



# SEX TRAFFICKING IN INDIAN COUNTRY: ADVOCACY CURRICULUM

UNITS 1-4 | JANUARY 2020

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INSTRUCTOR GUIDE



# **Sex Trafficking in Indian Country: Advocacy Curriculum Units 1 - 4**

## **INSTRUCTOR GUIDE**



**Tribal Law and Policy Institute  
January 2020**

## Preface

This curriculum is dedicated to Tribal Coalitions in honor of their dedication and tireless efforts advancing systemic change for victims and training tribal victim advocates and others seeking to promote safety for all victims of domestic violence, sexual assault, dating violence, stalking, and sex trafficking.

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## About This Resource

The *Sex Trafficking in Indian Country: Advocacy Curriculum (Curriculum)* is designed to provide tools for Tribal Coalitions and tribal advocates interested in training their staff on introductory information on sex trafficking of Native people. While the *Curriculum* was designed specifically for Tribal Coalitions to utilize in training tribal victim advocates, it may be useful for tribal victim advocates and victim service providers to train others from any number of disciplines and professional backgrounds such as social work, nursing, tribal court, probation, tribal government, psychology, and victim services.

This *Curriculum* was also designed to be taught in full, during a multiday training. However, with minor modifications, instructors may select an individual unit or workshop to use at conferences, meetings, community gatherings, or staff trainings. We strongly encourage teaching Units 1–3 together or as a series, so each participant will have an adequate understanding of key information before addressing these issues in the field.

This *Curriculum* consists of three components: **Instructor Guide**, **Participant Workbook**, and **PowerPoints**. Each *Curriculum* component will be available for free download at [www.TribalTrafficking.org](http://www.TribalTrafficking.org) and [www.Home.TLPI.org](http://www.Home.TLPI.org).

## About the Instructor Guide

This **Instructor Guide** provides training resources and guidance to presenters of trainings, conference plenary sessions, staff trainings, and community trainings. The **PowerPoints** provide strong visual support and salient information to the participants. The **Participant Workbook** corresponds with the **Instructor Guide** and **PowerPoints**.

The **Instructor Guide** includes seven units (Units 5-7 pending approval). **Instructor Notes** are only for the instructor and are in **bold purple text**.

The **Instructor Guide** provides guidance and information to instructors of trainings, conference plenary sessions, and individual training staff and/or community members when utilizing the *Curriculum*. This **Instructor Guide** is designed for the inexperienced instructor while also capable of supporting the experienced instructor. The instructor is not required to be an “expert” on the topic; however, the preferred instructor should be a sexual assault or domestic violence advocate or have a similar background, and have experience working in Indian country.

The **Instructor Guide** materials were created and review by experts in the field. The unit objectives are clearly stated so an advocate can determine if the unit meets their training needs. The **Instructor Guide** organizes complex material and provides directions on presenting the unit topic, including some interactive exercises. The **Instructor Guide** is designed for adult learning, although some of the trainings may also be effective with community youth.

The **Instructor Guide** can be a time-saving tool for Tribal Coalitions and tribal victim advocates. The experienced trainer should feel free to adapt this tool to their needs, expanding on regional topics and experimenting with different styles of presentation. Educating local communities on the many issues related to violence against Native women, including sex trafficking of Native people is critical. Systemic change will not take place without knowledge and understanding of sex trafficking in tribal communities.

Supplemental information may also be needed, and each unit contains an Additional Resources section, which provides a wealth of resources on unit topics.

The first four units of this *Curriculum* **should not** be used by someone inexperienced with the dynamics of domestic violence and sexual assault within Native communities. It is designed for Tribal Coalitions, tribal sexual assault and domestic violence advocates, or individuals with similar training.



## How to Use This Instructor Guide

The **Instructor Guide** provides the information and the activities for each unit used in the trainings. To properly prepare for the training, the instructor is encouraged to review the Additional Resources section at the end of each unit.

Throughout the **Instructor Guide** there are references to slides from the **PowerPoints** along with language that corresponds with the **Participant Workbook**. **Instructor Notes** are listed in **bold purple text** for greater context in the presentation. We recommend the *Sex Trafficking in Indian Country: Advocacy Curriculum* Participant Workbooks be provided to participants in the training. Note: The design does not require participants to read the **Participant Workbook** prior to the training.

The **Instructor Guide** promotes interactive trainings and each unit agenda contains time estimates for each section. These time estimates may be adjusted as needed based upon the needs of the participants and any time restraints.

The **Instructor Guide** also lists any supplies and technology needed for the unit. Trained advocates have particular confidentiality privileges, understand victim-centered service delivery, and are trained to be focused on client safety. Throughout this curriculum, there will be flagged victim advocate tips and victim advocates specific information that should not be undertaken by non-advocates.

Other professions may have specific expertise and training, but that is outside the scope of this resource. We encourage all professionals that may come into contact with victims of sex trafficking to work with their local victim advocates.

The following units include small and large group exercises. Depending upon the number of participants and room set up, small groups can be divided in a way that is most efficient. Most often, small groups can be created by counting off based on size of group with at least three people per group or larger if the entire audience is large. Large groups are the entire audience.

**Please Note: If you add extra slides, that will throw off the slide numbers for the talking points in this Instructor Guide. If you find it necessary to add slides, be sure to manually change the talking points in this Instructor Guide to match the new slide numbers in your Trainer's PowerPoint.**

## Participant Support

**CAUTION TRAINER:** Presentations on sex trafficking, sexual assault, and other violence topics can be a sensitive issue for victims. Some of the topics deal with very sensitive issues and may be disturbing or trigger memories and repressed feelings. You may wish to take some, or all, of the following suggestions designed to help provide the appropriate support:

- Inform participants that self-care is okay, even if that means leaving the room for a period during the presentation or training to regroup.
- Encourage participants to also seek help, if needed, after the presentations.
- Provide local number for resources, including the National Rape Crisis Hotline of (800) 856-HOPE (4673). When you dial this number, you will be connected to a local resource that has twenty-four-hour sexual assault counselors available.
- Sage, sweetgrass, and cedar for smudging should be made available as appropriate.
- An advocate-staffed safe room\* should be made available as appropriate.

\* A safe room is a private space set apart from normal events on the agenda where individuals—such as victims of violence or family members of victims—who are experiencing distressing feelings or triggered memories can come to seek support or sit in a safe environment while they regain composure. At Native trainings and conferences, it is useful to have a safe room staffed by a traditional healer along with a trained advocate. If a traditional healer is available, the person may request as appropriate a smudge with cedar, sage, or sweetgrass or request a prayer from the traditional healer. All services provided are at the request of the individual coming to the safe room. All communication between the individual and the advocates and traditional healers should be kept confidential. The only exception to this is if the individual reports abuse or neglect of a child or a vulnerable person. As mandated reporters, safe room staff cannot keep this information confidential, but it must be reported to proper authorities.

## Effective Instructor Tips

Facilitators that present effective and interesting trainings are generally people who have continuously worked at improving their methods and delivery. The following are a few suggestions to help with your delivery of the training in this **Instructor Guide**.

