

DISCUSSION GUIDE

# KIND HEARTED WOMAN

a David Sutherland film



A CO-PRESENTATION OF

**FRONTLINE** [i]NDEPENDENT LENS

A PILLAR PROGRAM OF

**WOMEN  
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# Using this Guide

This discussion guide is designed as a tool to facilitate dialogue, and deepen understanding of the complex issues in the film *Kind Hearted Woman*. It is also an invitation to not only sit back and enjoy the show—but to step up and take action. This guide is not meant to be a comprehensive primer on a given topic. Rather, it provides important context, and raises thought provoking questions to encourage viewers to think more deeply. We provide suggestions for areas to explore in panel discussions, in the classroom, in communities, and online. We also provide valuable resources, and connections to organizations on the ground that are fighting to make a difference.



**You are not alone.**



## Introduction Letter from Robin Poor Bear

It is with a humble heart that I welcome you into my life. Please know that witnessing my story may trigger intense reactions in those who are still in situations of abuse and recovery. Please also know you are not alone. You are the reason I chose to participate in this film, because I made a promise to myself that if others were inspired to find help and gain a better understanding, then this film would be worth doing.

Throughout my entire life I have struggled with the aftershock of trauma from my childhood experiences of sexual abuse. I had no idea who “Robin” was, certainly no idea who “Kind Hearted Woman” (my Native American name) was. I struggled with the question of, why? Why was I abused over and over and over again?

I struggled until, one night after I had prayed and asked, why? I had a dream (vision) of someone dying in the family and everyone in the house knew what had happened to the person but would not tell. They would not say anything when the police came and questioned everyone. Then, right before they left, I finally found the strength to open my mouth and say “I KNOW WHAT HAPPENED.” When I woke up, I knew then and there that I needed to make the commitment to do the film. I needed to bear witness to my own life so that others would learn from my experience and know that there is a way out of the darkness.

Once I made that decision, I lost certain family members and had no idea of what was to come ahead for me. I never anticipated that my children would be taken and kept from me; in my culture it is not acceptable for Native American women to talk about the sexual abuse they experienced as a child. They certainly don’t go out and make a documentary film about it.

I was introduced to the filmmaker David Sutherland through my local victim service program director Linda Thompson. I was terrified that entire week before he came to the Spirit Lake Reservation because there were only two other people who knew parts of my story at the time. One was my therapist and the other was a person who called me her “sister.” David was the third person I had ever told about what had happened to me throughout my childhood.

After I met David, I kept in touch through email. I emailed him my “Standing Proud and Standing Tall” poem. He listened to me, not just as a subject of his film, but as a human being. He knows everything there is to know about me. I love and trust him that much.

As a result of working on the film and opening up my heart, I began to grow as a mother and as a woman. I sobered up, and I began to speak out. I got to reflect on Who am I? I saw my faults and weaknesses and worked through them. I found my own strength the more and more I told my story. My children also wanted to tell their story as they saw and felt the honor of speaking out to people who listened, who cared, and most importantly, who BELIEVED in them.

Everything I put in place for myself, I also put in place for my children, as they need to find their voice and know they matter as well. We have family meetings to discuss changes in our lives such as: new job, new home, school, etc. I started this to build a strong foundation for them after they were returned to my care. They have seen me growing and have begun to grow themselves. They would talk to David about whatever was going on in their lives at the time; he is a very important part of our family. He may never admit it, but he saved a woman and two children. Just by listening.

My hope is that as many Native and non-Native Americans as possible see this film about overcoming the trauma of abuse, chemical dependency, and sexual assault. By sharing my story, I want to let people know YOU ARE NOT ALONE.

*Note: After completing the film, Robin legally changed her last name to Poor Bear. In the film, her last name appears as Charboneau.*

# The Film

Acclaimed filmmaker David Sutherland (*The Farmer's Wife, Country Boys*) returns to *Frontline* with ***Kind Hearted Woman***, a special two-part series that creates an unforgettable portrait of Robin Poor Bear, a 32-year-old divorced single mother and Oglala Sioux woman living on North Dakota's Spirit Lake Reservation. Sutherland follows Robin over three years as she struggles to raise her two children, further her education, and heal herself from the wounds of sexual abuse she suffered as a child.

Viewers first meet Robin as she trudges across Spirit Lake Reservation in minus-eight-degree weather, returning home after a 20-day stay in rehab. "Now I'm sober, and I'm really, really scared I'm going to start drinking again," she says. The series follows Robin as she confronts the aftereffects of the sexual abuse she suffered as a child and fights to keep her family together through a custody battle with her ex-husband over their two children, Darian and Anthony—all while pursuing her dream of a college degree and a career as a social worker.

When Robin's daughter reveals that her father has sexually abused her, echoing Robin's own childhood abuse, it ignites both emotional turmoil and a dramatic criminal trial in federal court, during which Darian will have to testify against her father.

Having lost custody of her children to the tribe, a move Robin believes is the result of her ex-husband's connections to Tribal leaders, she regains custody after her ex-husband is convicted of abusive sexual contact with his daughter. She moves to International Falls, Minnesota, for a fresh start and finds work as a supervisor of visits between troubled families and as a sexual abuse educator. She also enters into a new romantic relationship, and begins a long, arduous journey to heal herself and her children—and her community. Robin's daughter, Darian, organizes an international basketball tournament fundraiser for domestic

abuse victims, and the family participates in a community walk to help raise awareness. "A march like this could never happen on the Spirit Lake Reservation," Robin observes, "because there, we just don't talk about abuse."

Sutherland's film of Robin's journey is told with the disarming intimacy that riveted viewers of his previous films *The Farmer's Wife* and *Country Boys*. Viewers gain access to heartbreaking scenes of Robin returning her children to her ex-husband after a Mother's Day visit; of intimate discussions between mother and daughter about how Darian can protect herself from abuse; of the agonies of Robin's young son, Anthony, as he struggles with the emotional pain of not being able to see his father; and of scenes deep inside the relationship between Robin and Darren, her boyfriend, as they face their conflicts and their fears. "As in my other films profiling rural poverty," says Sutherland, "in ***Kind Hearted Woman***, I was trying to reach out to another forgotten corner of the American landscape, this time to put a face on a Native family so that we could see them close-up with all the detail that illuminates the rich reality of their lives."

Robin's ultimate emergence as a powerful public speaker on abuse provides a final sign of her growing emotional health and personal triumph as both a professional and a mother.

In her first major public presentation about her own childhood abuse, Robin concludes: "The last thing that I need to say that I still struggle with is not just how to build a family and to be a mom, but ... also the boundaries, the boundaries within a relationship. Nobody never taught me how to be a wife or a mother, because it was married men who were molesting me. So I still have a long way to go. I still have a lot of things to learn. But it's just one step at a time."

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## **A Note to Facilitators**

*Robin's story is one of hope and resiliency. Her journey, however, is one marked by many adversities. Sadly, as you will learn from this discussion guide, the statistics on the traumas that Robin and her family endure are not unique to any community. It is important to understand that this film has the potential to trigger traumatic memories and/or emotions from the audience. Be prepared. Partner with local organizations that work with survivors of domestic and sexual violence. These organizations can provide resource materials and pointers for handling discussion questions and conversations, to minimize retraumatization. You will find links to several helpful organizations where you can find more information in the "Resources" section of this guide.*

## **Selected Individuals Featured in Kind Hearted Woman**

**Barney**—Robin's brother

**Kim Carlson**—Director, Spirit Lake Victims of Abuse Center

**Sherri Withers**—Robin's Alcoholics Anonymous sponsor

**Arlen French**—Robin's father

**Jodie**—Robin's cousin; Former foster child

**Robert Ackre**—Robin's lawyer

**Joey**—Robin's old high school boyfriend

**LeeAnn Meer**—Robin's supervisor at Friends Against Abuse

**Gary Delorme**—Federal prosecutor

**Darren**—Robin's new boyfriend, then husband

# Glossary

**Domestic violence** and **emotional abuse** are behaviors used by one person in a relationship to control the other. Violence can be criminal and includes physical assault (hitting, pushing, shoving, etc.), sexual abuse (unwanted or forced sexual activity), and stalking.

