIOLENCE RESOURCE CENTER

A PROJECT OF THE PENNSYLVANIA COALITION AGAINST RAPE

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## Terms and Abbreviations

**Indian Country** denotes the broad, heterogeneous community of Native American peoples living on or near reservations.

**American Indians, Native Americans, indigenous peoples, and native populations** are used interchangeably throughout this document to denote the native peoples of continental US and Alaska. The term Alaskan Natives is also used, either in conjunction with other native groups or separately to denote the native populations of Alaska.

**BIA** denotes the Bureau of Indian Affairs.

**BJS** denotes the Bureau of Justice Statistics.

**“PL 280 States”** refers to states of the United States that have been given federal legal jurisdiction in Indian Country as a result of Public Law 83-280.

**STOP Program** refers to the Services, Training, Officers, Prosecutors program funded under the Violence Against Women Act of the 1994 Federal Crime Control Legislation.

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## Sexual Assault In Indian Country

American Indian/Alaskan Native populations experience sexual assault and violent victimization at an alarmingly high rate. In fact, the reported rate of violent crime in Indian Country is well above all other ethnic groups and more than twice the national average. (*American Indians and Crime: 1999*)

Although the prevalence of violent crimes has been well-documented, it has been very difficult to document the magnitude of sexual assault. However, a fairly consistent understanding has emerged among some Native Americans, service providers and national researchers that the rate of sexual assault in Indian Country is not only disturbingly high, but much higher than is captured by existing statistics. Although differences in the degree of violence and sexual abuse exist from tribe to tribe, the overall picture remains compelling. Due to a lack of certain kinds of data, and the difficulty required in obtaining a solid statistical overview, we do not have clear documentation of the extent of the problem.

This pamphlet addresses sexual assault in Indian Country by highlighting certain types of sexual assault evidence and by presenting it within the historical treatment of native populations, jurisdictional problems and the prevalence of violence. It is our hope that this pamphlet will promote public awareness of this profound problem and draw needed attention to the lack of adequate support and concern for this highly underserved population.

Estimates of the American Indian/Alaskan Native population range from approximately 1.5 to 2 million. There are approximately 550 federally recognized Indian tribes and Alaskan Native groups, speaking more than 250 languages. Tribal nations maintain separate cultures, customs, languages and histories and should be thought of as a heterogeneous population. Once, Indian nations lived, hunted and farmed over the entire United States. Today, they are located on reservations and/or individually held lands covering approximately 50 million acres.



## A Legacy of Peace Shattered

Historically, violence among indigenous peoples was rare because they believed it to be unnatural and a threat to harmony. Incidents of violence, when they did occur, carried harsh consequences, often banishment. (Artichoker & Mousseau: 1993) According to the BJS report, *American Indians and Crime*, the average annual violent crime rate among American Indians is about 2.5 times the national rate. Much of the violence has been directed toward women, and nearly one-third of the victims are between the ages of 18 and 24. (*American Indians and Crime*: 1999)

The treatment of American Indians by colonists, the government and settlers reveals a history of decimation by disease and war, racism, exploitation of resources, seizure of lands, forced migration, introduction of alcohol, and the establishment of oppressive and coercive policies such as the boarding school and land allotment programs which have together detrimentally affected the traditional values of Native peoples. The federally sanctioned boarding school experience, which began in the 19th Century, removed Indian children from their homes and placed them in boarding schools where many were sexually assaulted or molested by caretakers. (Gonzales: 1999)

**The systematic oppression of native cultures included a particular degradation of native women.**

Moving from a mostly peaceful culture to one marked by violence occurred over time and must be attributed to many factors. A history of surviving within an oppressive dominant society led to a state of internalized oppression. The white man undermined the existing culture and imposed his own beliefs and judgments. Native Americans internalized many of these values and opinions, which both devalued their culture and promoted a kind of self-hatred and internalized racism. The systematic oppression of native cultures included a particular degradation of native women. In "Violence And The American Indian Woman", Paula Gunn Allen asserts that conquest of the tribes by Anglo-Europeans was accompanied by "the conquests and degradation of Indian women by men, Indian and otherwise."