1. Find the right space for your group or, if there is no choice on the room, check out the space before the training.
  - a. Is it an adequate size for your group? If larger than needed, think about how you could create a smaller space within the larger room. People seem to always sit in the back of the room.
2. Be sure to **always use a microphone**; some people may have different accessibility needs that are difficult, or embarrassing, to express. So be sure to always use a microphone so your audience is sure to hear you. **Always use a microphone**, even if you are capable of projecting your voice loudly.
3. Think about the logistics.
  - a. Does the room fit with the visual aids you will use in your training?
  - b. If you are splitting up a larger group into smaller discussion groups, will that work in the space?
  - c. Is it conveniently located and easy to find?
  - d. If you need an Internet connection for your training, is it available?
  - e. How do you want people to sit during the training?
4. Set the goals for your training.
  - a. Each training in this manual has learning objectives, but you may have a specific goal in mind in addition to these objectives. What is the reason you are doing this training? You may have a goal to educate law enforcement in your community or educate your staff on a topic.
  - b. Establishing your principal goal will help you in determining who to invite and may result in adjustments to the training to fit your goal.
5. Decide who should attend.
  - a. The people that attend should be consistent with your goal.
  - b. Once you have decided who should attend your training, you may need a plan to encourage them to attend.
  - c. Attendees should know that you respect their knowledge and experience and anticipate that they will be actively engaged in the training. Attendees should learn from each other as well as from you.
  - d. The audience also impacts the type of support that may be needed for some of the training topics.

6. Develop, or adjust, an agenda with time limits, but be prepared to adjust timing to fit the needs of the participants. Be conscious of time, as you don't want to miss some key points in the presentation because too much time was spent on another section of the agenda. Provide the attendees a copy of the agenda or verbally relay that information at the start of your presentation.
7. Make sure you have all the supplies and equipment you need to conduct the training. You should ensure you know how to run any technology that is used or have a knowledgeable person assisting.
  - a. If you have a PowerPoint presentation, make sure it is set up appropriately.
  - b. If you are showing a video on the Internet, try it at the training location to ensure there are no problems in transmission.
8. Get everybody in the room involved in the training. Keep it interactive. Engage the audience. Few people can sit and listen to a lecture for ninety minutes. People learn differently, and many learn by interacting with the information provided. Make the training fun and provide opportunities for participants to interact with each other.
9. Practice your training beforehand. Read all the material in the *Sex Trafficking in Indian Country: Advocacy Curriculum* from start to finish. This will help you identify any weaknesses. It will also help you in clarifying your personal comments and additional comments from the *Curriculum* that will be necessary. A run through also helps with getting a feel for the right amount of time to spend on a topic.
10. Be animated, motivational, and enthused about your topic. Do not read from your **Instructor Guide** or from slides unless you are quoting somebody. You can easily highlight things in your manual to keep you on track or write your own outline for the training. Figure out how you can easily glance at something to remember key points.
11. If you are extremely nervous about the presentation, make sure you have prompts (notes/outline/PowerPoint) to keep you on track. Ask someone to help you with tracking time, as it is easy to lose track of time when you are nervous. Co-presenting can also be helpful for a nervous person, provided each presenter understands their role. A co-presenter providing comments during the main presenter's talk can provide a more casual atmosphere that may help in participants' sharing. Extra practice before the training will be very helpful in building confidence. Recording your practice presentation and listening to the recording is a great way to understand how effective your presentation is and how to improve it.
12. Learn from your past trainings. Read the evaluations and determine how you can improve your next training. Evaluate yourself at the end of the training and note how you might improve next time you present.

## Workshop Introduction

Each workshop corresponds to an individual unit of the *Sex Trafficking in Indian Country: Advocacy Curriculum* **Participant Workbook**.

Remember, providing a valuable learning environment in a workshop setting is not something that comes naturally. Facilitators that present effective and interesting workshops are generally people who have continually worked at improving their methods and delivery. The following introduction is strongly suggested to help with your delivery of the workshops in this **Instructor Guide**. Regardless of whether the workshops and curriculum are delivered in whole or in part, the following introduction, “Welcome, Invocation, and Housekeeping,” should be used, or adapted for use, at the beginning of your training time.

### Welcome, Invocation, and Housekeeping (15–20 Minutes)

As this is likely the first day of your training, it is important to set a good tone. It is recommended that a full one-day training begin with an invocation by a local spiritual leader or tribal elder. It also helps if the leader/elder offers words of welcome to the community where the training is occurring. Please follow the traditional customs of the tribal community (and your own) when asking for the assistance of a spiritual leader. According to many tribal traditions, it is customary to offer the leader/elder tobacco or another gift as a token of thanks. Traditionally, this is harvested tobacco wrapped in a small bundle and tied with a leather strip or yarn. However, if you cannot find this item, any loose tobacco product is usually better than none. Be sure to remind participants to turn off cell phones or place them on silent before the invocation begins.

After the invocation, ask for cooperation with any sign-in sheets to have a record of participants. This is also a good time to let participants know if there will be evaluations at the end of the training. It is also helpful for participants to know where the restrooms are located.

This training contains content that may trigger traumatic memories for survivors. It is important that, as the facilitator, you acknowledge that possibility and encourage participants to engage in self-care as appropriate. If a safe room is available, be sure to alert participants. Follow the Participant Support section of this **Instructor Guide** when feasible.

Once the invocation and housekeeping are complete, you should begin the larger participant introduction. Ask each participant to provide their name, tribal affiliation, where they are employed, and their position. If time permits, it would also be good to ask participants “What do you hope to learn from this training?” Finally, be sure to provide a quick overview of your agenda and food options for breaks.



## Unit 1: Introduction to Sex Trafficking in Indian Country

This workshop is based on Unit 1 of the *Sex Trafficking in Indian Country: Advocacy Curriculum, Participant Workbook*. The presentation can be effective without a reading of the Participant Workbook by participants.

Suggested Time for Unit 1: *Estimate 1 hour and 45 minutes*

Supplies Needed: Laptop, PowerPoint projector, extension cords, screen, microphones (optional), easel, large post-it notes (poster size), small post-it notes (3 × 5)

Training Agenda and Time Breakdown:

- *Welcome, Invocation, Introduction, and Housekeeping (15 mins)*
- *Overview of Unit and Learning Objectives (5 mins)*
- *“Training Expectations”—Large Group Exercise (15 mins)*
- *What Is Sex Trafficking? (5 mins)*
- *Advocate’s Working Definition (5 mins)*
- *Common Misconceptions (5 mins)*
- *“Anything of Value”—Small Group Exercise (15 mins)*
- *“No Force, Fraud, or Coercion Required”—Large Group Exercise (15 mins)*
- *Where Does Sex Trafficking Occur? (5 mins)*
- *Why Does Sex Trafficking Occur? (10 mins)*
- *Question and Answer (10 mins)*

Be sure to read Unit 1 of the Participant Workbook before conducting this training. Have a copy of the Participant Workbook on hand for your own reference.

## Talking Points: Slide 1 “Introduction to Sex Trafficking in Indian Country” Introduction and Overview of Unit

Skip the welcome and introductions if the participants have done a similar activity earlier in the day/training. Your presentation should begin with the following:

- ❑ Opening remarks and introductions—include those from the sponsoring organization(s) or lead presenter(s).
- ❑ Introduce yourself and have participants introduce themselves. Encourage participant introductions, and ask participants to introduce themselves with their name, tribal affiliation or tribe they are working for, and current employment title. Skip audience introductions if the group is larger than 10 - 15 people in order to stay on schedule.
- ❑ Provide logistical details: restrooms, lunch locations, expectations of training (e.g., cell phones on vibrate, appropriate to leave room for calls, try to be punctual).
- ❑ Explain the layout of the Participant Workbook. The blank lines are for note taking and will be used for some exercises throughout the training. Also, be sure to point out the function of the footnotes as a source of explanatory information and/or citations.
- ❑ Finally, be sure to let participants know that the additional resources listed at the end of each unit can all be found for free online. Participants can use the electronic version of their workbook for clickable links to those resources.