**Source**

» [www.domesticviolence.org/definition](http://www.domesticviolence.org/definition)

**Intimate partner violence (IPV)** describes physical, sexual, or psychological harm by a current or former partner or spouse. This type of violence can occur among heterosexual or same-sex couples and does not require sexual intimacy. IPV can vary in frequency and severity, occurring on a continuum, ranging from one hit that may or may not impact the victim, to chronic, severe battering. IPV includes four types of violence: physical, sexual, psychological/emotional, and threats of physical or sexual violence.

**Source**

» [www.cdc.gov/ViolencePrevention/intimatepartnerviolence/definitions.html](http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/definitions.html)

**Sexual Assault** is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape.

**Source**

» [www.ovv.usdoj.gov/sexassault.htm](http://www.ovv.usdoj.gov/sexassault.htm)

**Sovereignty** is the quality of having independent authority over a geographic area, such as a territory or a reservation. It encompasses the right to self-government without interference from outside. Historically, the idea that a political state could be sovereign depended on its capacity to guarantee the best interests of its own citizens, and on recognition of its power to self-govern from other political states.

**Source**

» [www.thefreedictionary.com/sovereignty](http://www.thefreedictionary.com/sovereignty)

» Bateman, C.G. (15 February 2011). *Nicaea and Sovereignty: Constantine's Council of as an Important Crossroad in the Development of European State Sovereignty*. University of British Columbia. pp. 54–91.

**Trauma** refers to an injury that can be either a physical injury or wound to the body, or an emotional shock produced by an extremely distressing experience that may have long-lasting psychological effects.

## NATIVE AMERICAN TRIBES IN THE UNITED STATES TODAY

Currently there are 566 federally recognized Native American tribes in the continental United States and Alaska. A *federally recognized* tribe is defined as “a Native American or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States.” These tribes retain the responsibilities, powers, limitations, and obligations that are attached to their designation. They are also eligible for funding and services from federal agencies such as the U.S. Department of Health and Human Services’ Indian Health Services and the Bureau of Indian Affairs.

Federally recognized tribes possess certain inherent rights of self-government (e.g., tribal sovereignty) and are entitled to receive certain federal benefits, services, and protections because of their special relationship with the United States.

A *federal Indian reservation* is an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action. Indian reservations are permanent tribal homelands, but the federal government holds title to the land in trust on behalf of the tribe.

Approximately 56.2 million acres are currently held in trust by the United States for various Native American tribes and individuals. There are approximately 326 Indian land areas within the boundaries of the United States that are administered as federal Indian reservations (also pueblos, rancherias, missions, villages, and communities). The largest is the 16 million-acre Navajo Nation Reservation located in Arizona, New Mexico, and Utah. Many of the smaller reservations are less than one thousand acres.

Some reservations are the remnants of a tribe’s original land base. The federal government established others to resettle Native American people after they were forcibly relocated from their homelands. Not every federally recognized tribe has a reservation. Federal Indian reservations are generally exempt from state jurisdiction, except when Congress specifically authorizes such jurisdiction.

It is important to note that all 566 of these federally recognized tribes, and countless nonrecognized tribes, all refer to themselves by their tribal names. Since no term is universally utilized, the term *Native American* will be used for the purpose of conformity in reporting, and is in no way meant to minimize, exclude, or generalize any individual or tribe.

# Facing the Challenge of Domestic Violence and Sexual Violence on Tribal Lands

Violence against women and children in the United States, most often occurring within families, is widespread and affects people from all ethnic groups and income levels. The country has made progress in the fight against domestic and sexual violence, but the problems are still pervasive. Nearly one in four women in the United States has experienced violence at the hands of a current or former spouse or boyfriend. And although child sexual abuse has reportedly dropped significantly since 1993, victim advocacy groups like Stop it Now state that 88 percent of sexual abuse of children is not reported. (About 90 percent of victims know their abusers.)

Native American women and children experience sexual violence at a rate higher than any other ethnicity, according to the U.S. Department of Justice. Tribal leaders, organizations, policy advocates, and service providers have coordinated a massive effort to defend and protect the rights of women and children on tribal lands. Native American people living on reservations today must deal with intense economic and interpersonal challenges. While a comprehensive assessment of the devastation caused by colonization, assimilation, and removal remains elusive, there is clear data about life on the reservation. This data is overwhelmingly grim. The statistics are especially disturbing when examining the levels of violence committed against Native Americans both on and off the reservations.

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## Sources

- » Centers for Disease Control and Prevention. "Adverse Health Conditions and Health Risk Behaviors Associated with Intimate Partner Violence—United States, 2005." *Morbidity and Mortality Weekly Report* 57, no. 5 (February 8, 2008): 113-117. [www.cdc.gov/mmwr/preview/mmwrhtml/mm5705a1.htm](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5705a1.htm)

## Victimization

Although Native Americans make up only one percent of the general population, they are twice as likely as other Americans to be the victims of a crime (all races: 50 per 1,000; Native Americans: 124 per 1,000). Overall, the rate of violent crimes committed against Native American women is 98 per 1,000. This is more than twice that of white women (40 per 1,000).

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## Sources

- » Greenfeld, Lawrence, and Steven Smith. *American Indians and Crime*. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 1999. [bjs.gov/index.cfm?ty=pbdetail&iid=387](http://bjs.gov/index.cfm?ty=pbdetail&iid=387)
- » Wallace, L.J. David, Alice Calhoun, Kenneth Powell, Joann O'Neil, and Stephen James. *Homicide and Suicide Among Native Americans 1979–1992*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 1996.

## Poverty

Poverty creates challenging environmental conditions that cause increased stress and human trauma. Approximately 26 percent of Native Americans live in poverty. This compares to 13 percent of the general population and 10 percent of white Americans who live in poverty. Single-parent Native American families have the highest poverty rates in the country.

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## Sources

- » The Children's Bureau. *Child Maltreatment 2002*. Washington, D.C.: Administration on Children, Youth and Families, U.S. Department of Health and Human Services, 2002.

# Alcoholism

According to the Indian Health Services, the rate of alcoholism among Native Americans is six times the national average. Peer-related binge drinking on a regular basis among Native Americans has been found to be associated with high rates of alcohol-related criminal activity, death, and accidents. In a 1998 study, heavy alcohol use was reported as having occurred in 62 percent of the violent incidents involving men and 74 percent of the incidents involving women. It is also important to note, however, that alcohol abstinence rates are higher among Natives than non-Natives, and that there is huge variance in attitudes toward alcohol consumption according to gender, age, and community.

## Sources

» American Indian Development Associates (AIDA). *Promising Practices and Strategies to Reduce Alcohol and Substance Abuse among American Indians and Alaska Natives*. U.S. Department of Justice, 2000.

These startling statistics give rise to a host of generalizations and negative stereotypes about “the drunken Indian” that undermine understanding the roots of the problem and are counterproductive to working toward sustainable solutions. As with other social problems reported as being high among Native people, recent efforts by tribes and communities have had an impact on the use of alcohol, leading to the growing movement toward prohibition policies (currently on 60 percent of reservations), treatment and prevention programs, and education for many Native individuals and Native tribes/nations. The most successful of these programs build on local tribal beliefs and traditions.