The racism experienced by American Indians, although sometimes subtle, often took the form of open "Indian-hating". It laid the foundation for conquest and colonization by portraying them as savages, heathens, primitives, childish, murderous and drunken. In addition to serving as a justification for the wholesale oppression of Indian peoples, the racism functioned as emotional and cultural abuse. According to Allen and other researchers, this devaluing of the existing cultures has engendered severely lowered self-esteem among Indian peoples. (Allen: 1985)

The introduction of alcohol accompanied the onslaught into Indian lands; the widespread use of alcohol by Native Americans remains a debilitating legacy of colonization. As among other groups, there is a high positive correlation between alcohol use and violent crimes. However, *American Indians and Crime* reported that the 1997 arrest rates for alcohol-related offenses among American Indians was more than double that found among all races. (*American Indians and Crime*: 1999) The introduction of alcohol was a major contributing factor to "the abuse of both Indian women and children by Indian men." (Allen: 1985)

History records the repeated economic exploitation of native peoples by means of seizure of land, forced migration, depletion of life-sustaining herds, and exclusion from educational and business opportunities. As a result, most Native Americans live in a state of poverty, with 40% in rural settings. The health and emotional cost of poverty further increases the demoralization, adding to a sense of helplessness. According to the BIA, Native Americans "experience an extreme lack of economic opportunities and lower than average quality of life when measured against the dominant society." BIA reports that unemployment on Indian reservations averages about 37%. Unemployment rates as high as 65% to 85% have been estimated for certain regions of Indian Country.

Although some tribal governments are working, often in very creative ways, to network with each other and address some of these devastating conditions, many American Indians remain concerned for their safety.

In order to understand the high rate of sexual assault in Indian Country perpetrated against women, one must first see how the historical treatment of native populations has transformed the lives of traditionally peaceful peoples to an existence often marked by crime and impoverishment. Despite some efforts by tribal governments to deal with this reality, Native Americans continue to face oppressive conditions, and for far too many native women, victimization has become internalized, and sexual abuse has become commonplace.

*"Scream the bloody truth of how we've been raped in every possible way, and then rise up and dig the beauty of our people. Rejoice in our survival and our ways."*

*Buffy Sainte-Marie (Cree)*

# Confronting the Realities

Sexual assault in Indian Country must be understood within the context of the prevalence of violence and in conjunction with the effects of historical oppression and complicated jurisdictional issues. (See Page 6, **The Governance of Indian Country**) Together these factors have negatively impacted sexual assault victims by increasing their mistrust, by offering disincentives for reporting and often by providing little recourse for timely justice.

## PREVALENCE OF VIOLENCE IN INDIAN COUNTRY

The average annual violent crime rate among American Indians is approximately 2.5 times higher than the national rate. Rates of violence in every age group are higher among American Indians than that of all races.

**The average annual rate of rape and sexual assault among American Indians is 3.5 times higher than for all races.**

At least 70% of the violent victimization experienced by American Indians is committed by persons not of the same race.

**American Indians and Crime, BJS**

## THE NATIONAL RATE OF REPORTING OF SEXUAL ASSAULTS

It is most common for victims of rape and sexual assault to not report the crime to police, and often to no one. According to the BJS, over 70% of sexual assaults are not reported. This national perspective for reporting magnifies the fact that in Indian Country, the rate of violent crime is 2.5 times greater, and the rape and sexual assault rate is 3.5 times greater. (*American Indians and Crime*: 1999) In fact, in the category of rape, the National Violence Against Women Survey indicated a 15.9 percent victimization rate of American Indians/Alaskan Natives by an intimate partner. This is significantly higher than for women of other races. (Tjaden & Thoennes: 2000)

## REPORTING IS OFTEN ESPECIALLY DIFFICULT FOR NATIVE WOMEN

For Native Americans, who for generations internalized both social and personal oppression, reporting an assault can be extremely difficult. Many have a high level of mistrust for white agencies and helpers. Furthermore, native women often fear being ostracized by their families. Perhaps most relevant to non-reporting are the disincentives and difficulties associated with the legal system that places service and justice behind jurisdictional determination. Before taking any legal action, an Indian woman must first consider the likelihood for justice, reprisals or inaction by the system. Joyce Gonzales in *Native American Survivors* asserts that most Native Americans do not report sexual trauma. (Gonzales: 1999)

## RECORD KEEPING OF SEXUAL ASSAULTS IS POOR AND INCONSISTENT

Complicated jurisdictional issues (See Page 6, **Governance of Indian Country**) have often provided a justification for investigative and prosecuting officials to ignore sexual assaults. (Deer: 1997) The jurisdictional confusion also negatively impacts reporting and consistent record keeping, thereby obscuring a clear picture of the extent of sexual assault.

# ality of Sexual Assault

The following excerpts and quotations portray the sexual assault of Indian women.

Domestic violence and sexual abuse among Native Americans have become a problem of epidemic proportions that effects both old and young.

