

Children are Sacred

Fact Sheet for Law Enforcement

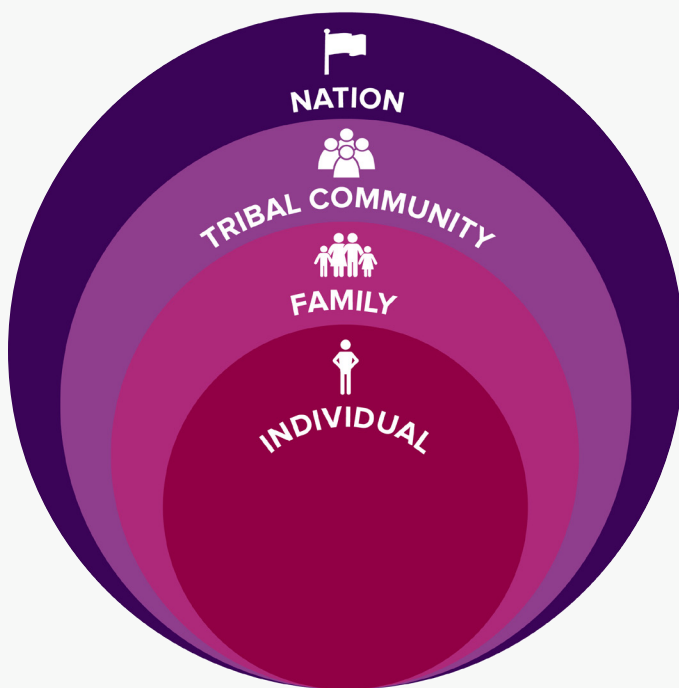
Understanding Problematic Sexual Behavior in Youth – A Fact sheet for American Indian and Alaska Native Tribes.

Much of Native culture is based on the Circle of Life. Culture teaches us that we are all relatives to all things in creation. Some of the threads in the Circle have become broken. Law enforcement can help mend the Circle by understanding the needs of youth and families.

Problematic Sexual Behavior (PSB) is youth-initiated behavior that involves sexual body parts in a manner that is developmentally inappropriate and potentially harmful.¹

Role of Law Enforcement

Federally recognized tribes can make and enforce their own laws. However, jurisdiction varies based on the type of crime, the race of the individuals, and the location of the crime. Often the role of law enforcement is to determine if a criminal violation of law occurred. Law enforcement can be involved in mentoring programs, and connecting community members to resources available. Law enforcement may conduct investigations when interpersonal PSB is suspected.



Information - Empirically informed knowledge improves decision making

Attitudes & Beliefs - Healthy beliefs that are trauma informed

Access - Empirically based and developmentally appropriate policies and services

Culture - Culturally Congruent and Respectful Approaches



NATION - Empirically based and developmentally appropriate policies, laws, codes, registries, statutes



TRIBAL COMMUNITY - Supporting healthy relationships and behavior through schools, I.H.S., MDTs, law enforcement, BIA, social services, courts, behavioral health, State Department of Social Services, CPS, Boys and Girls Clubs, juvenile justice, tribal health, Tribal Child and Family Service, Child Assessment Center, tribal protocols, resolutions, procedures, registries



FAMILY - Teach, supervise, ensure privacy, address technology and pornography, address trauma, support healing, drug- and alcohol-free environment, rites of passage, coming of age ceremonies, culture, values



INDIVIDUAL - Healthy relationships, normal behaviors and sexual development, respect for other persons and boundaries, roles in family and community, spirituality