## Talking Points: Slide 2 “Training Agenda”

Go over the training agenda with the participants:

- *Welcome, Invocation, Introduction, and Housekeeping*
- *Overview of Unit and Learning Objectives*
- *“Training Expectations”—Large Group Exercise*
- *What Is Sex Trafficking?*
- *Advocate’s Working Definition*
- *Common Misconceptions*
- *“Anything of Value”—Small Group Exercise*
- *“No Force, Fraud, or Coercion Required”—Large Group Exercise*
- *Where Does Sex Trafficking Occur?*
- *Why Does Sex Trafficking Occur?*
- *Question and Answer*

You may wish to create a less detailed agenda for participants. For example, participants should not receive time estimates by topic, allowing the presenter more flexibility to tailor the presentation to the audience.



### Talking Points: Slide 3 “Learning Objectives”

Go over this unit’s learning objectives with the participants.

Learning Objectives: As a result of participating in this workshop, you will be better able to:

- Discuss sex trafficking generally;
- Discuss why sex trafficking occurs;
- Identify where sex trafficking can occur;
- Identify some sex trafficking risk factors; and
- Understand the importance of identifying sex trafficking myths and misconceptions.

Remind participants this curriculum was designed as a basic introduction to sex trafficking. From here, participants can expand or build on their knowledge with additional training.

Use the following talking points:

As of the date of this publication, the issues related to sex trafficking in Indian country have reached a heightened level of attention from tribal, federal, and state governments. While sex trafficking has been on the radar of tribal victim advocates and tribal scholars for a much longer period,<sup>1</sup> efforts to address the issue have not resulted in widespread criminalization of sex trafficking through tribal law. This may be attributed to a variety of factors: complex criminal jurisdiction,<sup>2</sup> limited sentencing powers,<sup>3</sup> limited resources,<sup>4</sup> or virtually zero jurisdiction over non-Indians,<sup>5</sup> to name a few.

This presentation will provide participants with a basic understanding of sex trafficking as it impacts Native people.

<sup>1</sup> Lynn Armitage, “Human Trafficking Will Become One of the Top Three Crimes against Native Women,” Indian Country Today Media Network (July 15, 2015), <http://indiancountrytodaymedianetwork.com/2015/07/15/human-trafficking-will-become-one-top-three-crimes-against-native-women-161083> (accessed September 1, 2016).

<sup>2</sup> Robert N. Clinton, “Criminal Jurisdictional Maze,” 18 Ariz. L. Rev. 503 (1976) (discussing the jurisdictional maze that is criminal jurisdiction in Indian country). See also Matthew L. M. Fletcher, Kathryn E. Fort, and Wenona T. Singel, “Indian Country Law Enforcement and Cooperative Public Safety Agreements,” 89 Mich. B.J. 42 (2010).

<sup>3</sup> The Indian Civil Rights Act, as Codified Title 25, U.S.C. §1300 (1968) (modified in 1986 to allow for sentencing of up to one year and \$5,000 per offense). See also Tribal Law and Order Act (TLOA), Pub. L. No. 111-211, §202(a)(5)(A), 124 Stat. 2261 (codified as amended in scattered sections of 18 U.S.C., 21 U.S.C., 25 U.S.C., 28 U.S.C., and 42 U.S.C. [potentially limiting stacking to nine years maximum]).

<sup>4</sup> Angela R. Riley, “Crime and Governance in Indian Country,” 63 UCLA L. Rev. 1564, 1631 (2016) (citing lack of resources as a prominent reason for many Native nations not implementing new laws such as the Violence Against Women Act [VAWA]).

<sup>5</sup> But see Violence Against Women Act of 2013, Pub. L. No. 113-4 (2013) (authorizing Special Domestic Violence Criminal Jurisdiction over non-Indians who commit acts of domestic violence or dating violence or violate protective order in the Indian country of the participating Native nation if the perpetrator has sufficient ties to the prosecuting Native nation).

### Talking Points: Slides 4–5 Large Group Exercise: “Training Expectations”

**Supplies Needed:** Small post-it notes for participants to write and identify one or two training expectations.

**Be sure to make sure that your materials can stick to the surface you wish to display them on, otherwise they may fall and distract the audience or fluster an inexperienced presenter.**

**Exercise Instructions:** Participants will have some space to jot ideas in the Participant’s Workbook in answer to the prompt “What are one to two expectations that you have for this training?”

- Once the participants have jotted some ideas in the workbook, ask each participant to write only one or two expectations on small post-it notes with a limit of one expectation per post-it note (maximum of two post-it notes per participant).
- Ask participants to rank their expectation by priority (i.e., #1 and #2)
- Ask participants to place the small post-it notes on the wall or a large post-it notepad at the front of the room (in any order).
- Once completed, go over expectations on post-it notes, avoiding duplication.

Instructor(s) will discuss each topic or expectations that will be addressed and identify topics expectations that will not be addressed in this training. **Note that you can also provide training on any unaddressed topics at a later date (if applicable).**

**At the break, and only if appropriate, the instructors can provide participants with relevant contact information for instructors to discuss any needs that may be urgent in nature.**

### Talking Points: Slides 6–7 “What Is Sex Trafficking?”

**Use the following talking points, read definitions carefully, and focus on important elements and terms:**

While people may define *sex trafficking* differently, this curriculum is guided by the legal definition of *sex trafficking*. The definition is codified in 18 U.S.C. §1591 set forth below. Note that there are two separate criminal offenses of *sex trafficking*: sex trafficking of an adult and sex trafficking of a minor.

Sex trafficking is defined as:

*(a)Whoever knowingly—  
(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors,*

*transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or*

*(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that **means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act**, shall be punished as provided in subsection (b).*<sup>6</sup> [Emphasis added]

One of the most important distinctions between the offenses is the proof of *force, fraud, or coercion*. Sex trafficking of an adult requires proof of force, fraud, or a prohibited means of coercion, whereas sex trafficking of a minor does not require proof of force, fraud, or coercion.<sup>7</sup>

**Please Note: *Force, fraud, and coercion* are legal terms that will vary depending on the jurisdiction, so do not necessarily map on completely to the common definition.**<sup>8</sup>

Historically, sex trafficking was a crime handled by the federal government, usually because it was perceived as an international or interstate crime. However, due to changing legal definitions and increased awareness of sex trafficking as a problem that can occur at the local level, every state has a law against sex trafficking.<sup>9</sup> A few tribes also have laws against sex trafficking.<sup>10</sup>

**For training purposes, the federal definition will be used. Remind participants of the legal units in this *Curriculum* which provide a general explanation of federal anti-trafficking laws.**

**Remind participants that *force, fraud, and coercion* are legal terms that will vary depending on the jurisdiction.**

18 U.S.C. §1591(e) provides definitions for coercion and other terms used in 18 U.S.C. §1591(a)  
*(e)In this section: ...*  
*(2)The term “coercion” means—*

<sup>6</sup> 18 U.S.C. §1591(a).

