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## **The Beginning and End of Rape: Confronting Sexual Violence in Native America**

Sarah Deer

October 19, 2016

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Hello everyone and welcome. On behalf of Praxis Advocacy Learning Center we are presenting a conference. As a part of the 18 month course, the keynote address will explore some thought-provoking issues and social change work that is going on. The keynote address is not just [ Inaudible ] but include academics, activists and organizers working to and inequities in our society and bring about justice. The keynote address program is designed to inspire our thinking and provide us with information about social change that is going on in our society and around the world. It exercises our analytical model souls -- muscles. It motivates us to take a critical look at how we understand issues of violence, how we advocate got coalitions and how we shape our work.

>> The format we will use today is relatively new. Liz, could you enlighten us on how to make this operation smooth?

>> I will. Hello everyone. In our continued attempt to improve our accessibility, we are going to ask you to participate in this webinar a little differently than we have in the past work if you have questions or comments that you would like to share with us, we ask, as much as you are able, rather than placing those comments in the public chat that you instead privately chat our host at NCJ SCJ,

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but dress up -- Patricia. She will pass the questions on and we will break those thoughts into our discussion.

>> I would like to also call to your attention, within the chat box, there is an icon in the upper right-hand corner. If you hover over that you will see that there is a variety of options for increasing the text size or the color of your display. Please go that you are able to make those adjustments accordingly.

>> Also, you see the captions that are running at the bottom of your screen. While there are inevitably some difficulties, some errors in that chat log, we ask you to bear with us and now that we will have a high accuracy, but there will occasionally be errors.

>> As far as logistics go, if there is anyone who is participating by telephone only, feel free to email comments to Liz at [Liz@tran3international.org](mailto:Liz@tran3international.org). I would like to point out that there are other options that will appear on the screen for you to be able to download materials and PowerPoint from today's session. You will also called later in the webinar see hyperlinks provided in the web links box that will value to the evaluation after our session.

>> Just a couple more details. If you are does -- participating by voice over IP that you may dial in by telephone. Once that connection has been made that turn your speakers often met should -- improve your experience. If you get disconnected by webinar or telephone, just rejoin through your original process.

>> With that, I will ask you to introduce Sarah.

>> Thank you. I quickly caught a mistake in your email.

[Liz@praxisinternational.org](mailto:Liz@praxisinternational.org) Is the correct email.

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>> Sarah is a citizen of the Muscogee Creek nation of Oklahoma and a professor of law at Mitchell family school of law. She has long been engaged in it [ Inaudible ] in the Native American communities. Her keynote which I am so looking forward to, is titled the beginning and end of rape [ NULL ] confronting sexual violence in Native American. That is also the title of her latest book. There has received among many accolades, a MacArthur Fellowship in 2014. Welcome cost thereof.

>> Thank you very much. Please go ahead and take us to understanding this very critical issue a little better.

>> Thank you. Thank you for having me and thank you for all the people who make this possible. I do like to say that I was an advocate long before I was an attorney. I often identify more with Mike original advocacy role. I consider myself an advocate with a small degree. This is a particularly exciting opportunity for me to engage with people on -- the caliber of audience we have today, it is really an honor. I will talk today about colonial violence and sexual violence. I hope that the work I do here to educate you a bit, it is not just confined to people who work on Indian reservations or who have a lot of native clients or women that they advocate for. I really think this is a story that everybody needs to know in the anti-violence world. I'm going to try to broaden my scope a little bit as I go through the material to help make it relevant to as many different people as possible.

>> The first thing we have to take a look at his the data. I like to get that out of the way up front. I do that because I have noticed that times, I tend to play [ Inaudible ]. It sometimes comes across that I am saying that we are the priority community. That is not what I really mean. I think in order to understand the history that you have to understand the statistical area that we find ourselves in. The most recent data from the Department of Justice shows a very high rates of lifetime violence. 84.3% of native women experience lifetime violence. Sexual

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violence in particular is also elevated. 56th .1% of American Indian or Alaska natives are victims of sexual violence.

>> The nature of our perpetrators is important to know. This is new data but -- we have had this going on for about 10 years but this is the most recent. Most crime in America is committed within a race. It is intra-racial. Someone who is a victim in a white community will most likely see violence from someone of the same race. The only exception to that is the enter racial rate of violence against native people. You notice here on the top chart that 97% of native women experience of violence I person who is not a member of their own race. It's not that native people don't commit violence, that certainly shows up in our second set of bars there were 35% have been victimized by a member of the native community.

>> This is going to become important when we talk about tribal jurisdiction in a little while and how tribes have struggled to take action when their own members are being battered and raped and violated. This is an important statistic to keep in mind.

>> The ultimate issue here is, why we suffer from such a high rate of violence. We have a lot of data. A lot of that is from the federal government. It's not a biased set of numbers. We have this from federal reports and studies and federal reports on this rate of crime. Here are a few other statistics in terms of our process traumatic stress disorder being extremely elevated. It is not just our women, it is also children experiencing a high rate of violence. This came out on the attorneys general's report just recently.