» Earle, Kathleen E. *Child Abuse and Neglect: An Examination of American Indian Data*. Portland, OR: National Indian Child Welfare Association, 2000.

# Sexual Assault

Federal government studies consistently show that Native American women experience much higher levels of sexual violence than other women in the United States. Data gathered by the U.S. Department of Justice indicates that Native American women are more than two and a half times more likely to be raped or sexually assaulted than other women in the United States (five vs. two per one thousand). Additionally, more than one in three Native American women will be raped during their lifetime (34 percent). The risk of rape for non-Native women is less than one in five (20 percent).

## Sources

» Perry, Steven W. *American Indians and Crime: A BJS Statistical Profile, 1992-2002*. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 2004.  
[bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=386](http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=386)

» Tjaden, Patricia, and Nancy Thoennes. *Full Report of the Prevalence, Incidence, and Consequences of Violence against Women*. National Institute of Justice /Centers for Disease Control and Prevention, 2000.  
[www.ncjrs.gov/txtfiles1/nij/183781.txt](http://www.ncjrs.gov/txtfiles1/nij/183781.txt)

# Domestic Violence/Intimate Partner Violence (IPV)

Several studies have found that Native American women suffer domestic violence and physical assault at rates far exceeding women of other ethnicities and locations. A study from 1998 using a large national probability sample (n=8000) found that Native American women were the most likely racial group to report a physical assault by an intimate partner. A 2004 Department of Justice report estimates these assault rates to be as much as 50 percent higher than the next most victimized demographic. In a 2008 Center for Disease Control study, 39 percent of Native women surveyed were victims of IPV during their lifetime, a higher rate than found in other groups.

## Sources

» Brief of National Network to End Domestic Violence et al. as Amici Curiae Supporting Respondents at 2, *Plains Commerce Bank v. Long Family Land and Cattle Co.*, 128 S. Ct. 2709 (2008) (No. 07-411).

» Centers for Disease Control and Prevention. “Adverse Health Conditions and Health Risk Behaviors Associated with Intimate Partner Violence—United States, 2005.” *Morbidity and Mortality Weekly Report* 57, no. 5 (February 8, 2008): 113-117.  
[www.cdc.gov/mmwr/preview/mmwrhtml/mm5705a1.htm](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5705a1.htm)

» Perry, Steven W., *American Indians and Crime: A BJS Statistical Profile, 1992-2002*. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 2004.  
[bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=386](http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=386)

» Tjaden, Patricia, and Nancy Thoennes. *Full Report of the Prevalence, Incidence, and Consequences of Violence against Women*. National Institute of Justice /Centers for Disease Control and Prevention, 2000.  
[www.ncjrs.gov/txtfiles1/nij/183781.txt](http://www.ncjrs.gov/txtfiles1/nij/183781.txt)

» U.S. Department of Justice. *Violence against American Indian and Alaska Native Women and the Criminal Justice Response: What Is Known*. 2008:7

## Non-Native/ Different-Race Offenders

Non-native people commit over 80 percent of the violence that is experienced by Native Americans. The rate of violence from a person of a different race is substantially higher for Native Americans than for African Americans or white Americans. This

statistic is significant for Native people because there are jurisdictional problems that limit tribes' abilities to prosecute these non-Native offenders for crimes (these are described in more detail on page 8 in the section on the Violence Against Women Act).

### Sources

- » Greenfeld, Lawrence, and Steven Smith. *American Indians and Crime*. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 1999.  
[bjs.gov/index.cfm?ty=pbdetail&iid=387](http://bjs.gov/index.cfm?ty=pbdetail&iid=387)
- » Wallace, L.J. David, Alice Calhoun, Kenneth Powell, Joann O'Neil, and Stephen James. *Homicide and Suicide among Native Americans 1979–1992*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 1996.

## Child Sexual Abuse and Incest

Child abuse and child sexual abuse is a national problem. In 2002, the National Child Abuse and Neglect Data System reported fourteen hundred child fatalities resulting from abuse or neglect. According to the Bureau of Justice Statistics, 33 percent of all victims of sexual assault were aged 12 to 17, while 34 percent were under 12 (in a sample of those cases reported to law enforcement from 1991 to 1996).

Many cases of child abuse are not confirmed by social services agencies, which face the dilemma of whether or not to report a crime and potentially cause more harm to the children by separating them from their families. Identifying the perpetrators is a process fraught with liability and fear of making false accusations. The problem is compounded because child survivors of child abuse, especially incest, rarely come forward to report these crimes due to fear of causing harm to their family members.

Unfortunately, survivors often experience the aftermath of child abuse well into adulthood. Research links early childhood abuse to long-term problems such as low self-esteem, substance abuse, poor academic performance, early and risky sexual behaviors, suicide attempts, and criminal behavior—often perpetuating the multigenerational cycle of abuse. While there is a growing effort to increase training for pediatricians who wish to specialize in identifying and treating child abuse, we have a long way to go.

Confronting child abuse on reservations can be even more complex. Recent studies suggest that the rates of child sexual abuse among Native Americans largely reflect those of the larger

society: 14 to 18 percent of females and 2 to 3 percent of males. However, child sexual abuse rates differ from tribe to tribe. A study of adults from a Southwestern tribe found that 49 percent of the adult women surveyed and 14 percent of the adult men had experienced child sexual abuse. The majority of perpetrators were either family members or others known to the victim.

Most experts agree that cases of child sexual abuse and incest go widely unreported. Adding to the reluctance for Native Americans to report these cases is the historical trauma of non-Natives forcing the removal of Native children from their homes and communities (see the history of boarding schools and the Indian Child Welfare Act of 1978 on page 11). Most data on child abuse is gathered by state agencies (police and social workers), who more often than not have very problematic relationships with tribes. While most tribes have agencies dedicated to protecting children from abuse, they often lack the technical infrastructure and resources to develop an effective reporting system for these crimes.

The relatively high rate of child abuse on reservations is related to the problems of poverty and alcohol and substance abuse. Survivors of incidents of abuse report that 55 percent of the perpetrators were under the influence of alcohol or drugs, compared to 44 percent for whites and 35 percent for African Americans. However, negative stereotypes about alcohol use on reservations also contribute to the higher incidence of removal of children from Native American homes than from non-Native homes where alcohol was also present.

### Sources

- » Earle, Kathleen E. *Child Abuse and Neglect: An Examination of American Indian Data*. Portland, OR: National Indian Child Welfare Association, 2000.
- » Malley-Morrison, Kathleen, and Denise A. Hines. *Family Violence in a Cultural Perspective: Defining, Understanding, and Combating Abuse*. Thousand Oaks, CA: Sage Publications, 2004.
- » National Clearinghouse on Child Abuse and Neglect Information. *Child Abuse and Neglect Fatalities: Statistics and Interventions*. Washington, D.C.: Children's Bureau, U.S. Department of Health and Human Services, 2004.
- » Rape, Abuse, and Incest National Network (RAINN). "Statistics." [www.rainn.org/statistics](http://www.rainn.org/statistics)
- » Sharples, Tiffany. "Study: Most Child Abuse Goes Unreported." *Time* (December 2, 2008). [www.time.com/time/health/article/0,8599,1863650,00.html#ixzz2MiXQSG2i](http://www.time.com/time/health/article/0,8599,1863650,00.html#ixzz2MiXQSG2i)
- » Steele, Paul, Nell Damon, and Kristine Denman. *Child Sexual Abuse on New Mexico Tribal Land 1999-2004*. U.S. Department of Justice, 2005. [www.ncjrs.gov/pdffiles1/bjs/grants/212236.pdf](http://www.ncjrs.gov/pdffiles1/bjs/grants/212236.pdf)
- » Indian Affairs, U.S. Department of the Interior. "Frequently Asked Questions." [www.bia.gov/FAQs/index.htm](http://www.bia.gov/FAQs/index.htm)

# Obstacles to Justice

Native American tribes face significant challenges to protecting their communities against violence and abuse. The current state of U.S. federal law compounds and even contributes to these challenges. Legally, federally recognized Native American tribes are sovereign, with jurisdiction over their citizens and land. Tribes maintain government-to-government relationships with each other and with the U.S. federal government. The federal government has a special legal obligation to support tribal governments in protecting Native American women from sexual violence. This *federal trust responsibility* is set out in treaties between tribal nations and the federal government, further solidified in federal law, federal court decisions, and policy. In practice, however, the complex and confusing rules that govern the relationship between tribal, state, and federal agencies undermine efforts to seek justice for the majority of violent acts committed against Native people.