Sexual assault and domestic violence are so widespread in Indian Country that spousal abuse is occurring in younger and younger couples and it is not uncommon for date rape or date physical abuse to occur among teenagers.

Charon Asetoyer,  
*Seminole Tribune*, June 17, 1999

(AP Anchorage) The Alaska Native Women Sexual Assault Committee was formed in January 1999 after the Federal Bureau of Investigation again ranked Alaska No. 1 for rape. The ranking came as no surprise. Alaska has topped that crime category about two-thirds of the time over the past two decades.

Mary Pemberton AP  
September 25, 2000

In a 1998 broad spectrum survey of 45 American Indian women in urban areas and reservations in northern California, 27% reported being raped, and 11% reported being raped in the last year.

Marcia Chaiken  
Research Director, LINC

It is commonly known throughout Indian Country that 90% of Indian women in chemical dependency treatment are victims of rape and childhood sexual abuse.

Terri Henry (Cherokee)  
Clan Star

A mental health worker for Indian Health Service reported, "It is the expert opinion of this writer after a records review and talking to many other health care providers, that rape, sexual assault and incest occur at a much higher incidence than generally thought."

"Sexual abuse at a young age is quite frequent and almost always involves a relative such as a father, brother, cousin, uncle or grandfather."

Phyllis Old Cross Dog  
*Listening Post*, IHS

In the fall of 1979 the *Navajo Times* reported that rape was the number one crime in the Navajo Nation.

Paula Gunn Allen  
*Violence And The American Indian Woman*

Native advocates across the country are expressing a growing consensus that rape is a far too common experience for native women. It's equally clear that tribal, state and federal institutions that have a responsibility to respond have not prioritized the issue.

Karen Artichoker (Oglala)  
Director, Sacred Circle

In a study by the American Indian Women's Chemical Health Project, 75% of the Indian women surveyed reported having experienced some type of sexual assault in their lives.

Nancy Hawkins et al.  
American Indian Women's Chemical Health  
Project

## The Governance of Indian Country: A Jurisdictional Maze

Although social-cultural entities, federally recognized tribes also exist as political sovereigns with respect to the US Government. Federally recognized tribes maintain government-to-government relationships, and as governments, tribes can make and enforce their own laws. However, two hundred years of tribal-federal contact have greatly reduced tribal authority in certain areas. Over time, confusion over jurisdictional lines has developed, making it difficult for victims to find legal recourse that is accessible, timely and just.

In 1885, the United States passed the **Major Crimes Act** which initiated the first major intervention into Indian Country justice systems; it specified certain lines between federal and tribal authority regarding civil and criminal jurisdictions, but in some cases blurred tribal jurisdictional authority. According to Sarah Deer of the US DOJ Violence Against Women Office, the impact of the Act "has been an inconsistent ability of tribal judicial systems to protect women members. Especially in cases involving Indian women, police may often ignore crimes of abuse on the pretext of jurisdictional uncertainties." (Deer: 1997)

**Especially in cases involving Indian women, police may often ignore crimes of abuse on the pretext of jurisdictional uncertainties.**

Ultimately, jurisdiction has to do with type of crime, the race of perpetrator and victim, and location of crime. The issue of race exemplifies the problem; if both victim and perpetrator are Indian, major crimes may fall under federal and/or tribal jurisdiction; if a non-Indian perpetrator and Indian victim, the jurisdiction is federal; if both the victim and perpetrator are non-Indians, the jurisdiction belongs to the state. Generally, most major crimes fall within the federal scope and misdemeanors are tribal. Tribal courts have no criminal jurisdiction over non-Indians.

In 1953, the situation became more complicated with the enactment of Public Law 280. It transferred federal criminal jurisdiction in Indian Country to certain states. It gave concurrent jurisdiction to tribes and to "280 states" in both investigation and prosecution. Initially conferred on six states, PL 280 also allowed other states an opportunity to apply for this jurisdiction, without agreement of the tribal governments. Since the law was amended in 1968, partly to prohibit this situation from occurring without tribal consent, there has been almost no expansion of PL 280 jurisdiction.

### Consequences of jurisdictional determination and overlap

- Record keeping is poor and uncoordinated among federal, state and local prosecutors, law enforcement officials, tribal officials and service providers.
- Reporting can compromise the victim's safety. Victims grow to feel increasingly helpless about reporting and fearful of reprisals.
- The confusion over jurisdiction often hinders the chances for timely and effective investigations and prosecutions.
- Violators and perpetrators come to understand that, even if they are arrested, prosecution and punishment may not occur, or may carry minimal consequences.