>> My job, my life mission I suppose you could say is answering the question of why native women experience such a high rate of violence. As we start to unpacked that question, we are ultimately revealing questions about our entire

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society. America in a sense, the foundation of America, which I will talk about in a minute, is very gendered. It is the reason that United States was able to form. That was because of the relationship between Europeans and Indians. The Europeans were superior to the people that were here which entitled them to the land. If we really want to wrestle with the fundamental causes of violence in our community, I think it is important to understand the story. We will begin by having this backdrop. There are over 567 recognized tribes in the United States. Each has its own history. It is difficult sometimes than a short presentation to give you a sense of what is happening in all of those communities. What I want to do is pull some generalizations together. Generalizations are not always ideal, but for our purposes here today I am treating all tribes as having some similarities. That is not necessarily the case. There are certainly lots of differences.

>> Here are a few things to keep in mind. When we talk about a crime happening in our community, and assault or battery or something committed by one person against another, the legal system has authority. That doesn't mean we engage with it all the time or trust it. We have a system in place that is reportedly to make sure that people who hurt others are held accountable. Also the victims have compensation in the right to restore their lives to the position it was before the assault or violence.

>> Tribal nations, prior to any contact with Europe and -- had governments. They did not look anything like the governments we have now but they were effective. Tribes would have taken action with any crime occurred in a tribal community. Whether it be a domestic violence, homicide, child abuse, those kinds of crimes. They would fall under the jurisdiction of the tribe and tribal lands. One of the things we can generalize is that traditionally what we know is from our Earl

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traditions and ceremonies and stories is that nobody got away with crime easily. When we had investigations and prosecutions, they were very victim centered.

>> Traditionally, violence against women was not tolerated in most of our indigenous societies. We had malls in place that took swift action when somebody harmed a family member and particularly women and children. Many of our tribal nations were traditionally matrilocal and matrilineal. Those terms are called matriarchal. I'm not sure there was ever a troop matriarchy in North America. We had governments that were very women centered. That is why use these terms. A matrilocal community is one in which a man who wants to be a part -- a spouse of a woman comes into her community. Matrilineal got you would identify with your mother's lineage rather than your fathers. [ Inaudible ] matrilocal and matrilineal societies may have a higher deterrent role in preventing violence. You don't hurt the lineage, the maternity ill -- maternal lineage. If you are living with the woman's family, there is a built-in protection there, right

>> We also had very serious punishment in some cases, especially for rape. Those could have included the death penalty. We executed people in some tribes who could not be trusted to continue living with us. And other cases there may have been banishment. That would require someone to leave the community. I am not suggesting these punishments are needed or wanted. I just raise that to demonstrate again that our systems took these crimes very seriously. The value underlying that as well [ Inaudible ].

>> I set about trying to study the law as it relates to violence about 20 years ago. The Muskogee Creek nation of Oklahoma is what I studied. When I's darter eddying Indian law and combining my experience as an advocate, I wanted to write a paper. I decided to write about my own people, the Muskogee people and domestic violence.

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>> I initially had a lot of trouble doing that. I wasn't finding much information. I was a student and not able to travel to Oklahoma to do the kind of primary interviews that one would normally do in trying to get to the bottom of this. I was really hamstringed. I could not figure out where I was going to get information. My professor said tested reluctantly, I could also consult things written about my people by outsiders. That is always a little front. A lot of things that were written were very racist and did more harm than good. You have to be careful when you quote these kinds of documents. I was able to explore the writings of William Bartram. He was a naturalist and botanist. He was drawing pictures of them in gathering all that information. He went to the southeastern part of the United States and lived near and among my people. He did that for about 10 years. In his journal, he described the society that is interesting. He says in the 10 years that he lived there he did not see any violence against women and disrespectful language about women. That was how I got my paper jumpstarted. There was a really interesting dynamic where white person was saying the native people are respectful to women and don't speak disrespectfully to them.

>> I began to dig a little deeper. The next thing I found was this rape law from my own tribe in 1824. 1824 is very early for an Indian tribe in the United States to commit its laws to writing. Most tribes to oral traditions and pass their laws down through oral ceremony and through sharing and to commit something to writing in a oral society is dicey.

>> We were convinced by federal agents that it would be best for us as a people to show that we were civilized by writing down our laws.

>> This was one of the laws. It is interesting because even at the same time that we are assimilating, there is apparently still a negative of our pre-existing system that appears here. This law is very difficult to understand given that it is written in

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broken English and antiquated at that. Might go it also discusses corporal punishment. We did with people for certain crimes. That was back in the early 19th century. We also provided for compensation for survivors. We did not imprison people. We did not have a jail system. We did impose this corporal punishment and payment. I am really interested in the last line here, what she sate it below. If you consider that in a state context, a great law of the state of North Carolina in 1824, you will not see language like this.

>> I started to believe that we had a system [ Inaudible ] we have a white person saying they did not see anybody else and then we have evidence of the small suggesting that women had the power within the system to control some nature of the proceedings. What a great, interesting society that must've been.

>> This got me thinking further about what other tribes were experiencing. One of the questions that I set out to answer was how do we explain the disproportionate amount of violence in the lives of native people? If we had societies that were -- where crimes were very rare, what has happened into today's such that we have this that's the highest rate of violence?