Impunity and a lack of accountability are serious obstacles for Native American women and children who are seeking justice as survivors of domestic and sexual violence. The U.S. Supreme Court maintains that tribal governments may not prosecute non-Natives. In most cases, federal courts have exclusive jurisdiction over Non-Natives who commit acts of domestic and sexual violence on reservation property. These judicial systems, however, rarely prosecute these kinds of cases due to lack of resources, confusing jurisdiction policies, and other factors. Tribal courts have historically been severely restricted in their ability to place non-

Native offenders in jail or sentence them for their crimes, and as a result most non-Native offenders pay very few consequences for their crimes. This legal loophole has resulted in widespread violence and criminal activity being committed by non-Natives on tribal lands.

Police responses to crimes also contribute to this culture of impunity. Federal and state governments normally provide inadequate funds for policing tribal lands, and officers often have to cover large rural territories. This results in lengthy delays to investigations of crimes, especially those involving domestic violence or sexual assault. Amnesty International reports that police officers often hold negative stereotypes of Native Americans and rarely receive training for how to respond to sexual crimes, resulting in insensitive treatment of victims and significant underreporting of crimes.

Recent changes to federal law, however, mark a historic shift towards greater justice for survivors. Both the Tribal Law and Order Act of 2010, and the recent passage of the Violence Against Women Act (VAWA) call for more funding and greater cooperation between federal, state, and tribal agencies when investigating and prosecuting crimes of domestic and sexual violence (see text box on VAWA below).

(For a more detailed history of jurisdictional issues between the federal government and Native American tribes, see the Appendix at the end of this guide.)

## Sources

- » Amnesty International USA. *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*. New York, 2007. [www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/maze-of-injustice](http://www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/maze-of-injustice)

## VIOLENCE AGAINST WOMEN ACT (VAWA)

**The Violence Against Women Act of 1994 (VAWA)** is a U.S. federal law (Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355) signed as Pub.L. 103–322 by President Bill Clinton on September 13, 1994. The act provides \$1.6 billion toward investigation and prosecution of violent crimes against women, imposes automatic and mandatory restitution on those convicted, and allows civil redress in cases prosecutors choose to leave unprosecuted. The act also established the Office on Violence Against Women within the Department of Justice. Male victims of domestic violence, dating violence, sexual assault, and stalking may also be covered.

A portion of the funds are allocated to strengthening law enforcement and prosecution strategies to combat violence against Native American women and children (funds for research on violence against Native American women and a national tribal sex offender registry) and developing and strengthening victim services, particularly those dealing with violent crimes against Native American women.

In early 2013, VAWA went up for reauthorization (S.47); this time, it included provisions that would improve VAWA programs and strengthen protections for all victims of violence. The bill included historically important tribal provisions that would enable tribes to address domestic violence on tribal lands. S. 47 passed with a vote of 78–22. President Obama signed the bill into effect in March 2013.

# Understanding the Root Causes

While domestic violence and sexual abuse occur across American society, the cultural disintegration experienced by Native Americans as a result of European colonization added another dimension to the development of violent and abusive behavior within this group. The following section of the guide provides historical background that is crucial to the understanding of Robin's story and the current crisis of violence against women and child sexual abuse in the Native American community.

## Colonization and the Disruption of Culture

The arrival of European explorers to the North American continent initiated a legacy of oppression and racism against Native peoples, as well as sexual violence against Native women. In 1830, President Andrew Jackson signed the Indian Removal Act, giving the federal government the power to negotiate with the Native Americans in the southern United States their removal to federal territory west of the Mississippi River in exchange for their traditional homelands. The act was signed with the intention of “voluntary” relocation, but in 1838 over fifteen thousand Cherokee, Muscogee (Creek), Seminole, Chickasaw, and Choctaw from Georgia, Tennessee, Alabama, North Carolina, and Florida were forcibly removed from their homelands. These people were uprooted to new “Indian territory” located over two thousand miles away in present-day Oklahoma. During this “Trail of Tears,” settlers and soldiers killed many people, including elders and small children, and raped many Native American women.

The Trail of Tears is only one of many examples of violent relocation. It began a process that took place across the country, forcing Native peoples to leave their homelands either through coercion or as the consequence of wars waged to open up tribal lands to settlement. The Dawes Act of 1887 authorized the government-imposed allotment of tribal lands in severalty to individuals. This act was promulgated as a way to create individual homesteads for Native Americans and it was regarded as a success for the United States because it shifted people who lived collectively toward a way of life that rewarded individualism. Land allotments were given in exchange for U.S. citizenship and giving up some forms of tribal self-government and institutions. The ultimate result of the Dawes Act was the transfer of an estimated 93 million acres (380,000 km<sup>2</sup>) of traditional tribal land away from Native American control.

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### MANIFEST DESTINY

**Manifest Destiny** is the belief that it was the destiny of the United States to expand its territory and influence “from sea to shining sea.” The term was first used in 1845 by John O’Sullivan, an American newspaper editor who argued for the proposed annexation of Texas. In his editorial, O’Sullivan stated that Providence ordained that it was America’s “manifest destiny to overspread the continent.” American expansion had already been underway prior to this—the Louisiana Purchase in 1803 had increased U.S. territory by 25 percent, and by 1843, settlers were following the Oregon Trail and other new paths

into Western lands—but O’Sullivan gave expansion a label that captured the public imagination. Fueled by religious fervor and a spirit of nationalism, Manifest Destiny represented a belief in American cultural and racial superiority. Native Americans were considered unclean heathens, warranting their removal to land where they could be civilized and contained. The boundaries of those Native American lands, however, were often ignored by migrants in search of places to settle, and broken treaties and tribal wars became an integral part of Manifest Destiny.

# Racism and Colonial Genocide

Violence against women was rare in Native societies prior to European contact, as evidenced by the lack of words in Native languages to describe rape, sexual assault, and child abuse, and the virtual absence of such behavior in oral histories.

Traditionally, Native American women have been seen as the most important force that strengthens families, clans, bands, and tribes. In many tribes, social status is assigned at birth. Many tribal societies are matrilineal and throughout history women have held positions of high power, honor, and leadership. In some cases, decisions of going to war came down to the final say of a high-ranking tribal woman.

The Iroquois Confederacy, a matrilineal society, developed distinct clan systems, represented by *clan mothers*. In the Navajo Nation, women owned all the livestock and were responsible for their care. Navajo women also controlled a large share of the political and religious decisions. For the Western Apache, women evolved into their leadership roles by displaying qualities such as courage, wisdom, strength, and generosity. Robin Poor Bear's tribe, the Oglala Lakota—or Oglala Sioux—are *bilateral*, meaning that kinship is traced through both the mother's and father's families. While men traditionally held positions of political leadership, women were highly respected, owned property, and approved which men were selected or removed as chiefs.