A survey conducted by Mending the Sacred Hoop vividly exemplifies the inconsistent, irregular and uncoordinated nature of record keeping for sexual assault. This survey, which polled the 131 STOP programs, had 22 responses. To the question of "Who in your community gathers statistical information on sexual assault, the respondents provided this array of answers:

Law Enforcement, Courts and Victims  
Police  
DA's Office  
Unknown  
County SA Program / Sheriff's Office  
Sheriff's Office / Tribal Police  
No one  
No one  
No one  
Rape Crisis Team  
No one

Law Enforcement /Stop Grant  
Tribal Police  
No one  
D.V. Program Director  
Law Enforcement  
Tribal Police  
Tribal Police / Tribal Prosecution  
Clinic / County Sheriff's Office  
Tribal Police, DA's Office  
Law Enforcement  
Tribal Police

In the areas of sexual assault, jurisdictional confusion and overlap make it particularly difficult for everyone involved. Federal, state, local, and tribal law enforcement officials must all try to navigate the murky jurisdictional waters. A crime committed in Indian Country can be subject to investigation by local law enforcement, consisting of Tribal and/or BIA police, or state troopers, and/or Federal law enforcement personnel from the BIA or the FBI. In some cases, the difficulty over determination of criminal jurisdiction, particularly when there may be concurrent jurisdictions, promotes apathy among officials that can translate into untimely action, or none at all. Victims and service providers must also consider their rights and opportunities for justice before engaging a path of action.

The jurisdictional maze hampers the delivery of justice and carries heavy consequences for victims, service providers and for obtaining a realistic picture of sexual assault in Indian Country.

*"We do not intend to commit crimes. If there's a crime against looking for justice, where do we go to find justice here in America?"*

*Gladys Bissonette (Oglala Sioux)*



## An Underserved Population

Clearly, violent victimization, internalized oppression, and complicated issues of jurisdictional determination have all placed American Indian women at particular risk for sexual abuse both from non-Indians and Indians. Non-Indians commit about 70% of the **reported** crimes against American Indians. (*American Indians & Crime: 1999*) Other evidence points to widespread sexual assault by a relative or family member. Most of these assaults are not reported. This reflects the difficulty associated with speaking out about family crimes that are likely to be met with denial or shame, and is reinforced by distrust of non-native agencies. (Gonzales: 1999)

Little documentation detailing the present extent of sexual assault of Indian women exists. Major contributing factors for the lack of available data include the low priority society gives this problem, limited funding for research and the lack of reporting by Indian women fearful of the treatment they will receive from the criminal justice system.

*Non-Stranger Sexual Assault  
In Indian Country  
Bonnie Clairmont (Ho Chunk)*

The atrocities that occurred within Indian Country have led to significant underreporting and high rates of sexual abuse. However, underreporting does not solely explain the lack of services going to sexual assault victims. Most of the monies that have gone into Indian Country under the Violence Against Women Act have gone into programs and shelters that fall more broadly into the category of violence which has provided little separate attention for the unique needs of the sexually assaulted.

Perhaps the most significant reason for native women being underserved is due to our lack of awareness of the extent, costs and devastation of the sexual violence. We are dealing with growing tolerance of abuse by victims and community, apathy by many officials, and lack of real awareness by government. In short, we have not confronted the crimes of sexual assault perpetrated so consistently against Indian women.

## Confronting Sexual Violence

In order to confront crimes of sexual violence, a clearer understanding of their extent in Indian Country must become a priority. Statistics, research and resources must form the foundation for this task. A number of national organizations and agencies consider the problem of obtaining a clearer picture of the extent of sexual assault in Indian Country to be a kind of "chicken or egg" problem. In order to document the problem, resources and research must be forthcoming, and in order to obtain the resources and conduct the research, the severity of the problem must be justified and documented.

Any serious research in this area should consider many of the complexities highlighted in this pamphlet which imply a methodology that includes promoting awareness among Indian women in conjunction with careful investigation at the grassroots level, among the tribes and local service providers. Culturally sensitive research methods must be reinforced with culturally competent investigators. Some researchers have noted that it is most likely that differential amounts and patterns of abuse exist among different tribes. Investigation of these differences could offer researchers valuable insights.

In order to obtain justice and services, society must assure Indian women who are victims of sexual assault that sexual violence will not be tolerated, that they have a right to speak out and that their voices will be heard.

**As a faint voice echoing  
In a canyon, in an abyss  
Of cries we do not hear.**

# The NSVRC invites responses and comments to this pamphlet as well as any resources or information relevant to this topic.

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