>> In order to answer this question, I have turned to the legal system to try to understand how our government has been weakened so we can't act the way we once did.

>> Understanding that, we have to go into history. Some of this history is painful. It is relevant to the lives of native people today. That is because the laws that were passed when Indian tribes were being oppressed are still been lost today. They are still good law's. While the events that happen, many years ago, we still live with his legacy in a very practical way.

>> I went to put a very basic destiny that definition of sovereignty out there.

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>> Before you go on to discussing the next segment, I just want to bring the participant's attention to the previous live you had which was basically saying what she said, it below. That is so powerful. In the sense of justice, what she believes would be just and the right thing to do, whatever that might be. I really think that is a true instrument -- instance of a woman's centered thing. Is that a woman centered law works

>> Absolutely. We will never know for sure because we don't have the kind of archives or paper record to really watch or understand what was happening in terms of how to display out. The principle is really important. Women's voices in the American legal system during this time. Worse -- completely suppressed. The victim would have no agent or any way to have any input into the system. It was a male centered system. Disappears from my reading of it to be a very woman centered system.

>> Right. Even today, women don't get the justice as what the law pulls out. I think that is so critical in thinking about the system as such. To think of it as being so woman centered.

>> Absolutely. This -- these sixth words, I have to say it had a profound effect on me both as a -- an attorney and a Muskogee woman. I was traveled to Muskogee and presented this material to my people. It was a very emotional and poignant moment because not everyone in my tribe has access to this information. This is something I found digging through archives. Sharing this very basic slide to Muskogee people was a very moving experience.

>> It really has so much effect on me. I can imagine. Thank you so much. I'm sorry.

>> Sure.

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>> When we talk about sovereignty of our tribal nations, we're not talking about anything complex. There is a power of government to address and respond to its own internal and external affairs. We take sovereignty for granted. We don't have to worry, in my case I am a citizen of Minnesota. We don't have to worry that someone will take Minnesota's poverty away. Since the Civil War that is not been a concern. Same thing with the federal government. We don't think about sovereignty, it just is. When we think about sovereignty in a tribal nation, we're not talking about anything more complex. Tribal nation sovereignty is treated very differently than the sovereignty of states in the federal government.

>> If we think about our systems, we have these effective legal systems which serve to amplify the voices of the victim and protect and respond to violent crimes. Problem is [ Inaudible ] that were in existence have been weakened or dissolved by colonial power and control.

>> As a former advocate, I really think that we should consider how sovereignty might inform us as individuals and the women that we work with as individuals. I see sovereignty as having to sites. There is the nation sovereignty, the government sovereignty. Our individual sovereignty is just as important. The inherent power of ourselves to control and respond to our own internal and external violence.

>> One of the things that becomes apparent when you start studying the history of India law is that almost every tactic that was used against us as native people was colored by violence against women and children. That was an integral part of most of the history of Indian policies. I will spend just a couple of minutes here going over some examples of how that played out.

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>> One of the ways that played out is through forced removal. Many people have heard of the trail of tears from the Cherokee experience. People tend to know that it was a forced removal from the area of Georgia to Indian territory which is now the state of Oklahoma.

>> There was an just one trail of tears. There were many many trails. This graphic shows one region of the country got the one that is most well-known. Forced removal took place on almost every square inch of American land. We can't confine it to one event. What I wanted to share with you was that one of the things that happens when you have the military forcing people to march 1000 miles to the west, there is a definite dynamic of power and control. If we look at the missionary records from this time period, many missionaries accompanied their friends and congregants on the journey West. That was part of solidarity. They documented in their journals and diaries that at night when it was time to camp, the soldiers would come and take the native women away from the community, assault them and then return them to begin the march the next morning.

>> That is not often talked about. We talk about how horrific it was to leave home lands, how painful this must've been, we even talk about people dying along the journey. We don't often talk about sexual violence. That was part of this whole process.

>> This is another example of what I am talking about. These are Navajo women. They were also forced on marches across their homeland and back into their homeland. This is a picture after one of those journeys in the mid-19th century. I think those of us who are advocates can really reflect on this image and what we think may have happened to these women. Certainly they were hungry and tired and scared. As someone who has worked with many people who have been

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assaulted, I see something different in this picture. We can't prove that these women were raped but I think it is not necessarily a far-off assumption.

>> In the motive -- Minnesota example, women and men were completely separated in 1862. The women were taken to Fort Snelling and imprisoned there as prisoners of war. The men were kept apart and being tried for war crimes. These women did not know what would happen to their brothers and sons and husbands. They were themselves completely under the mercy of the federal government, particularly the military.

>> Not always bad. I think it is important that we celebrate the activism of native women dating back to the early contact and to celebrate the work that native women have done. Sarah Winnemucca was a pie you woman. She was the first Native American woman to publish a book in the United States. It is called life among the pie you. It was published in 1883. Sarah Winnemucca was a famous lecturer. She spoke about five languages. She was really committed to making sure that the horrors that were happening to her family and the women and girls in her community were documented and shared. In her book, this was in 1883 when it was not safe for people to talk about things like rape, she writes in her book several passages that demonstrate an articulate sexualized violence. When you think about how difficult it would be to come forward with this information even as a white woman, the fact that she did it is remarkable. She was very brave in my opinion. When I was being trained as an advocate -- and advocate We were talking about the 1960s. When we started this into the voices of native women, we can really begin to think about the rape crisis movement and other advocacy movements as having a much longer history in the United States.