Within precolonial Native American societies, there were distinct male and female gender roles, but these roles evolved out of necessity and not out of gender inequality. Men were the hunters only because women nursing children could not stay away from home for the many days at a time that were required for hunters. Interestingly, among the Ojibwa and other tribes, a woman was free to excel in any "traditional male" role she chose. For example, if a woman chose not to marry or became separated or widowed, she was free to hunt and provide for her family without any social stigma.

Forced removal to reservation lands resulted in a significant change in lifestyles and livelihoods. Reservation lands are frequently located in isolated areas with poor natural resources. The productive people who were relocated to these harsh lands were unable to provide for their families in traditional ways. Most were powerless to provide any level of family support, resulting in a strong dependency on the federal government.

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Early colonizers reported that the Native people were open, friendly, warm, and innocent. These accounts also state that these positive traits made Native Americans "vulnerable and easily exploitable." Over time, this view evolved to the widespread perception of Native Americans as savage, dirty, and polluted, which justified their eradication by any means necessary.

In the minds of the colonizers, one source of the inherent pollution in Native bodies was sexual perversity. Alexander Whitaker, a minister in Virginia, wrote in 1613: "*They live in naked bodie, as if their shame of their sinne deserved no covering: Their names are as naked as their bodie: They esteem it a virtue to lie, deceive and steale as their master the devil teacheth them.*" Native American advocates argue that it was this view of the Native American body as dirty that allowed Native people to be viewed as violable and "rapable." Violent acts against bodies that are inherently impure and dirty "*simply do not count.*"

Violence against women became common after the onset of colonization. The precolonial family structures that once allowed Native American women the freedom and status to be powerful forces in their families and communities were replaced by the values of the colonizers, whose women did not enjoy the same high status as Native American women. As a result, Native American women suffered the loss of what had once been their inherent rights.

Some scholars argue that despite Native Americans' best efforts to refute the dehumanizing images used to portray them, many Native people have taken these ideas to heart. This negative self-image has factored into the increased incidences of violence against Native American women and children. It also factors into dependency on widespread nontraditional forms of coping, evidenced by the rise of alcohol and drug abuse.

There are, of course, other complicated factors adding to this crisis. Many of these factors are deeply personal, and similar to those affecting non-Native American peoples. But while the factors are complex, the legacy of colonization and internalized reactions to generations of oppression and trauma has undoubtedly played a significant role.

## MULTIGENERATIONAL/HISTORICAL TRAUMA

**Multigenerational** or **Historical Trauma** is the shared experience by Native American peoples of historic traumatic events resulting from colonization, relocation/displacement, forced assimilation, and language/culture suppression. The effect of this trauma is passed down through generations. Historic trauma is

often overwhelming to the individual. He or she experiences a sense of powerlessness and hopelessness associated with past generations' trauma, which contributes to high rates of violence, alcoholism, substance abuse, suicide, and other health issues.

## Treatment of Children

Historical literature shows that children held a special place in Native communities. They were taught to value life and their environment, respect their elders, and were lovingly raised within an extended network of family members. Children's important and sacred role within tribal cultures is revealed in rituals related to their spiritual and moral education, and strict laws regarding child abuse and incest.

After colonization, the U.S. government attempted to assimilate Native American children into the mainstream of American life by changing customs, dress, occupations, language, religion, and philosophy. Boarding schools were the main source of this acculturation. The schools were a federally and church-sanctioned practice that lasted over one hundred years, from the late 19th century until the late 20th century. It was the goal of the boarding schools to expunge all inherent Native American ways, and, in turn, replace these ways with "civilized" Western culture.

Native American children were immersed in European American culture in these boarding schools and were encouraged or forced to abandon their Native American identities and cultures. Their culturally sacred long locks were forcibly cut. They were forbidden to speak their native languages. Their traditional names were replaced by European American names. Overall, the experience of the schools was harsh and abusive to the children. The number of Native American children in the boarding schools reached a peak in the 1970s, with an estimated enrollment of sixty thousand in 1973. There have been many documented cases of sexual, physical, and mental abuse in addition to countless deaths occurring at these institutions. The boarding schools left countless generations of Native American children to deal with unaddressed trauma and indoctrinated self-hate.

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## THE INDIAN CHILD WELFARE ACT OF 1978

In addition to being sent to boarding schools, many Native children were removed from their families by state and federal agencies citing reasons of abuse and neglect. According to the National Indian Child Welfare Association (NICWA), "An alarmingly high percentage of Indian families in comparison to the general population have been broken up by the often unwarranted removal of their children by nontribal public and private agencies and placed in non-Indian foster and adoptive homes and institutions." A 1976 study cited by NICWA found that 25 to 35 percent of all Native children were being placed in out-of-home care and the vast majority (85 percent) of those children were being placed in non-Native homes or institutions.

Because of the special political status of Native tribes, and in response to the history of biased treatment of Native children and families, the federal government passed the Indian Child Welfare Act of 1978, which seeks to keep Native American children with Native American families. The ICWA, which covers foster care placements, guardianships, terminations of parental rights, adoptions, and preadoptive placements, as well as status offenses committed by juveniles, sets federal requirements that apply to state child custody proceedings involving a Native child who is a member of or eligible for membership in a federally recognized tribe.

# Native Resilience/ Traditional Healing

Native American women have been organizing to give voice to the struggles of Native Americans (specifically women and children) on reservations for over a century. Native American women were a significant influence on the early suffrage movement in the United States. *Haudenosaunee* (also known as the Six Nations of the Iroquois) women provided the suffragettes with a model of women who lived liberated lives, with rights, freedoms, and a voice in government.

While there are many heroes of the movement to protect women and children from violence, two of the most well-known and pivotal are Tillie Blackbear (Rosebud Sioux), and Charon Asetoyer (Comanche who married into the Yankton Sioux Tribe). Blackbear, who is considered by many to be one of the grandmothers of the movement, was one of the founding members of the National Coalition Against Domestic Violence (NCADV) and the South Dakota Coalition Against Domestic Violence and Sexual Assault (SDCADVSA). In 1978, the NCADV formed when battered women's advocates from all over the nation attended the U.S. Commission on Civil Rights hearing on battered women in Washington, D.C., where the NCADV addressed the epidemic of domestic violence on tribal lands. Over time, this momentum spread across all tribal lands, and countless Native American organizations, shelters, and advocacy groups now lead this movement. Charon Asetoyer founded and is executive director of the nation's first reservation-based resource center for Native American women, located on the Yankton Sioux Reservation in Lake Andes, South Dakota. Her work has been crucial to building coalitions among tribes and across Native cultures to combat violence against women.

Growing awareness of widespread violence empowered communities to lead grassroots efforts throughout tribal lands. Native American women were encouraged to share their personal stories through artistic means, such as poems, artwork, and storytelling. This outreach resulted in a growing collection of powerful works

illustrating the issue. One such artistic healing project is *Ksuwosun Akonutomakonol*, or "Shawl Stories," a community awareness project developed by the Houlton Band of Maliseet Indians Domestic Violence and Sexual Assault Response Program. *Shawl Stories* evolved in October 2006 as a way to honor Native women and children who are victims and survivors of domestic violence, sexual assault, and racism. A community member decorates each shawl with a personal story, poem, or image that illustrates a story of violence against a Native American woman or child. This is a cultural spin on the work of the Clothesline Project, which uses T-shirts and works outside of tribal lands.

Native American men have also taken an active role in healing the trauma of colonization and addressing the crisis of domestic violence. Many men recognize that preventing violence against women and children is centered in protecting and conserving their whole community. A host of tribal organizations have created education and outreach programs directed at men and boys.