<sup>7</sup> Ibid.; See also Hilary Axam and Jennifer Toritto Leonardo, “Human Trafficking: The Fundamentals,” 65 U.S. Attorneys’ Bulletin, November 2017.

<sup>8</sup> See 18 U.S.C. §1591(e) (providing definition for coercion and other terms used in 18 U.S.C. §1591(a)).

<sup>9</sup> National Conference of State Legislatures, “Human Trafficking State Laws,” accessed January 7, 2020, <https://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx>.

<sup>10</sup> A general discussion of sex trafficking and related laws is included in later units of this resource. (pending approval).

- (A) threats of serious harm to or physical restraint against any person;*  
*(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;*  
 or  
*(C) the abuse or threatened abuse of law or the legal process.*

### Talking Points: Slide 8 “Advocates Working Definition of Sex Trafficking”

#### Use the following talking points:

While this session will not focus on legal issues related to sex trafficking, it is important to begin with the same baseline understanding of sex trafficking. Similar to domestic violence, the legal definition may vary from the working definition used by tribal advocates. For instance, an advocate’s working definition may include:

- Sex trafficking is a crime that involves the sexual exploitation of another person for personal/commercial gain.
- Sex trafficking usually includes the trafficker exercising power and control over a victim.
- The presence of force, fraud, or coercion is a useful check if an advocate is unsure. Remember, proof of force, fraud, or coercion needs to be proven if the victim is over 18.

**If all your participants are working in the same jurisdiction, try to get those legal definitions ahead of time and use them for this section. Otherwise, please refer to dictionary definitions of force, fraud, or coercion. Reminding participants that the legal definition changes depending on the jurisdiction.**

### Talking Points: Slide 9 “Common Misconceptions”

#### Use the following talking points, instructors should emphasize the first paragraph:

There are many misconceptions about sex trafficking. While there is limited informational and practical resources on sex trafficking in Indian Country, it is important to avoid operating under misconceptions. Identifying and correcting misconceptions is particularly important for tribal advocates educating others on sex trafficking and assisting victims in their communities.

One of the largest misconceptions is that sex trafficking is the same everywhere. Sex trafficking is a complex crime, and most sex trafficking laws are intentionally broad to allow for the prosecution of its many forms.

Other common **misconceptions** are that:

- Sex trafficking must involve kidnapping, confinement, or physical force;

- Sex trafficking must involve travel across state or international boundaries;
- Traffickers are always strangers to the victim;
- Sex trafficking victims are always female;<sup>11</sup>
- Getting paid any amount means an individual cannot also be a victim;
- Victims are eager to receive help, self-identify, and discuss their victimization;
- Domestic violence is always different from sex trafficking; and
- Sex trafficking always involves the exchange of money.

Remind the audience advocates that under federal law, there is no such thing as a “child prostitute.” All children under the age of eighteen working in commercial sex industries are treated/labeled as victims under federal law (and many state laws).

#### Talking Points: Slides 10–11 “Myths and Misconceptions”

Advise participants to read through the *Myths and Misconceptions* in their workbooks on their own time. Remind participants that these myths and misconceptions were developed by a non-Native organization<sup>12</sup> and are not adapted for tribal communities. Instructors may add text to these slides if they wish to highlight and discuss the *Myths and Misconceptions* provided to participants. DO NOT add extra slides. Adding extra slides will result in a mismatch between your talking points and slide numbers.

If time allows, discuss a few of the “myths and misconceptions” that allow you to provide examples from your own experience, or highlight issues in the region most relevant to your audience.

#### Talking Points: Slides 12–13 Small Group Exercise: “Anything of Value”

Guide participants through the exercise:

Supplies Needed: Small groups: Depending upon the number of participants and room set up, small groups should be divided in a way that is most efficient. Most often, it’s counting off based on the size of group with at least three people per group. Have larger “small groups” if you’re dealing with a large audience. Larger groups may require more time, so be sure to plan your workshop session accordingly.

Question: Review and reflect on the federal definition of sex trafficking provided in this resource. What items may be of value to you? Identify an object other than money within your small group.

<sup>11</sup> See Ashley Greve, “Human trafficking: What about the men and boys?,” September 18, 2014, <https://humantraffickingcenter.org/men-boys/> (accessed November 25, 2019).

<sup>12</sup> “Myths and Misconceptions,” National Human Trafficking Hotline, <http://traffickingresourcecenter.org/what-human-trafficking/myths-misconceptions> (accessed September 12, 2016); For further study of human trafficking, see Axa and Leonardo *supra* note 7, at 3.

**Exercise Instructions:**

- Each small group will assign a person to be a recorder/reporter. The reporter for each group should record the items in the notes space provided in their workbooks and report back to the large group.
- Set a time for the small groups to brainstorm.
- Ask participants to list anything they think may be of value to a person. Advise participants to think very broadly about this and identify non-currency items of value. Tell them to share their responses with members of their small group, and the group recorder/reporter will report to the large group.
- After the time for the exercise has expired, ask each group to share two or three items from their list.
- Try to avoid duplication of items. Possible responses might be food, clothing, shelter, transportation, jewelry, tattoos, phones, and electronics.

**Talking Points: Slides 14–15 Large Group Exercise: “No Force, Fraud, or Coercion Required”**

Guide participants through this exercise.

Supplies Needed: No extra supplies are needed for this exercise.

**Exercise Instructions:**

- Ask the participants to: “Review and reflect on the federal definition of sex trafficking provided in this resource. Why do you think this law does not require a showing of force, fraud, or coercion if a person is under the age of eighteen years?”
- Ask participants to write their responses in their workbooks and then raise their hands to share with the group. Allow the participants two minutes to record their thoughts then go around the large group and call on participants with hands raised.

Try to elicit responses such as:

- Minors are more vulnerable with respect to decision-making skills (easily lured).
- Minors require more protections from predatory behaviors due to ongoing cognitive development.

Instructors should remind participants that the legal units of the *Curriculum* will address these issues more deeply.

Instructors should encourage the participants to develop a working definition of *sex trafficking* that a tribal victim advocate may use to identify and develop a safety plan for victims requesting services.

### Talking Points: Slides 16–17 “Where Does Sex Trafficking Occur?”

#### Use the following talking points:

Unit 2 of this resource will provide an in-depth discussion of methods of trafficking, which will usually impact where sex trafficking is likely to occur. There are numerous situations (who, what, when, where) that can involve sex trafficking. However, when speaking broadly about all tribal communities, sex trafficking can occur in:

- Private homes;
- Hotels;
- Casinos;
- Truck stops;
- Bus terminals;
- Pow-wow grounds;
- Malls;
- Detention facilities;
- Shelters; and
- Bars.

Ask participants to consider the following questions and write their responses in the lines provided in their materials:

Questions: Do you know if sex trafficking is occurring in your community? Do you know where sex trafficking occurs in your tribal community? Where do you think sex trafficking occurs?

Instructors should ask participants to share their responses—call on a few participants with raised hands.

### Talking Points: Slides 18–19 “Why Does Sex Trafficking Occur?”

#### Use the following talking points:

There is an unfortunate lack of reliable data on the prevalence of sex trafficking in Indian country. This lack of reliable data is tied to the limited amount of research, articles, and reports on the topic. However, the limited Native-specific research that has been done and anecdotal evidence suggest that sex trafficking disproportionately impacts Native women and girls.<sup>13</sup>

<sup>13</sup> Sarah Deer et al., *Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota* (St. Paul, MN: William Mitchell College of Law, October 27, 2011), accessed February 8, 2017, [http://www.prostitutionresearch.com/pdfs/Garden\\_of\\_Truth\\_Final\\_Project\\_WEB.pdf](http://www.prostitutionresearch.com/pdfs/Garden_of_Truth_Final_Project_WEB.pdf).