>> Land loss is the obvious issue that people are aware of. Land was stolen got treaties were signed and broken. One thing I want to march here is that what

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happens a lot of time is that native people lose access to their sacred sites. For many native people the places that we can pray and find solace and feeling are very much tied to a specific place. A landmark, a mountain, a river, those things are where our ancestors have healed from trauma. When we lose access to these sites and these places that our ancestors prayed at, it can be difficult to find that healing in another place. Even today native people struggle to pray whether ancestors prayed for healing and strength.

>> The boarding school era is another policy of colonization that has had a negative impact on native people.

>> Native children were removed from their homes and sent to boarding schools. This is part of the policy of the federal government. After it became apparent that Indian wars were very expensive, killing Indians was becoming very expensive. This new policy was developed. This policy was to try to and doctorate children into acting and behaving like the white population. This time period was very brutal. Children work missed treated horribly. This continued until the 1960s. This is an example, a before and after picture that this is a picture of some Apache children rounded up by the U.S. Army in Arizona. This is the same group of children just a little bit later -- that's why doesn't appear to be here. There was a slide that showed the children after. A -- what happens to them over the course of a very quick period of time, their hair is cut, they are in uniform, they look completely like different people. I am not sure if lives, that flight is missing. This time. Was very full of child abuse as well. Many of these boarding schools had children being sexually violated on a regular basis. That continued well into the 20th century. We know that because we had survivors who have come forward to talk about the high rates of sexual violence they experience.

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>> One of the things best reasons that parents tried to hide their children was because of this rate of sexual abuse.

>> Sexual slavery was part and parcel. Violence was used to keep us in servitude. This continued well into the mid-19th century. There were lots and lots of policies and actions on the part of the colonial government that may not, on the surface, have seemed connected to sexual or gender violence. When you keep looking into these historical events, you can almost guarantee there is going to be a sexual violence component to that policy. Michael I am going to again intervened with a question, is that okay.

>> A couple of things. As I am listening to you, I am so over whelmed -- overwhelmed with my history of colonization. I am from India. You can imagine, I'm not saying it is a comparison but it is a history of colonization, there are so many things that I can relate to so clearly. This particular slide that you have is taking a little bit of slice [ Inaudible ]. It negates a tremendous violence that was used with impunity. It was so typical of the dominant group. Not only have they used violence in so many different ways but also assume that this is the way to keep people down and keep people [ Inaudible ]. Most men and women have experienced that. I also have a question. That came from Kate. She is actually going back to the one line that I pointed out earlier. The woman centered low that you had presented earlier. She said if there are come parison between raster of -- restorative law and this?

>> I think so because the word pay is used. Pee at this time. Would not have been necessary monetary. We did not really have a cash economy system. We used American money but among ourselves we would not have. Payment is really about a full restoration. For infants, the perpetrator or their family would be required to hold ceremonies and take care of the family of the victim. Payment

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could be a variety of different things that the victim might articulate as making her whole again. I think at absolutely gives us a window into how our systems may have worked.

>> Okay.

>> That should give you an idea of how this is compared. Thank you so much. I am overwhelmed with this presentation. Thank you. Go ahead please work

>> I covered these policies. The various different techniques used to insert or perpetrate colonial violence in the life of women. Now let me show you how sovereignty has been attacked. Are native people and bodies and lands were attacked and so were legal systems. I want to talk about four different laws, three laws in one Supreme Court case that begin in the late 18th century and continue well into the 20th century. It has made it difficult or impossible for contemporary tribal nations to take needed that to take action -- to take action when women are being abused. These are recent. These are not things that happened at the time of Columbus. These happened, in the last event, 19/78. That was not that long ago.

>> The first one that I went to indicate is that this first of all, the major crimes act, the impetus for Congress to pass that law gave from the story of two men that the two men you see here. On the left is a chief named Crow dog and on the right is a chief named spotted tail. Their feud, decades later we understand how women have been affected by their feud. These were two chiefs in Dakota territory in the 1880s. They were two men that were revered among their people. They had fundamental disagreements about the way in which their people should engage with the military, with the U.S. Army. They had a long-standing feud. People knew will be out -- about this feud. Crow dog ended up killing spotted tail.

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This was not a rape case. The case has massive implications for native women and children today. In the aftermath of this homicide, there was never a question that he had committed this crime. It was on their land and everything that happened was on their land and their people had a system in place. The system in place required as much as we just talked about, payment and restoration. Crow dog was sanctioned by having to provide for spotted tales family. That was including best that included material goods, work, labor, essentially Crow dog was sentenced to care for the family of his victim.