Many powerful programs and projects from within tribal communities have been dedicated to healing and promoting resiliency among Native peoples. Some of these include the Tribal Women's Resource Center, the National Indigenous Resource Center, Mending the Sacred Hoop, and Futures Without Violence's Native Health Initiative. (See "Resources for Victims of Domestic and Sexual Abuse" for more information.) On the legislative front, the National Congress of American Indians Task Force on Violence Against Women was a significant player in the recent passage of the updated Violence Against Women Act. The Task Force advocated for restoration of tribal authority to prosecute non-Natives who commit domestic violence and related crimes on tribal land, a provision that is now part of the law. Thanks in large part to the tireless work of these individuals and organizations, the issues of domestic violence and sexual abuse on tribal lands are finally gaining national visibility.

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"NONEXCLUSIVITY.—Nothing in this title shall be construed to prohibit male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title."

## Topics and Issues Relevant to *Kind Hearted Woman*

A screening of *Kind Hearted Woman* can be used to spark interest in any of the following topics and inspire both individual and community action. In planning a screening, consider finding speakers, panelists, or discussion leaders who have expertise in one or more of the following areas:

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**The legacy of colonization**

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**Domestic violence**

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**Sexual Assault**

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**Child sexual abuse and incest**

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**Poverty on Native American reservations**

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**Alcoholism and substance abuse**

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**Sovereignty and tribal justice**

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**Native American healing practices**

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**Native American women's empowerment**

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See handouts *Five Tips to Protect Your Child from Sexual Abuse* and *Ten Tips for Responding to a Disclosure of Sexual Assault or Abuse* at the end of this guide.

## Thinking More Deeply

1. How do issues in your own community connect to what is happening in Spirit Lake? Does your community have any barriers to justice? If so, what are they?
2. Why are domestic violence and sexual abuse not talked about on the Spirit Lake Reservation? Is this attitude of secrecy different from the way other (non-Native) groups deal with these issues?
3. What do you think about Robin's decision to allow the filmmaker to document her and her children's story? What effects do you think this film will have on Robin and her family?
4. How does the trauma Robin experienced as a child affect her as an adult? How does trauma influence the decision-making and coping abilities of survivors?
5. What do you think gives Robin the strength to cope with her problems and not give up or go back to drinking? What words would you use to describe her?
6. How do you think historical trauma in the Native American experience contributes to the problems of child and adult abuse? How does it affect Robin's ability to seek justice or care for herself and her children?
7. How does victim blaming present itself in the film? What are examples of victim blaming that you noticed while watching?
8. When Robin has a talk with Darian about "personal boundaries," why does Darian begin to cry? Why would the talk be upsetting to her?
9. How would you respond to a child's disclosure of sexual abuse? What if the accused were a member of your family?
10. How does the relationship between the federal government, state agencies, and tribal governments contribute to the challenges of seeking justice for acts of sexual violence committed against Native American women and children?
11. Do you think justice services in your community could benefit from a family advocate? Why or why not?
12. What resources exist in your community to actively empower women to address issues such as domestic violence or sexual assault? How can those resources be improved?

# Suggestions for Action

Help to stop violence against women. WomensHealth.gov, a project of the U.S. Department of Health and Human Services, offers numerous ways you can work to end this harmful behavior. For complete details, visit

[www.womenshealth.gov/violence-against-women/help-end-violence-against-women](http://www.womenshealth.gov/violence-against-women/help-end-violence-against-women)

You can educate yourself about domestic violence and find additional suggestions and resources on the website of the National Domestic Violence Hotline at

[www.thehotline.org](http://www.thehotline.org)

Organize a fundraiser for a scholarship that will help a minority individual or a woman to attend college. Get information about scholarships available to women and minorities from the National Database of Scholarships at [www.free-4u.com/minority.htm](http://www.free-4u.com/minority.htm)

Lend your efforts to preventing substance abuse. A state-by-state listing of all substance abuse programs and clinics is available at [substance-abuse-programs.com](http://substance-abuse-programs.com). Contact a program in your area to learn about how you can volunteer to help.

Learn how you can prevent the sexual abuse of children. The Stop It Now website ([www.stopitnow.org](http://www.stopitnow.org)) provides comprehensive information and resources for caring adults working to make their communities safer.

Find out how your Congressional representatives voted on the Violence Against Women Reauthorization Act of 2013 by visiting the Roll Call website ([www.congress.org/congressorg/dbq/issuesdbq/votesearch.dbq](http://www.congress.org/congressorg/dbq/issuesdbq/votesearch.dbq)) for a tally of the vote. Contact your representative in the House and/or your senators to express your feelings about how they voted. The Roll Call website provides information on communicating with, and addresses for, all members of Congress.

Learn more about the global struggle for Indigenous women's rights by reading the United Nations' Declaration on the Rights of Indigenous Peoples. ([www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf))

# Resources for Victims of Domestic Violence and Sexual Abuse

Below are two lists: One for immediate help for victims of domestic violence or sexual abuse, the other of organizations that provide advocacy and other resources.

## HOTLINES FOR SURVIVORS

If you or someone you know is feeling threatened or experiencing abuse, contact service providers at one of these national hotlines for confidential support. Advocates can refer you to local resources in your state or territory.

### National Domestic Violence Hotline

» [www.thehotline.org](http://www.thehotline.org)

**1-800-799-SAFE (1-800-799-7233)**

Advocates are available for victims and anyone calling on their behalf, providing crisis intervention, safety planning, information, and referrals to agencies in all 50 states, Puerto Rico, and the U.S. Virgin Islands. Assistance is available in English and Spanish, with access to more than 170 languages through interpreter services.

### National Sexual Assault Hotline

» [ohl.rainn.org/online](http://ohl.rainn.org/online)

**1-800-656-4673**

RAINN (Rape, Abuse & Incest National Network) is the nation's largest anti-sexual violence organization and was named one of "America's 100 Best Charities" by Worth magazine. RAINN created and operates the National Sexual Assault Hotline (**800.656.HOPE** and **online.rainn.org**) in partnership with more than 1,100 local rape crisis centers across the country and operates the DoD Safe Helpline for the Department of Defense. RAINN also carries out programs to prevent sexual violence, help victims and ensure that rapists are brought to justice.

### The Childhelp National Child Abuse Hotline

» [www.childhelp.org](http://www.childhelp.org)

**1-800-4-A-CHILD (1-800-422-4453)**

Serving the United States, its territories, and Canada, the hotline is staffed 24 hours a day, 7 days a week with professional crisis counselors who, through interpreters, can provide assistance in 170 languages.

### National Teen Dating Abuse Helpline

» [www.loveisrespect.org](http://www.loveisrespect.org)

**1-866-331-9474**

**or 1-866-331-8453 (TTY)**

**or text "loveis" to 77054**

The National Teen Dating Abuse Helpline provides 24/7 phone, text, and chat services designed for young people involved in abusive relationships as well as concerned friends, parents, teachers, clergy, law enforcement, and service providers.

## ORGANIZATIONS

The following organizations provide resources and advocacy to stop, prevent, and prosecute violence against women and children. Many, but not all, focus on assisting Native Americans and Alaska Natives.

### Amnesty International USA (*Maze of Injustice* Report)

» [www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/maze-of-injustice](http://www.amnestyusa.org/our-work/issues/women-s-rights/violence-against-women/maze-of-injustice)

This international human rights organization published a report titled *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*, which examines federal, state, and tribal responses to crimes of sexual violence against women on federally recognized reservations. This report describes their findings and calls to action.