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Laws & Policies

Systems Element	Possible Professional Involved	Legal and Jurisdictional Issues
Reporting PSB	Mandatory reporters under state, federal or tribal law. On or off reservation. Concerned individuals. Not all federal employees are mandatory reporters.	Tribal and or state laws, P.L. 280, federal laws, Family and Child Protection Act.
Intake and screening of youth with PSB. Initial response. Initial assessment.	Tribal Child Protective Service (CPS), tribal law enforcement, state CPS, county law enforcement, BIA social services, BIA law enforcement, IHS or tribal healthcare providers.	Tribal law, P.L. 280 status, P.L. 93-638 or self-governance status, local agreements or protocols
Civil court actions. Tribal court. State court.	Tribal court, state court.	Jurisdiction, tribal law, P.L. 280 status, P.L. 93-638 or self-governance status
Treatment: Psycho-social assessments. Service plans. Family and care service.	Tribal CPS, state CPS, BIA social services, IHS or tribal health care providers. Resources available.	Resources, capacity, P.L. 280 status, P.L. 93-638 or self-governance status

Adapted from NICWA, 2016, "Challenges with Legal and Programmatic Framework for Addressing Child Maltreatment in Indian Country", p. 9.²

Protocols and Procedures

Establish and follow policies and procedures for investigating PSB cases and the following topics:

- Triage and response protocols for youth with PSB.
- Protocols that outline the risk and protective factors.
- Protocols for response to youth under age of culpability and arrest.
- Protocol for communicating among parties and managing confidentiality.
- Protocol for tribal court prosecutors.
- Protocol for referral and access to treatment with levels of care based on risk, need and responsivity.
- Protocol for data sharing and tracking cases across systems.
- Protocol for mandatory reporters, kinds of information to include, and to whom to report cases.
- Be familiar with jurisdictional issues and who to contact with questions including tribal and state law P.L. 280, P.L. 93-638 or self-governance status, major crimes act and Indian Country Crimes Act.

Respond to Problematic Sexual Behavior

Children with PSB are different than adult offenders.

Know your role in the response process. The current legal system was not designed to handle the special needs of youth with problematic sexual behavior. Utilize a multidisciplinary team approach for cases involving children with problematic sexual behavior. Work with social service organizations (BIA or tribal) to document the allegations and protect all children.

Reform of current laws and policies may be considered when gaps in the system are identified to ensure that youth with PSB, child victims and families receive the treatment they need. MDTs and CPTs could play a vital role in the development or revision of tribal protocols and codes for supporting youth, families and child victims of PSB.

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"We stress that children are not offenders or predators; they are children and they are developing these behaviors – give them information. That is all that they need, that there is hope, they are not predators."

– Janet Routzen, Associate Judge Rosebud Sioux Tribe

Research on Problematic Sexual Behavior

- PSB in youth occurs in youth across sexual orientation, race, ethnicity or socioeconomic status.¹
- More than one-third of sexual offenses against children are committed by other youth.³
- Risk for problematic sexual behavior is greatest among youth 12-14 years of age.⁴
- Almost half of child victims of PSB are under 6 years of age.⁴
- PSB occurs most often between children/youth who know one another. More than 25% of PSB cases involve family members.⁵
- The recent average sexual recidivism rate for adolescents with illegal sexual behavior was less than 3%.⁶



Law Enforcement Resources:

Indian Country Child Trauma Center
www.icctc.org/index.asp

Law Enforcement Response to Child Abuse, Office of Juvenile Justice and Delinquency Prevention
www.ncjrs.gov/pdffiles/162425.pdf

U.S. Department of Justice Jurisdictional Summary
www.justice.gov/jm/criminal-resource-manual-689-jurisdictional-summary

National Center on the Sexual Behavior of Youth
www.ncsby.org/

National Child Traumatic Stress Network
www.nctsn.org/

Office of Juvenile Justice and Delinquency Prevention
www.ojjdp.gov/

U.S. Department of Health and Human Services Child Welfare Information Gateway on state and tribal laws and policies
www.childwelfare.gov/topics/systemwide/laws-policies/state/?hasBeenRedirected=1

Law Enforcement Fact Sheet References

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2. National Indian Child Welfare Act (2016). NICWA Testimony Task Force on AIAN Children Exposed to Violence, December 2013
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6. Caldwell, M. F. (2016). Quantifying the Decline in Juvenile Sexual Recidivism Rates. Psychology, Public Policy, and Law, 22(4), 414.