>> [ Inaudible ] was unhappy with that outcome. They did not like Crow dog. The white community demanded that the federal government arrest Crow dog and prosecute him. That is exactly what they did. Crow dog was prosecuted by the federal government even though he had been adjudicated by his own people and spotted tales family. He was arrested, prosecuted, convicted and sentenced to death by the way community using the federal court system. Crow dog then appealed that conviction all the way to the U. S. Supreme Court this position is probably very intuitive. His position was that he was at the CODA man. He was in Dakota territory, he had been adjudicated and what jurisdiction does the federal government have? It was not their land. He won his case in front of the Supreme Court. It was a big surprise to people. That triggered even more outrage from the non-Indian population. They could not believe that we would be satisfied with Crow dog walking away from this crime. They did not understand that he had been held accountable. Congress passed a law in response to this outrage. They passed a law called the majors crimes act in 1885. That is still a good today. When women are assaulted or abused on Indian reservations copy major crimes act applies. That means that the federal government now has authority to adjudicate crimes that happen on Indian land. A woman who is raped today in 2016 on most



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Indian reservations in the United States can expect, if she reports that got to engage with the FBI and the U. S. Atty.'s offices.

>> That presents an interesting dynamic for Native American women who may have been suffering from the aftereffects of overt colonial violence and now being expected to take her experience to a foreign system to be adjudicated. A major crimes act is good law today.

>> The second law I want to mention is called public law 280. If you work or live in one of the states listed on the slide, this is what governs criminal authority in the state. In 1953 the federal government decided to try something new. There was a lot of concern that continuing to recognized Indian tribes as a separate Auburn government was very difficult and convoluted. The plan was, let's try transferring that federal criminal power that we unilaterally established and make states responsible for dealing with crime on Indian reservations. Again we have another unilateral law, the tribes were not consulted and did not agree to this new intrusion. In the states mentioned here, with a few exceptions, by and large, these tribes fall under state jurisdiction. Again, you have an external government, one that has not had necessarily a healthy history with the tribal community, they will now be where women have to turn. That has been presenting many obstacles to survivors in those communities.

>> I want to skip ahead to 19 Sixty-eight. This is when I am talking about recent walls. That has impacted the laws of native American women.

>> In 19 Sixty-eight, Congress passed the small called the Indian Civil Rights Act. There is one component that I want to talk about. By a large, this is a very complicated legislation that has many different components to it. Just know that I am only focusing on one 10th of below. Michael the limitation of sentencing is

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what I think presents real contemporary challenges. Congress said that no matter what the crimes are, the maximum penalty originally, in 19 Sixty-eight, the maximum penalty would be six-month in prison for every -- any crime that a tribal court adjudicated. That limit was raised to one year in the 1980s as part of the world drugs. Now, if the tribe prosecutes somebody for say rape, murder, or rape and murder, the maximum penalty is one year or a \$5000 fine. Tried to have fallen into assimilation. We have begun using prison and jail as a remedy for the violence experienced in our communities..Every tribe does but many do. If you're working in that system, that is what your tribe does now is a prison sentence, you're thinking about, as a victim, rape and sexual assault, you know that the maximum penalty your perpetrator will get is one year, I would suggest that as they do is -- disadvantage to engage. If you have a predatory type predator that's perpetrator who is really making life difficult, who is on the path to homicide and the maximum panel -- penalty is one year, I think that does a disservice to our survivors. This has been a big barrier. This is recent in origin the tribes cannot sentence as equivalent to what you might get into a state or federal court. This has been a big challenge. I now move to the last legal piece of the presentation.

>> In 19/78, the Supreme Court ruled that tribes, by virtue of being dependent on the United States have lost certain attributes of sovereignty. This was a new legal theory made up of whole cloth. There was a long-standing understanding, long understood in federal law that tribes retain jurisdiction over their territory. Over all people on the territory. Even if the federal government simultaneously had the authority, the tribes continued to have authority over crimes that happened in their territory, on their land, Indian country land. Justice Rehnquist came up with a new way of thinking about Indian law. That was that sovereignty has been diminished without any overt action on the part of the federal government. In this case, we had to white defendants who were convicted of crimes in a tribal court

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in 19 in a tribal court in 1970 sicser 1977. It takes a and declares it. In this case, the Supreme Court ruled that Suquamish Indian tribes could not prosecute white people because those non-native were not subject to -- could not vote or sit own sickle Amish juries. Therefore they could not be held criminally liable.

>> -- The tribe is not allowed to engage with any sort of criminal jurisdiction over that perpetrator. If you think back to the beginning of my presentation, I talked about the interventional -- racial statistics of violence committed against native women. We have a very high rate of violence thing committed I-9 Indians. This case I think helps us understand why. We don't have data before 19/78 that we can say for sure that this caused more non-native people to commit crimes against native people, but it is a problem. Native women are not only the most victimized in the United States, we also have the highest rates of inter-marriage. Week Mary outside of the native community more often than not. So are husbands are not going to be held accountable in tribal court, no matter what they do. Could be a homicide. If it is committed on tribal land, a non-native perpetrator is not held accountable in tribal court.

>> At the end of the 20th century, we had systems that were very limited. We could only prosecute members of federally recognized tribes, we could not sentenced to more than one year but probably more important is that criminal -- criminal justice takes resources. Tribal nations are notoriously impoverished. It may be too expensive for us. If we do that, we may not have resources for probation or jails or victim witness coordinators. Our systems have been weakened to the point that we really have very limited criminal authority over things that happen in our community.