Because much of the available research has focused on women and girls, it is difficult to make statements regarding other demographics. However, Native American sex trafficking risk factors that apply across age and gender include highest rates of physical and sexual violence, sexual assaults at an early age,<sup>14</sup> drug and alcohol abuse,<sup>15</sup> and intergenerational trauma. The U.S. Department of Justice has acknowledged the overrepresentation of Native American women among sex trafficking victims as a national problem.<sup>16</sup>

In 2011, a study of 105 Native women in Minnesota found that some trafficking survivors experienced extreme racial hatred and simultaneous, eroticization by traffickers and/or buyers.<sup>17</sup> Some felt that they were targeted based on their experiences of oppression as Native women.<sup>18</sup> Unit 2 of this resource will provide an in-depth discussion of risk factors.

Sex trafficking is not a new problem in tribal communities. Before the formation of the United States, colonists targeted Native women for rape, kidnapping, and trafficking. Colonial leaders argued that their men were simply yielding to temptation and assigned no moral or religious consequences to the perpetrators.<sup>19</sup> Prior to colonization in some sovereign Native Nations,<sup>20</sup> violence against Native women was considered a most egregious crime and the response to acts of violence was swift. Women were not viewed as property of men; women were also sovereign as they controlled their bodies, property, and fertility.

### Talking Points: Slide 20 “Colonization and Sex Trafficking”

#### Use the following talking points:

While the roles of individuals varied greatly across tribal communities, colonization created a consistent disruption the values and lifeways of Native people.<sup>21</sup> The post-contact colonization

<sup>14</sup> Sarah Deer, “Relocation Revisited: Sex Trafficking of Native Women in the United States,” 36 William Mitchell Law Review 821 (2010): 621-683, 678.

<sup>15</sup> Ibid.

<sup>16</sup> U.S. Department of Justice, *Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2009* (Washington, DC: U.S. Department of Justice, 2010), accessed February 8, 2017, <https://www.justice.gov/archive/ag/annualreports/tr2009/agreporhumantrafficking2009.pdf>; See also U.S. Department of Justice, *Human Trafficking (including Sex Trafficking of American Indians and Alaska Natives)*, (2017), accessed January 7, 2020, <https://www.justice.gov/ovw/page/file/998081/download>.

<sup>17</sup> Deer et al., *supra* note 13, at 32.

<sup>18</sup> Ibid., 49.

<sup>19</sup> Deer, *supra* note 14, at 640 – 665; See also National Congress of American Indians Policy Research Center, *Human and Sex Trafficking: Trends and Responses Across Indian Country*, (2016), accessed January 7, 2020, <http://www.ncai.org/policy-research-center/research-data/prc-publications/TraffickingBrief.pdf>.

<sup>20</sup> *Johnson v. McIntosh*, 21 U.S. 543 (1823), *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), *Worcester v. Georgia*, 31 U.S. 515 (1832), (Often referred to as the “Marshall Trilogy” referring to tribes as sovereigns.). See also *Talton v. Mayes*, 163 U.S. 376 (1896). (Tribal powers are inherent.); E.g., U.S. Department of Justice, *Policy on Indian Sovereignty and Government-to-Government Relations with Indian Tribes* (June 1, 1995), accessed November 5, 2019, <https://www.justice.gov/archives/ag/attorney-general-june-1-1995-memorandum-indian-sovereignty>.

<sup>21</sup> Oxford University Press, “Colonization,” (2019), <https://www.lexico.com/en/definition/colonization> (“1. The action or process of settling among and establishing control over the indigenous people of an area.”); Cf. Carole E. Goldberg et. al, *American Indian Law: Native Nations and the Federal System* (Carolina Academic Press, 2010), 11



and genocide<sup>22</sup> projects of non-Natives sought to wipe out or replace Native cultures with an Anglo social, political, and religious worldview, one in which men dominate. During this time, Native people were increasingly hypersexualized and sexually exploited by colonizers.

The colonizer values promoted inequality between men and women and the oppression of children and two-spirit individuals. These laws and attitudes provided men the permission to abuse women and children, viewing them as property and objects that are owned.

**Instructors should emphasize that, during precolonization, violence against women was likely not a common occurrence. Some tribal traditional values regarded women as sacred or otherwise esteemed. There is evidence that many tribes were matrilineal where women held leadership positions and were the center of their families and their tribal community.**

### **Talking Points: Slide 21 “Systemic Change to a Systemic Problem”**

**Use the following talking points:**

- Contemporary sex trafficking is a symptom of colonization;
- Advocates and tribal communities must address societal norms and attitudes;
- Identify and dismantle systems that support traffickers; and
- Look to traditional community values that can be used to support anti-trafficking efforts.

Understanding that sex trafficking is rooted in an oppressive, colonized society rather than simply looking at individual behavior is important when working with victims. By using this view, we can understand why an empowerment model of advocacy should be employed. It allows the advocate to examine a systemic problem and identify systemic solutions.

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(“Federal policymakers exercised the most extreme forms of colonial domination during the 19th and earlier 20th centuries in an effort to break down the structure of the traditional tribal governments and assimilate tribal members to Western norms.”).

<sup>22</sup> United Nations, General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, (December 1948), available from <https://www.un.org/en/genocideprevention/genocide.shtml> (defining the international crime of genocide as intentional destruction of national, ethnical, racial or religious groups by killing, causing serious bodily or mental harm, inflicting destructive life conditions, imposing birth prevention measures, or forcibly transferring children of the targeted group); See also Department of Defense Appropriations Act § 8113, Pub. L. No. 111-118, (2010), <https://www.congress.gov/111/plaws/publ118/PLAW-111publ118.pdf> (containing a Federal Government acknowledgment and apology for violence, maltreatment, and neglect inflicted on Native Americans and the breaking of political covenants) (accessed November 5, 2019); See also Angelique Townsend Eaglewoman, “Ongoing Traumatic Experience of Genocide for American Indians and Alaska Native in the United States: The Call to Recognize Full Human Rights As Set Forth in the U.N. Declaration on the Rights of Indigenous People,” 3 American Indian Law Journal 424 (2015); E.g., “Remarks of Kevin Gover at the Ceremony Acknowledging the 175th Anniversary of the BIA September 8, 2000” Tribal Law and Policy Institute, [www.tribal-institute.org/lists/kevin\\_gover.htm](http://www.tribal-institute.org/lists/kevin_gover.htm) (“From the very beginning, the Office of Indian Affairs was an instrument by which the United States enforced its ambition against the Indian nations and Indian people...And so, the first mission of this institution was to execute the removal of the southeastern tribal nations ...After the devastation of tribal economies and the deliberate creation of tribal dependence on the services provided by this agency, this agency set out to destroy all things Indian.”).

Advocates and other service providers may want to examine the current system to identify barriers of people escaping violence and to identify any systemic realities that may support the trafficker's power and control. Also, it is important to determine whether the system supports traditional values. If the values are restored, many tribal communities will not tolerate sex trafficking.