### Defending Childhood

» [www.justice.gov/defendingchildhood](http://www.justice.gov/defendingchildhood)

In addition to administering the Office on Violence Against Women, which provides resources for tribal communities, the U.S. Department of Justice Defending Childhood initiative works to eliminate the exposure of children to violence as victims and as witnesses.

### Futures Without Violence (Native Health Initiative)

» [www.futureswithoutviolence.org/content/features/detail/1741](http://www.futureswithoutviolence.org/content/features/detail/1741)

Futures Without Violence is a leading violence prevention organization. Through its Native Health Initiative, it works closely with tribal health leaders to promote sustainable responses to domestic and sexual violence against Native women and children.

### Indian Health Service (IHS)

» [www.ihs.gov](http://www.ihs.gov)

IHS is the agency within the U.S. Department of Health and Human Services responsible for providing federal health services to Native Americans and Alaska Natives.

### Indian Law Resource Center

» [www.indianlaw.org/safewomen](http://www.indianlaw.org/safewomen)

The Center's "Safe Women, Strong Nations" project partners with Native women's organizations, as well as Native American and Alaska Native nations to raise awareness, provide legal advice, and increase capacity to prevent violence and punish offenders on their lands.

# Resources for Victims of Domestic Violence and Sexual Abuse (cont.)

## **ManUp Campaign**

» [manupcampaign.org](http://manupcampaign.org)

The ManUp Campaign's Native American delegation works with men on tribal lands to train and equip them to support the movement to end violence against Native women.

## **Mending the Sacred Hoop**

» [www.mshoop.org](http://www.mshoop.org)

This organization works from a social change perspective to end violence against Native women and children while restoring the safety, sovereignty, and sacredness of Native women.

## **National Children's Alliance**

» [www.nationalchildrensalliance.org](http://www.nationalchildrensalliance.org)

The National Children's Alliance provides training, support, technical assistance, and leadership on a national level to local child advocacy centers and communities responding to reports of child abuse and neglect.

## **National Congress of American Indians (NCAI)**

» [www.ncai.org](http://www.ncai.org)

Founded in 1944, NCAI is the oldest and largest Native American and Alaska Native organization serving the broad interests of tribal governments and communities, including child welfare.

## **National Indian Women's Health Resource Center**

» [www.niwhrc.org/Violence\\_Against\\_Women.aspx](http://www.niwhrc.org/Violence_Against_Women.aspx)

This is a national nonprofit organization of health providers, health planners, health administrators, and elected tribal leaders dedicated to the health and well-being of Native American and Alaska Native women.

## **National Indigenous Women's Resource Center**

» [www.niwrc.org](http://www.niwrc.org)

This is a Native nonprofit organization created specifically to address domestic violence and safety issues for Native American women through public awareness and resource development, training and technical assistance, policy development, and research activities.

## **The Pixel Project**

» [www.thepixelproject.net](http://www.thepixelproject.net)

The Pixel Project aims to raise awareness, funds, and volunteer power for the cause of ending violence against women, using the power of the internet and new technologies.

## **Stop It Now**

» [www.stopitnow.org](http://www.stopitnow.org)

Stop It Now prevents the sexual abuse of children by mobilizing adults, families, and communities to take actions that protect children before they are harmed.

## **Tribal Law & Policy Institute**

» [www.tribal-institute.org](http://www.tribal-institute.org)

This organization develops and maintains the Tribal Court Clearinghouse, a comprehensive website for Native American and Alaska Native nations and people, tribal justice systems, victims services providers, tribal service providers, and others involved in the improvement of justice on tribal lands.

# Additional Resources

[swclap.org](http://swclap.org)

The Southwest Center for Law and Policy is a nonprofit organization providing legal training and technical assistance to tribal communities and to organizations and agencies serving Native people.

[www.nctsn.org](http://www.nctsn.org)

The National Child Traumatic Stress Network was established by Congress in 2000 to improve access to care, treatment, and services for traumatized children and adolescents exposed to traumatic events. The website also contains information and resources pertaining to domestic violence and sexual abuse.

[tribaldirectory.com](http://tribaldirectory.com)

This is a directory of federally recognized U.S. Native American tribes.

[www.nps.gov/history/nagpra/documents/resmap.htm](http://www.nps.gov/history/nagpra/documents/resmap.htm)

This is a map showing the locations of Native American reservations in the continental United States.

[www.rwjf.org/pr/product.jsp?id=17394](http://www.rwjf.org/pr/product.jsp?id=17394)

*The Healthy Nations: Reducing Substance Abuse Among Native Americans* report describes a national program funded by the Robert Wood Johnson Foundation to reduce substance abuse among Native Americans.

[www.hhs.gov/asl/testify/t050413.html](http://www.hhs.gov/asl/testify/t050413.html)

This testimony by Kathryn Power of the Substance Abuse and Mental Health Services Administration (SAMHSA) describes behavioral problems among Native youth and how they are being addressed.

[www.icctc.org/Resources.htm](http://www.icctc.org/Resources.htm)

The Indian Country Child Trauma Center (ICCTC) develops trauma-related treatment protocols, outreach materials, and service delivery guidelines specifically designed for American Indian and Alaska Native (AI/AN) children and their families. The ICCTC is part of the National Child Traumatic Stress Network, funded by SAMHSA under the National Child Traumatic Stress Initiative. It is housed at the University of Oklahoma Health Sciences Center, in the Center on Child Abuse and Neglect.

[www.nicwa.org](http://www.nicwa.org)

The National Indian Child Welfare Association (NICWA) is a private, non-profit membership organization that is a comprehensive source of information on Native American child welfare and the only national Native American organization focused specifically on the tribal capacity to prevent child abuse and neglect.

[www.indian-affairs.org/index.htm](http://www.indian-affairs.org/index.htm)

The Association on American Indian Affairs (AAIA) is a national Native American organization whose programs focus on three main categories: youth/education, cultural preservation, and sovereignty. The AAIA works at both the grassroots level and nationally, providing legal assistance, scholarships, and grants to Native American tribes, organizations, and students; sacred lands protection; and other cultural preservation efforts.

## APPENDIX

# Jurisdictional Issues on Tribal Lands

When the governmental authority of tribes was first challenged in the 1830s, U.S. Supreme Court Chief Justice John Marshall articulated the fundamental principle that has guided the evolution of federal Native American law to the present.<sup>1</sup> The guardianship relationship of Native people that was established by the U.S. government generates legal responsibilities and duties toward the tribes. These duties were enforced through *trust responsibility*. Steps were taken that ultimately led to the diminishing of tribal sovereignty after Congress issued an opinion regarding the *Ex Parte Crow Dog* (109 U.S. 556) case. In subsequent criminal cases the Supreme Court affirmed the doctrine of tribal sovereignty, or respect for Natives' right to self-government.

**1883** *Ex Parte Crow Dog* involved the murder of **Spotted Tail, a member of the Brulé Sioux band, by another Brulé member, Crow Dog.** The murder occurred on the tribal lands of the Brulé. Crow Dog, however, was prosecuted in federal district court, found guilty, and sentenced to death. The Supreme Court argued that crimes involving non-Natives, or Natives belonging to other tribes, were subject to federal prosecution. But, interpreting the treaty as a government-to-government relationship, the Brulé had a sovereign right to regulate and punish crimes involving members of their own tribe. Upon the release of Crow Dog (to be punished according to tribal custom), off-reservation residents were outraged. Non-Natives considered traditional punishments imposed by the tribes to be inadequate.