>> I will be talking about [ Inaudible ] in just a moment.

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>> We look at -- I want to say couple things about sex trafficking. We have seen a new awareness of sex trafficking in the lives of native women. I think it has been going on for a very long time. Sometimes because you only recently started talking about it, it sounds like a new issue. I really see sex trafficking, article about this, it has essentially been legal since the time of contact. There is a story called Amanda's trail. It is about a woman in Oregon who during the 19th century was forced to walk to an Indian reservation and her child who was fathered by a white man was taken from her. There is an awareness that this has some history that forcing women from one place to another against their will is not recent. Slavery in the state of California was legal long past the ratification of the amendment. You could be a slave in California after emancipation.

>> We know that women were forced into prostitution on reservations, especially when food was scarce and clothing was scarce. Many of the Indian missionaries document this clearly. Native women were forced to prostitute themselves in order to survive.

>> In the rare cases where something like oil may have been discovered on Indian land, there were very few profits -- who became wealthy. If oil were discovered, [ Inaudible ] white men would marry those women and then kill them for their resources. This is a headline.

>> In terms of the contemporary statistics we know that native women tend to be over represented in prostitution and arrests for prosecutions. We found one data point in Minnesota that 24% of women on probation for prostitution are Native American. In studies in Canada we have also seen very high rates of Native American prostitute women.

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>> We also did some research in Minnesota, there is a free report called Garden of truth. You can Google Garden of truth, Minnesota. This report documents the stories of over 100 native women who have been victims of prostitution.

>> With extractive industries and new influx of non-Indians to Indian countries to do work on oil, fracking or developing pipelines, have caught some women in a trafficking ring. This is from 2016. Is happening right here today. Tribes will not be able to prosecute these people.

>> Another interesting dynamic that comes out of the system is that native people will tend to get higher sentences than non-natives because the federal criminal -- criminal system is designed for major, large-scale crimes. This story of Dana Deegan is important to me because she became a friend of mine after I reached out to her. Dana was the victim of a horrific violence for the vast majority -- vast majority of her life. It started with her father and went to his friends and then it continued in foster care. She was beaten then battered. She became pregnant at 17. Her three children are here in the picture. She had three little girls and she was living on a reservation in North Dakota. She got pregnant again by her abusive partner, she lived in a trailer with no electricity or running water. She got pregnant again and was suffering from such a mental anguish that she denied her pregnancy. She was not willing to -- able to handle another pregnancy. The aftermath of giving birth it was a secret. She abandoned her baby boy named Moses. She fled her home and left Moses there and did not return for two weeks. In that time, Moses died. She later concealed his body. She put him in a place where she could see him but kept it secret from everyone else. She was eventually caught and the government brought the book at her. When you think about sentencing severity, this is not an unheard-of crime. It happens in stark circumstances. Usually women in their teens who are terrified or a victim

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of abuse and not able to handle a pregnancy or shared their need for help with anyone. She got 10 years in prison as a young mother with three young daughters. She recently was released but she served over a years in that same time. There were other women, white women in North Dakota who committed the same crime but received much less -- ate less harsh sentence.

>> Where these all federally tried is a question? No. Somewhere in the state system. That was a good question. These show disparities in the federal system as opposed to the state system.

>> Some of you have anticipated that there will be some good news so I am excited to share this with you. A lot of my presentation is very somber. There is real cause for celebration. The movement to address these disparities has really been based on the grass roots advocacy community. It has been the survivors and the advocates who have really made these changes happen. I don't think, if we hadn't had victims seeking out survivors, we would be able to achieve these major legislative changes.

>> The tribal Law and order act passed in July 2010. It is a large piece of legislation. There are a lot of pieces to it. The part that I wanted to mention was the sentencing enhancement. When I mentioned earlier the Indian civil rights act, that limited authority to a maximum of one year imprisonment, with this law, some tribes can sentence up to three years prevent with a cap of nine-year total. If somebody commits three crimes in the course of battering or raping, they could potentially be sentenced to over 90 years. Again, if it is a tribe using incarceration to address violence, that tribe could potentially provide safety for women who are terrified of their abuser who does not seem to be getting the message. A simple victory but a small step in the right direction.

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>> The violence against women act authorization was in 2013. The key here is that tribes under certain circumstances are now allowed to prosecute nonnative perpetrators of domestic violence. Not all tribes are able to do it because there are certain things that have to be in place at the tribe to make this happen. Not all tribes are interested in these strings attached approach. Now, many tribes can prosecute non-Indians. Only four cases of domestic violence. That does not apply to sexual assault, child abuse and affiliated domestic violence crimes like trespass, damage to property, harassment, it actually has to be the battery of the non-Indian against the Indian to trigger this fix that allows tribes to prosecute non-Indians. It is a step in the right direction but it is limited in scope -- in scope.

>> I wanted to let you know the results of the supreme court case. In this case it was a child who was molested on the Choctaw reservation by a white man who works for Dollar General that store was on the reservation. The Dollar General's position was that we can't be held accountable because we are not Indian that we are non-Indian Corporation. They took back case to the Supreme Court and we did not get a decision because we had a four we did not get a decision because we had a 4 to 45. That means -- for to for type.