#### **Talking Points: Slides 22–24 “Additional Resources”**

Guide participants through the slides on additional resources, which you should create/populate (prior to the training) from the Additional Resources sections at the end of each unit in both the Instructor Guide and Participant Workbook.

Be sure to provide additional resources that you may use yourself or that have been recommended by trusted tribal advocates in your community. It is particularly important to provide any regional resources that participants may find useful.

If the empty Additional Resources slides provided in the Trainer's PowerPoint do not have enough room for you to add all the resources you would like, simply use the slides for your regional resources and direct participants to the Additional Resources section at the end of the unit.

Please Note: If you add extra slides, that will throw off the slide numbers for the talking points in this Instructor Guide. If you find it necessary to add slides, be sure to manually change the talking points in this Instructor Guide to match the new slide numbers in your Trainer's PowerPoint.

Remind participants of the many resources available at [www.TribalTrafficking.org](http://www.TribalTrafficking.org) and [www.Home.TLPI.org/publications](http://www.Home.TLPI.org/publications).

#### **Talking Points: Slide 25 “Questions”**

Field any questions participants may have. If you're running short on time, let participants know how long you will answer questions with the large group and encourage people to come speak with you after the presentation. Be sure to respect participant's time, particularly if this training is part of a larger training with limited breaks.

## Unit 1: Additional Resources

1. **Tribal Law and Policy Institute, “Tribal Sex Trafficking Resources,”**  
[www.TribalTrafficking.org](http://www.TribalTrafficking.org).  
 A website created by the Tribal Law and Policy Institute (TLPI) that contains the latest information on sex trafficking in Indian country. Including the [Sex Trafficking Victim Services Directory](#) and blog [Sex Trafficking in Indian Country Update](#).
2. **Tribal Law and Policy Institute, *Sex Trafficking in Indian Country: Victim/Survivor Resource Book* (2016),** <https://www.tribaltrafficking.org/victim-services>.  
 This *Resource Book* is intended to provide Tribal Coalitions and tribal advocates with basic information on sex trafficking as it impacts Native people and to provide access to direct services that may assist victims of sex trafficking. This resource contains a 900+-page victim services directory that is organized by state. Only the states with a Tribal Coalition are represented in this directory.
3. **Alexandra (Sandi) Pierce, *Shattered Hearts: The Commercial Sex Exploitation of American Indian Women and Girls in Minnesota* (Minneapolis: Minnesota Indian Women’s Resource Center, 2009),**  
[http://www.sdcedsv.org/media/sdcedsvfactor360com/shattered\\_hearts\\_full\\_report-web\\_version.pdf](http://www.sdcedsv.org/media/sdcedsvfactor360com/shattered_hearts_full_report-web_version.pdf).  
 A report on the commercial sexual exploitation of American Indian/Alaska Native women and girls in Minnesota, including sex trafficking. In 2006, the state legislature passed Minnesota Statute section 299A.79 requiring the commissioner of public safety to develop a plan to address current human trafficking and prevent future sex trafficking in Minnesota.
4. **Sarah Deer et al., *Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota* (St. Paul, MN: William Mitchell College of Law, October 27, 2011),**  
[http://www.prostitutionresearch.com/pdfs/Garden\\_of\\_Truth\\_Final\\_Project\\_WEB.pdf](http://www.prostitutionresearch.com/pdfs/Garden_of_Truth_Final_Project_WEB.pdf).  
 The study provides powerful personal accounts of violence, poverty, survival, and strength by Native women. The 105 women interviewed for the report describe extreme and frequent violence including child sexual abuse, rape beating, and traumatic brain injuries, with a majority experiencing symptoms of posttraumatic stress disorder. Ninety-eight percent of the women have been homeless, and 92 percent want to escape prostitution but believe they have no other options. The study authors stress that these women’s strengths as well as their vulnerabilities must be seen in the context of a history of systematic harm to Native people.
5. **Sarah Deer, “Relocation Revisited: Sex Trafficking of Native Women in the United States,”**  
**36 William Mitchell Law Review 821 (2010),**  
<http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1157&context=facsch>.

This article details the historical and legal context of sex trafficking from its origin among the colonial predecessors of the United States and documents the commercial trafficking of Native women over several centuries.

6. **Kathleen Finn, Erica Gajda, Thomas Perrin, and Carla F. Fredericks, “Responsible Resource Development and Prevention of Sex Trafficking: Safeguarding Native Women and Children on the Fort Berthold Reservation” (2016), <https://ssrn.com/abstract=2723517>.**

This paper describes the intersection of sex trafficking and oil and gas development on the Fort Berthold Reservation. It also describes the jurisdictional regime within federal Indian law and other barriers to law enforcement that have created a situation ripe for trafficking and other crime on the Fort Berthold Reservation. The paper examines strategies to address this complex issue including corporate engagement of relevant companies; tribal capacity and coalition building; and remedies contained in the Violence Against Women Act (VAWA) of 2014.

7. **Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis: University of Minnesota Press, 2015).**

*The Beginning and End of Rape* makes available the powerful writings in which Sarah Deer, who played a crucial role in the reauthorization of VAWA in 2013, has advocated for cultural and legal reforms to protect Native women from endemic sexual violence and abuse. These essays point to the possibility of actual and positive change in a world in which Native women are systematically undervalued, left unprotected, and hurt.

8. **American Bar Association, “Human Trafficking,” [www.americanbar.org/groups/human\\_rights/projects/task\\_force\\_human\\_trafficking.html](http://www.americanbar.org/groups/human_rights/projects/task_force_human_trafficking.html).**

This web portal provides very useful information on human trafficking. It includes an FAQ and list of resources for trafficking victims, and more information on federal trafficking legislation. The web portal also connects to the American Bar Association’s Human Trafficking Legal Access Center. The center’s main objective is to bring lawyers and law firms together with nonprofit or pro bono service providers working with survivors of human trafficking to provide low-cost or free legal aid.

9. **Office for Victims of Crime Training and Technical Assistance Center, *Human Trafficking Task Force e-Guide: Strengthening Collaborative Responses*, <https://www.ovcttac.gov/taskforceguide/eguide/>.**

Developed in partnership by the U.S. Department of Justice’s Office for Victims of Crime and Bureau of Justice Assistance, this Guide is a resource to support established task forces and provide guidance to agencies that are forming task forces. Its purpose is to assist in the development and day to day operations of an anti-human trafficking task force and to provide fundamental guidance for effective task force operations. Though not specific to sex trafficking, this resource contains a helpful review of human trafficking laws.

## Unit 2: Identifying and Screening for Sex Trafficking

This workshop is based on Unit 2 of the *Sex Trafficking in Indian Country: Advocacy Curriculum, Participant Workbook*. The presentation can be effective without a reading of the Participant Workbook by participants.

Suggested Time for Unit 2: Estimate 2 hours and 10 minutes

Supplies Needed: Laptop, PowerPoint projector, extension cords, screen, and microphones (optional). This unit includes one large group discussion and two small group exercises. Please ensure that your laptop has Internet capabilities and your projector will transfer both sound and picture for the “Identifying Sex Trafficking” video within this unit.

To find the video, please place the URL ([www.youtube.com/watch?v=VjeDTTw8tco](http://www.youtube.com/watch?v=VjeDTTw8tco)) on the PowerPoint slide into your Internet browser. You will be directed to a YouTube web page, where the video will play. The title of the video is “Native American Trafficking.”