**1885** Congress enacted the **Major Crimes Act (18 U.S.C. §1153), which gave courts the jurisdiction to try, convict, and punish major crimes committed by a Native American against any person on tribal lands.** This act proved to be a great strain on tribal government and sovereignty. It gave *plenary power* to the federal courts over major crimes. In cases of nonmajor crimes, federal court jurisdiction still exists but state law defines the crime. This greatly impacts tribal sovereignty and government because it takes away powers of judiciary oversight from traditional tribal ways of negotiating major crimes.

In many cases of violent crimes, such as murder or rape, the federal government has jurisdiction over tribes through the Major Crimes Act. Often the federal government will decline to prosecute due to lack of evidence, leaving only the tribe to prosecute

the crime. Tribes are limited in their ability to impose a suitable punishment due to ICRA section §1302, which limits tribal sentences to imprisonment for one year and a fine of \$5,000 or both for conviction of any one offense. Many times this leads to a “slap on the wrist” by the tribal courts and a sense of hopelessness for the victims.

**1953** The U.S. government passed **Public Law 280 (PL 280) without tribal consent.** PL 280 grants the state criminal and limited civil jurisdiction over tribes covered in the Major Crimes Act. PL 280 is an infringement on Native sovereignty because tribes generally do not fall under state jurisdiction. Contrary U.S. government policy declares that tribes fall under the guardianship of the federal government. Under these laws, tribes are recognized as sovereign and do not fall under state government jurisdiction.

**1978** The ruling in *Oliphant v. Suquamish Indian Tribe* placed tribal communities at the mercy of **non-Native criminals.** The Supreme Court ruled that tribal nations have no criminal jurisdiction over non-Natives. The jurisdictional result is a system that allows non-Natives who commit crimes against Native Americans to go unpunished. In these cases, the federal legal system places enormous restraints on tribal governments as they struggle to adequately respond to violence and other crimes. This confusion has major consequences due to the large number of nontribal citizens who reside or conduct business on tribal lands, or have Native American spouses or intimate partners who reside on tribal lands.

**2010** President Obama's administration passed the **Tribal Law and Order Act.** This marked a historic move towards decreasing violence against women in Native communities. The Act strengthened tribal law enforcement and the ability to prosecute and fight crime more effectively, and authorities are supposed to receive better training to handle cases of domestic violence and sexual assault. Special Assistant US Attorneys will be deputized under the Act to prosecute reservation crimes in Federal courts, and tribes will be given greater authority to hold perpetrators accountable. These provisions help to increase communication between tribal law enforcement, Federal authorities and the court system. There is also an emphasis on public education and treatment programs.

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<sup>1</sup> *Cherokee v. Georgia*, 30 U.S. 1 (1831).

# Five Tips to Protect Your Child from Sexual Abuse

The following five safety tips from RAINN focus on practical things parents can do to protect children from sexual abuse

## 1. Talk.

Talk often with your child and set a tone of openness. Talking openly and directly will let your child know that it's okay to talk to you when they have questions. If your child comes to you with concerns or questions, make time to listen and talk to them.

## 2. Teach.

Teach your child key safety principles. For instance:

- Teach children the names of their body parts so that they have the language to ask questions and express concerns about those body parts.
- If your child is uncomfortable or if someone is touching him or her, she or he should tell a trusted adult immediately.
- Let your children know that if someone is touching them or talking to them in ways that make them uncomfortable that it shouldn't stay a secret.

## 3. Empower.

Children should know that they have the right\* \*to\* \*speak up if they are uncomfortable, or if someone is touching them. It's okay to say "no" even to adults they know and family members.

## 4. Implement.

Implement internet safety protocols and parental controls through platforms such as the Google Family Safety Center. Work with older children to set guidelines for who they can talk to online and what information can be shared. For instance, be cautious when leaving status or away messages online and when using the "check-in" feature on Facebook or Foursquare.

## 5. Educate.

Educate yourself about the **warning signs of childhood sexual abuse**. Know what to look for, and the best way to respond.

If you or someone you know has been affected by sexual abuse, it's not your fault. You are not alone. Help is available 24/7 through the National Sexual Assault Hotlines (800.656.HOPE and [ohl.rainn.org/online](http://ohl.rainn.org/online)).

# Ten Tips for Responding to a Disclosure of Sexual Assault or Abuse

## NUMBER 1:

### **Believe the person.**

It can be extremely difficult for people to come forward and share their story. They may feel ashamed or they may fear being blamed for the assault. So when someone shares their experience with you, the best thing you can do is to believe them. Remember that you may be the first person they are disclosing to.

## NUMBER 2:

### **Validate their experience.**

Sexual violence typically affects a person's emotional, mental, and physical health. For example, some survivors may find it difficult to trust people around them. Others may experience bouts of depression and anxiety. Also, survivors may have physical scars that remind them of their abuse.

Validating a survivor's experience is a powerful way to acknowledge what they survived and how it affected their life. Use supportive statements such as:

1. I'm sorry this happened to you.
2. That must have been tough / scary for you.
3. Thank you for sharing that with me—I can only imagine how difficult that must have been for you.

## NUMBER 3:

### **Respect their boundaries.**

Allow the survivor to tell you their story on their own terms. Try not to interrupt or ask too many questions. You may want to know more details but the survivor may not be ready to share that information. You can also show support and interest by nodding your head and maintaining eye contact. Avoid touching them (hugging, putting your hand on their shoulder, etc.) unless they ask for this.

## NUMBER 4:

### **Remind them that it was not their fault.**

Survivors may blame themselves, especially if they knew their perpetrator. Others may think they should have fought back during their attack. Survivors of childhood sexual abuse may feel conflicted if their perpetrator was their caretaker or parent.

You can try to help those who are struggling with self-blame by stating:

1. You did not choose or cause your assault to happen. The only person responsible is the perpetrator.
2. It's difficult to fight back when you are in a scary or stressful situation. It was not your fault.
3. You trusted that person. They broke your trust.

## NUMBER 5:

### **Honor their privacy.**

The survivor confided in you for a reason—perhaps they felt you would not judge them or that you could support them. After this disclosure, it's important to respect their privacy. Before you share their story with others, make sure it's okay with them. They may not be ready to take that step yet.

## NUMBER 6:

### **Avoid giving advice.**

It's natural to try to give people solutions, especially if you have dealt with similar situations. But, keep in mind that survivors may have already taken action. Instead of saying, "You should report" or "You should find a therapist," you can take a more supportive approach by stating, "Would you like me to provide you with some information that may help with healing and recovery?" If so, you can provide them with the information in tip #8 and tip #9.

If the survivor says no, respect their decision.

## NUMBER 7:

### **Ask if they need to get medical attention.**

Survivors may need medical attention, even if the assault happened a while ago. You can ask, "Are you open to seeking medical care?" You can also offer to escort them to a hospital, if you are comfortable with this. Keep in mind that if the survivor is a minor, the hospital may need to notify law enforcement about the assault.

## NUMBER 8:

### **Ask if they are open to receiving more support.**

Local agencies (often known as rape crisis centers) can provide emotional support, reporting information, and other services to survivors. To obtain more information about these services or to speak with a trained staff person, they can call the National Sexual Assault Hotline: 1-800-656-HOPE (4673) or online at [ohl.rainn.org/online](http://ohl.rainn.org/online).

Both the telephone and online services are available 24/7.

## NUMBER 9:

### **Take care of yourself.**

It can be difficult to listen to survivor stories and to help those in need. So, spend time with your own support system (such as loved ones and pets) or do things you enjoy (photography, watching a funny movie, running, etc.). Practicing self-care can help ease the stress that may come with helping others.

## NUMBER 10:

### **Know the facts.**

Visit [www.rainn.org](http://www.rainn.org) to learn more about the issue and ways you can get involved in the fight against sexual violence.

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