End Rape Against Native Women

Native American and Alaska Native women are 2.5 times more likely to be sexually assaulted or raped than other women in the United States.[1] One in three Native women will be raped during their lifetime.[2] At least 86% of perpetrators of these crimes are non-Native men.[3]

Native women deserve justice for the crimes committed against them, but they are not getting it. The first step to ensuring a successful prosecution is an effective sexual assault forensic examination. However, Indian Health Service (IHS) clinics and hospitals in Indian country often do not:

- consistently provide rape kits;
- have someone on site trained to administer the rape kit;
- ensure staff testify if a rape is ever brought to trial and the rape kit is in evidence; and
- adequately track data on sexual assault services provided.

Barriers to Justice

Indigenous women who are survivors of sexual assault face barriers to seeking justice. The time it takes to establish whether tribal, state, or federal authorities have jurisdiction can result in inadequate investigations or in a failure to respond at all. The federal government's steady erosion of tribal authority, as well as the chronic underfunding of law enforcement agencies and health service providers, compounds the failure to protect Indigenous women from sexual violence.[4] One central piece to justice for Native women is access to rape kits. Yet, access to rape kits in Indian Health Service Centers is uneven, leaving many women without the options they need and deserve.

The Role of the Indian Health Service and barriers to care

Sexual assault forensic examinations can provide crucial evidence for a successful prosecution if they are collected and stored properly. However, the quality of provision of such services to Native American and Alaska Native women varies considerably from place to place. The IHS must provide survivors of sexual violence with adequate and timely sexual assault forensic exams, ensure that such examination kits are stored properly, and implement sexual assault protocols equally in IHS centers throughout Indian Country.

Main barriers to post-rape care

- IHS facilities are severely underfunded, and lack resources and trained staff, including sexual assault nurse examiners. This impacts a survivor's ability to receive a forensic medical examination.
- Survivors may have to travel over 150 miles to reach a facility where a forensic examination can be performed.
- Mistakes are often made by law enforcement personnel who are responsible for properly storing and analyzing evidence collected in rape kits.

J is a Cherokee woman living in Tahlequah, Oklahoma. Her sexual assault forensic examination was destroyed. Because of the lack of evidence available, the District Attorney advised her to drop the complaint after the preliminary hearing.[5]

The preservation and storage of medical forensic evidence kits is not regulated centrally by IHS. This often results in improper evidence preservation which reinforces the barriers to justice and post-rape care that survivors encounter.

Tribal Law and Order Act - and remaining problems

Though the Tribal Law and Order Act was signed into law in 2010, the IHS still faces many challenges in providing Native women with post-rape care.

A 2011 Government Accountability Office (GAO) report found that:

- IHS headquarters only had limited information on the ability of its facilities to provide forensic examinations; it **does not track the number of sexual assault forensic examinations** performed at its facilities.
- 19 out of 45 IHS and tribally operated facilities were **unable to provide sexual assault forensic evidence collection exams** for either adults or children and instead had to refer survivors to other facilities.
- Of the 26 facilities that do provide sexual assault evidence exams to either adults or children, 6 of them **did not have providers with any specialized training** or certification in sexual assault medical forensic exams.
- The preservation and storage of medical forensic evidence kits is not regulated centrally by the IHS, but rather, is coordinated by hospitals and local law enforcement, often resulting in **improper evidence preservation**.[6]

An Alaska Native girl told Amnesty International that her sexual assault forensic examination was performed by a young white male doctor, even after she had asked for a woman. She said the doctor told her that he had never done a sexual assault forensic examination before and asked her if this was the first time that she had been raped.[7]

The IHS has made some progress in developing policies and procedures regarding rape kit provision for survivors of sexual abuse; however, major challenges remain in standardizing and sustaining the provision of medical forensic services:

- overcoming long travel distances for survivors;
- establishing plans to help ensure that hospitals consistently implement and follow the new policy;
- developing similar policies for domestic violence and child sexual abuse; and
- developing sustainable staffing models that overcome problems with staff burnout, high turnover, and compensation.[8]

Impact on Children

Children are also at high risk of sexual violence and are in need of holistic care, yet the IHS was cited in the 2011 GAO report for not having developed or implemented the Child Maltreatment Policy.[9] Despite requests by stakeholders, such a policy has not been made available for review or comment, and as of now, no policy on Child Maltreatment has been implemented.

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1 Steven W Perry, *American Indians and Crime – A BJS Statistical Profile 1992-2002*, Bureau of Justice Statistics, US Department of Justice, Office of Justice Programs, December 2004, available at https://www.bjs.gov/content/pub/pdf/aic02.pdf.
2 Patricia Tjaden & Nancy Thoennes, US Department of Justice, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women*, 2000.
3 See for example, Steven W Perry, *American Indians and Crime – A BJS Statistical Profile 1992–2002*, Bureau of Justice Statistics, US Department of Justice, Office of Justice Programs, December 2004, available at https://www.bjs.gov/content/pub/pdf/aic02.pdf, visited 30 November 2006 and Department of Justice Table 42: Percent distribution of single-offender victimizations, by type of crime and perceived race of offender, Bureau of Justice Statistics, US Department of Justice, 2004.
4 Amnesty International, *Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA*, 2007.
5 Amnesty International, *Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA*, 2007.
6 Tribal Law and Order Act, Section 266 (a), 2010, available at https://www.congress.gov/111/bills/hr725/BILLS-111hr725enr.pdf.
7 General Accounting Office, "Indian Health Service: Continued Efforts Needed to Help Strengthen Response to Sexual Assaults and Domestic Violence" GAO-12-29: Published: Oct 26, 2011, available at http://www.gao.gov/products/GAO-12-29.
8 Amnesty International, *Maze of Injustice: The failure to protect Indigenous women from sexual violence in the USA*, 2007.
9 General Accounting Office, "Indian Health Service: Continued Efforts Needed to Help Strengthen Response to Sexual Assaults and Domestic Violence" GAO-12-29: Published: Oct 26, 2011, available at http://www.gao.gov/products/GAO-12-29.

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