### Training Agenda and Time Breakdown:

- *Introductions, Agenda, Overview of Unit, and Learning Objectives (15 mins)*
- *“Identifying Sex Trafficking” — Video and Large Group Discussion (20 mins)*
- *Who Are Sex Traffickers? (5 mins)*
- *What Do Traffickers Look For? (5 mins)*
- *Risk Factors (5 mins)*
- *Types of Sex Trafficking (5 mins)*
- *Tactics Used by Traffickers (5 mins)*
- *Correlations to Domestic Violence (10 mins)*
- *Sex Trafficking Red Flags (5 mins)*
- *“Fact Patterns”—Small Group Exercise (20 mins)*
- *Interviewing a Victim (5 mins)*
- *Initial Safety Assessment (5 mins)*
- *Screening Tools (5 mins)*
- *“Developing a Culturally Appropriate Screening Tool”—Small Group Exercise (15 mins)*
- *Question and Answer (10 mins)*

Be sure to read Unit 2 of the Participant Workbook before conducting this training. Have a copy of the Participant Workbook on hand for your own reference.

## Talking Points: Slide 26 “Identifying & Screening for Sex Trafficking” Introduction and Overview of Unit

Skip the welcome and introductions if the participants have done a similar activity earlier in the day/training. Your presentation should begin with:

- ☐ Opening remarks and introductions—include those from the sponsoring organization(s) or lead presenter(s).
- ☐ Introduce yourself and have participants introduce themselves. Encourage participant introductions, and ask participants to introduce themselves with their name, tribal affiliation or tribe they are working for, and current employment title. Skip audience introductions if the group is larger than 10 - 15 people in order to stay on schedule.
- ☐ Provide logistical details: restrooms, lunch locations, expectations of training (e.g., cell phones on vibrate, appropriate to leave room for calls, try to be punctual).
- ☐ Explain the layout of the Participant Workbook. The blank lines are for note taking and will be used for some exercises throughout the training. Also, be sure to point out the function of the footnotes as a source of explanatory information and/or citations.
- ☐ Finally, be sure to let participants know that the additional resources listed at the end of each unit can all be found for free online. Participants can use the electronic version of their workbook for clickable links to those resources.

This unit will provide tools and information that would enable proper and early identification of potential victims of sex trafficking to develop a victim-centered, culturally appropriate response. Emphasize the importance of understanding trafficker behaviors and the methods used to keep victims trapped.

Trafficking is sometimes similar to domestic violence, so it is important to provide this perspective to the participants. It is critical that advocates understand the impact of this crime on victims, you can analogize to the risks that domestic violence victims face when they decide to leave and the types of resources they need. Finally, participants will be more experienced at victim recognition and understanding how to help victims in a culturally appropriate way, including those wishing to escape sex trafficking.

### Talking Points: Slide 27 “Training Agenda”

Go over the training agenda with the participants:

- *Introductions, Agenda, Overview of Unit, and Learning Objectives*
- *“Identifying Sex Trafficking” Video and Large Group Discussion*
- *Who Are Sex Traffickers?*
- *What Do Traffickers Look For?*
- *Risk Factors*
- *Types of Sex Trafficking*
- *Tactics Used by Traffickers*
- *Correlations to Domestic Violence*
- *Sex Trafficking Red Flags*
- *“Fact Patterns”—Small Group Exercise*
- *Interviewing a Victim*
- *Initial Safety Assessment*
- *Screening Tools*
- *“Developing a Culturally Appropriate Screening Tool”—Small Group Exercise*
- *Question and Answer*

You may wish to create a less detailed agenda for participants. For example, participants should not receive time estimates by topic, allowing the presenter more flexibility to tailor the presentation to the audience.

### Talking Points: Slide 28 “Learning Objectives”

Go over this unit’s learning objectives with participants. Participants have a copy of the objectives in their workbook.

Objectives –

As a result of participating in this workshop, you will be better able to:

- Identify “types” of trafficking;
- Identify methods used by traffickers against victims;
- Identify red flags that may indicate a person as a victim of sex trafficking; and
- Identify actions that an advocate can take to make the victim feel safer during an interview.

## Talking Points: Slides 29 - 30 "Large Group Activity: Native American Trafficking"

Guide participants through this exercise.

Supplies Needed: Internet, audio capabilities, projector

The video link is [www.youtube.com/watch?v=VjeDTTw8tco](http://www.youtube.com/watch?v=VjeDTTw8tco).

### Exercise Instructions:

Briefly instruct participants to review the discussion questions before watching the video. Remind participants they have a space in their workbook to jot down notes. Be aware that the video contains sexually explicit images, some of these images are pixelated, others are not. Depending on your audience, you may wish to skip this activity.

### Participant Questions:

- What is your initial reaction?
- What were some key words/red flags?
- Name some contributing factors that were highlighted.
- Name some of the tactics traffickers utilized.
- Where are some locations where sex trafficking may be occurring in your community?
- Were the types of traffickers in the video different than you expected them to be?
- Was there anything you did not like about the video or thought the video got wrong?

Remind participants that this video focuses on the Native women and girls in Minnesota and does not represent the entire scope of the problem. Also note that this video focuses on "pimp" traffickers but some of the activity in the video (such as the nineteen-year-old posting an escort ad) would not be considered trafficking under the legal definition but would likely be considered prostitution. Finally, remind the audience that Native people of all ages and genders can be impacted by sex trafficking. Draw out some key points of this video, which may include:

- |   |  |
|---|--|
| <p>1) Initial reaction responses:</p> <ul style="list-style-type: none"> <li>• Trafficking is not a recent problem</li> <li>• Native people still go missing</li> </ul> | <ul style="list-style-type: none"> <li>• Low self-esteem</li> </ul>  |
| <p>2) Key words/red flag responses:</p> <ul style="list-style-type: none"> <li>• Recruitment</li> <li>• Kidnapping</li> <li>• Held captive</li> </ul>                   | <p>4) Tactics used by pimps:</p> <ul style="list-style-type: none"> <li>• Flaunt wealth</li> <li>• Give attention to youth seeking love and affection</li> </ul>                                   |
| <p>3) Contributing factor responses:</p> <ul style="list-style-type: none"> <li>• Poverty</li> <li>• Incest</li> <li>• Chemical abuse/addiction</li> </ul>              | <p>5) Locations where sex trafficking may be occurring:</p> <ul style="list-style-type: none"> <li>• Ships (based on the video)</li> <li>• Streets</li> <li>• Shelters</li> <li>• Homes</li> </ul> |



### Talking Points: Slides 31–32 “Who Are Sex Traffickers?”

#### Use the following talking points:

Sex traffickers can be as varied as the crime. Sex traffickers can be:

- Family members;
- Organized criminal networks;
- Gangs;
- Strangers;
- New “friends”;
- Community members;
- Business owners;
- Intimate partners; and
- People in positions of actual or perceived authority.

Sex traffickers can be any age, gender, and personality type. Because traffickers can be so varied, it is useful to remember that there are different types of sex trafficking (discussed later in this workshop). Individual pimps, family operations, small businesses, loose-knit decentralized criminal networks, and international organized criminal operations can be traffickers. It’s likely that the traffickers and their victims share the same national, ethnic, or cultural background, allowing the trafficker to better understand and exploit the vulnerabilities of their victims.