>> What was so exciting about that as well is the work being done at the grounds -- grassroots groups that level. We were a brief. I should be duty with a Cherokee anti-violence attorney, we co-authored a brief to make sure that the supreme court heard our voices. When we wrote that, we did something unusual. We made sure that quotes were sprinkled throughout the brief. When the justice would read this brief, they would be reading the voices of native women who had bared the brunt of these hurdles.

>> Are there any questions or concerns that we could address before I go into the final part of the presentation?

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>> I think you have kind of answered this, [ Inaudible ] for sexual assault against people living in [ Inaudible ]. Can we hear some of that reaction? Or consequences of that?

>> Yes. It did not shift tribal jurisdiction. It was limited to domestic violence. Now tribes can prosecute non-Indian for domestic violence but not for sexual assault, homicide, child abuse or other affiliated crimes, only for domestic battery.

>> Thank you.

>> Are there any other questions at this point?

>> I think you can go ahead, Sarah.

>> The last part of my presentation really tracks the last chapter of my book that I recently published. It is called the beginning and end of rape. I worked for the violence against women's office as a young attorney. I also work for a nonprofit that received funding. I really started to think about what we are expected to document in order to show progress as advocates. We fill out a lot of reports and write a lot of narratives about the amazing work we do. A lot of times those questions or benchmarks are not really coming from our end of it but are to satisfy our funders whether they be government or foundations or private funding. We have to document our success and efforts on addressing social change in terms that are not our own. I started thinking about that a lot of people wanted my book to give some answers. To say okay, now that you have established this problem, what do we do? Because there are over 560 tribes, I was reluctant to set out and say, this is what tribes must do. There are different cultures and communities that we have. Everybody's progress will look a little different. I thought, maybe what we should do is come up with our own



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benchmarks for success based in our work to [ Inaudible ] social change. We can use those benchmarks to evaluate our progress.

>> I came up with a set of 12 questions that are directed to advocacy communities in Indian country but could apply across the board. To assess -- these will be used to assess if we are affecting change. I would like to now share with you those 12 questions. These questions I don't think have any magic spell to them. I think people should come up with their own questions, questions that might be similar or different or address different problems that our community is facing today. The idea here is to say, let's evaluate our advocacy program based on benchmarks that matter to us. What things do we want to achieve? When we evaluate our programs we evaluate them based on what advocates and survivors are telling us. I am specifically looking at this in the context of sexual violence but you could broaden these questions to include domestic violence abuses in general or other kind of social injustice.

>> The first question is starting at a basic level. Our local conversations happening? Our people are talking it -- our people talking about these kinds of issues? If that is not happening, what could we do to stimulate those conversations. For many tribal communities, we have been sort of, I think handicapped by silence. Sometimes talking about these things after 100 years of terror can be very difficult. Even the basic Scott just starting the conversation, can be a key question to assess how far we have come.

>> To people who are victimized know where they can go for support. Curfew tribes good a form -- of Ford and advocacy program. Women of course, had an underground railroad of shelters in people's basements. Women would try to help even there there was no formal system in place or no advocacy program in place in an official capacity. That we have more and more tribes and communities

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that are able to establish formal systems or formal advocacy communities. That is not the only way to do it. If you can't afford it a community to say we have a formal system, are there other ways that people who are victimized no way they can go for support X does that mean shelter programs? Court accompanying programs, all kinds of systems are in place. What can we do to make sure that we can connect survivors with an advocacy support system?

>> Question 3. Does our tribal nation support or partner with independent native women's organizations? That might be more unique to the native community but it might have relevance to other kinds of systems also. One of the things that has happened that -- is that tribal nations are running their advocacy program through the formal infrastructure of the tribe itself that the tribe have a government and then social services department. Within social services they include their advocates program. I'm not crazy about that model. It is not that it can't work, it is just that there is, I think, a risk that if the politics are in a bad way, the system can suffer from issues of confidentiality, funding, -- I prefer when possible to encourage a community to have an independent organization that is not formally part of the tribe itself. This may not matter for some communities but I have seen it present problems from time to time. Tribal communities can be very small. But say your program which is part of the tribe is helping someone who is related to one of the leaders of the tribe. This could happen in small towns another small communities as well. I advocate for independent advocacy organizations based in grassroots organizations and that of a government agency.

>> Question 4. Does the tribal court system recognize and advocacy privilege? Confidentiality is one of the most important things we offer. Without that our system would not work the way it should. We have to be able to gain the trust of women who have been brutalized and abused and oppressed. The best way we

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can do that is if they know that they do not have to worry about us sharing their information with others. Most states have a system by which advocates can achieve the status of a privileged communication like a doctor or psychologist or priest. Not all advocates have that same protection. I am advocating for native women to make sure that tribal laws also recognize a privileged for advocacy.

>> Question 5. Oftentimes it is interesting, we are not asked about this when we fill out grant reports. What happens when someone reports a crime in our community? What does the flowchart look like, what do our relationships with other advocacy programs look like? That is something that will be very unique to each community. We need to know the answer. What are her different options and how can we support her in deciding to between -- deciding between options. That is the basic question that we need to sit down and wrestle with.

>> Health care has been particularly challenging. We have very little access to the same level health care that you might see in a fiddle that city. Similar to Access in world communities generally. So question sixth, that's so, question 6 to survivors in our community have access to a comprehensive healthcare response to rate?

>> Health service was not training staff to be able to handle sexual violence. That is changing. There's great excitement about those changes. When we are specifically thinking about sexual assault, what is needed? HIV test, rape kit, STD testing, there are many things that are needed. Another thing that is needed is emergency contraception. Indian health service did not have a clear policy for a long while. We did know of plan B was available without question to our citizens. We now have a policy in place that survivors and women in general will have access to emergency contraception in their own communities.

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>> 7. This is important to me. I realized when I was presenting on all of these issues that I was very criminal focused. I was focused only on the criminal justice system. I had some pushback on that from advocates in many communities. Criminal justice of the last thing the native million -- native women one here. We know there is a criminal system but there is also a civil system. We should have more than one option for survivors. It's not, here's your answer for justice. Developing systems that have multiple avenues for healing should be there. Maybe it is about being able to move to a new place. The memories are troubling because you were attacked there. Justice might mean being able to get a new home. There is just -- I want to make sure for myself and for other advocates to sort the shrewd tend to focus on the criminal system, make sure we don't rely on that as the only avenue.

>> With that being said, here is question 8. When women do decide to engage with the criminal justice system, are they able to reliable method of them? Do we have partners in the criminal justice system that are going to reliably follow up and follow through while investigating? Are they going to be able to articulate what the system is going to offer? Each case is different. Some of the challenges in Indian country, when you have federal officers and in some cases state officers on the ground, they haven't always been accountable. One of the things that a lot of communities are doing is developing sexual assault protocol that engage with the federal players as well. That has been an important development.

>> This is a difficult one. It does not apply just to tribes but other marginalized communities. Over the years, we do [ Inaudible ] have leaders and spiritual leaders who are now import -- perpetrators. Women can't challenge that. I am interested in developing lulls at the tribal level that would say if you have been convicted of up crime against a woman or child that you are not eligible to run for

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this office. It is been bad. Serial batterers become revered. We have to be thoughtful about, if that happens what we can do. Is there way we can challenge that person's position? Find out this is another key question I developed. I kept hearing in a lot of tribal communities that they offered therapy to women who had suffered a trauma. I think therapy is a valuable service. I have used it myself. Sometimes the effort to apologize our normal responses can be troubling. In some cases for example, if you thought about things like dissociative disorder which happens to people who have suffered from a great deal of trauma. It happened today net begin when she gave birth. You sort of leave your body to survive. In some tribal belief systems, that is actually a gift. It's not a malady. It is celebrated. If we are really steering all of our survivors to Western reform or mental health care, that might be doing a disservice to them. In fact, the disorder needs to be addressed but addressed through celebration and ceremony and not in the office of a therapist. The other thing that goes on is that there are not very many native people with a mental health degree. Oftentimes the dynamic in the community is that the native women who are victims of assault have to talk to a non-native person who may not have the knowledge about what cultural benchmarks might be available to her. I would be thoughtful about relying heavily on Western psychology.

>> Mandatory education. I saw some chat about this in the early part of my presentation. We've got to get the word out. When people learn this stuff, they are outraged and want to be part of the solution. Are we making sure that different facets of our community are going to be educated about this problem? Then the biggest, most difficult question is are perpetrators being held accountable? Accountability means many different things to many different people. That ties back to my 18 That ties back to my 1824 law. What she's saying the law. Does she want him to be in prison for 20 years? Does she want

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restoration to make her whole again? Anything in between.. -- Perpetrators being held accountable does not mean one thing. It can be multiple things. This question is hard. What means accountability to me might not mean I -- accountability to you. I hope some of these questions are helpful to you. Maybe you can rewrite them or reframe them or write your own. We should evaluate our advocacy movement based on benchmarks that we choose. Not the other way around. I think that closes my presentation. I hope this has been helpful. Here's my contact information. You can certainly reach out to me. I am in St. Paul Minnesota.

>> Thank you so much for this opportunity and for the work you do.

>> Thank you so much. This is so wonderful. We are excited to hear you and your analysis. You have really taken us to the very complex issues of sexual violence in the native community and in all our communities in some ways.

>> What is most important for me is the violence that is rooted in in equities due to the portal colonization of our communities. We see it in various other parts of the world also. It is really important for me. The way you have connected the history and colonization is very powerful. Thank you for sharing your work and understanding and vision of ending violence with us.

>> Thank you for the opportunity.

>> Thank you so much. Thank you all for joining us for today's keynote. I know the next keynote is in January. We will have another exciting speaker for you. Before we end the call today, Liz is going to provide you with some information about resources that is on the webpage.

>> Lives?

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>> -- Liz? You will see in the web links box, there is a link to the evaluation of the session. You will find it in the web links box. You will also see a hyperlink to it in the chat box. As always, thank you so much for joining us today and sharing your thoughts and giving us some feedback about this session and future sessions. Thank you everyone. Take good care.

>> Thank you very much. Goodbye.

>>[ Event Concluded ]