**Ask participants the following question and ask them to write their responses in their workbooks:** Who do you think traffickers are? What made you think this person was a trafficker? What kinds of traffickers have you encountered in your work as an advocate? What do traffickers look like?

**Ask participants to raise their hands to respond. Call on participants that have their hands raised and try to avoid duplicative answers, so after thanking the first participant for their answer, ask “Does anyone have a different answer?” to get a diversity of answers.**

**Many people are influenced by media and likely have a stereotype image of traffickers; make sure to discuss and challenge these preconceived images and warn against stereotyping. Bring up this point independently if necessary.**

**Key Takeaway:** Emphasize that sex traffickers come from all walks of life and may be difficult to spot or identify.

### Talking Points: Slides 33–34 “What Do Traffickers Look For?”

#### Use the following talking points:

While there are currently no tribally specific studies on how people become sex traffickers or how they choose their victims, tribal experts and survivors have helped provide insight on some traits traffickers may be looking for in a victim. Often these traits are linked to the trafficker's ability to make money and maintain control over the victim. Possible victims include vulnerable individuals who experience child abuse (including child sexual abuse) and neglect, sexual assault, substance abuse, homelessness, extreme poverty, and those who are runaways or those with a cultural disconnect.<sup>23</sup> Additionally, sex traffickers often target vulnerable populations subject to social discrimination such as lesbian, gay, bisexual, transgender, questioning, and two-spirited (LGBTQ/2) individuals.<sup>24</sup>

While some traits may overlap, it is useful to think of these traits in the context of the type of trafficking occurring. Family traffickers that victimize a young child may be looking for different traits than gang members recruiting teenagers. While victims may have, or appear to have, traits that are attractive to a particular kind of trafficker, sex trafficking is *never* the fault of a victim. Some traits that a sex trafficker may be looking for are:

- People who can yield a greater profit;
- People who can “pass” as many races/ethnicities;
- People lacking a strong support system;
- Adolescents with little supervision;
- Runaway youth or Homeless youth;
- People from impoverished neighborhoods;
- People who are less assertive or mild tempered;
- People who are vulnerable to blackmail;
- People that have a strong interest in protecting others from the trafficker;
- People with alcohol or substance abuse issues; and
- People previously raped or molested.

**Ask participants to consider the following question and write their responses in the lines provided in their materials:**

Which of the factors might make Native people more attractive to a trafficker?

**Once complete, ask participants to share their answers.**

<sup>23</sup> Alexandra (Sandi) Pierce and Suzanne Koeplinger, “New Language, Old Problem: Sex Trafficking of American Indian Women and Children,” National Online Resource Center on Violence Against Women, Applied Research (October 2011), accessed February 8, 2016, [http://vawnet.org/sites/default/files/materials/files/2016-09/AR\\_NativeSexTrafficking.pdf](http://vawnet.org/sites/default/files/materials/files/2016-09/AR_NativeSexTrafficking.pdf).

<sup>24</sup> Alexandra (Sandi) Pierce, *Shattered Hearts: The Commercial Sex Exploitation of American Indian Women and Girls in Minnesota* (Minneapolis: Minnesota Indian Women's Resource Center 2009), 111-112, accessed February 8, 2017, [http://www.sdcedsv.org/media/sdcedsvfactor360com/shattered\\_hearts\\_full\\_report-web\\_version.pdf](http://www.sdcedsv.org/media/sdcedsvfactor360com/shattered_hearts_full_report-web_version.pdf) (discussing how two-spirited, bisexual, and transgender “youth are much more likely than heterosexual-identifying youth to report having been kicked out of their homes or having run away, which makes them even more vulnerable to commercial sexual exploitation”).

Ask participants to raise their hands to respond. Call on participants that have their hands raised and try to avoid duplicative answers, so after thanking the first participant for their answer, ask “Does anyone have a different answer?” to get a diversity of answers.

### **Talking Points: Slides 35–36 “Risk Factors Related to Sex Trafficking Victimization”**

#### **Use the following talking points:**

While no one factor is determinate that a person will become a victim of sex trafficking, certain risk factors have been identified as indicators of vulnerability to sex trafficking.

- Age (minors may be more susceptible);
- Poverty and/or unemployment;
- Homelessness;
- Substance abuse/Dependency
- LGBTQ/2;
- Lack of support or support systems;
- Developmentally challenged, mental health challenges;
- Lack of educational opportunities;
- History of abuse and sexual abuse;
- Child welfare system and/or foster care involvement;
- Unsupervised youth; and
- Family history of violence and abuse.

Ask participants to consider the following question and write their responses in the lines provided in their materials:

What risk factors are present in your tribal community?

Once complete, ask participants to share their answers.

Instructor should ask participants to raise their hands to respond. Instructor should call on participants that have their hands raised. Instructor should try to avoid duplicative answers, so after thanking the first participant for their answer, ask “Does anyone have a different answer?” to get a diversity of answers.

### **Talking Points: Slides 37–38 “Types of Sex Trafficking”**

#### **Use the following talking points:**

Sex trafficking can appear in many forms. As technology changes, sex trafficking may shift along with it, but under the advocate’s working definition, anything that involves the criminal sexual exploitation of another person for personal gain will likely be sex trafficking.

However broad sex trafficking may become, there are several “types” of sex trafficking that may occur in tribal communities. It is incredibly important for tribal advocates to understand the different ways sex trafficking can occur and how to respond in kind. Each “type” may be

accompanied by different red flags, target people with different risk factors, occur in different settings, and may impact screening.

This list is not intended to be exhaustive and represents only a selection of possible types of sex trafficking. It is informed by anecdotal evidence and available tribal-specific research.<sup>25</sup> There are infinite ways to organize such a list, but this list is organized relative to the type of perpetrator and can be a useful framework for your advocacy efforts. Keep in mind that there can be overlap across trafficking “types,” but use the following loose definitions to guide your learning throughout this curriculum.

1. **Family Trafficking:** Trafficking a family member, guardian, foster parent, or person in a similar role. When thinking about family trafficking, for this training, there are two subcategories of family trafficking.
  - **Family trafficking of children**
  - **Family trafficking of a spouse or intimate partner:** This can resemble, or even be co-occurring with, domestic violence.
2. **Gang Trafficking:** Trafficking linked to gang activity or membership in a gang.
3. **Organized Criminal Trafficking:** Any type of organized crime that is not solely apart of gang activity, including those involving business owners.
4. **Pimp Trafficking:** Trafficking that is mainly handled by an individual pimp, there can be different kinds of pimps, but for purposes of this training a defining characteristic is that a pimp will likely have more than one victim or a series of victims. Like family trafficking of a spouse or intimate partner, this kind of trafficker may use tactics to similar to, or co-occurring with, domestic violence.
5. **“Officials” Trafficking:** Trafficking as an abuse of official power or authority such as a person/official (state actor, law enforcement, government leader, etc.) abusing their official power or authority to force or coerce individuals into performing commercial sex acts. For example, a police officer that uses force, fraud or coercion (including threats of arrest or jail time) to force victims into sexual acts with others for commercial gain. Recall however, force, fraud or coercion is not necessary of the victim is less than 18 years of age.

**Ask participants to consider the following question and write their responses in the lines provided in their materials:**

Think back to the risk factors you identified in your community.

Is there a certain type (or types) of sex trafficking that can exploit these risk factors?

<sup>25</sup> “Articles and Reports,” Tribal Law and Policy Institute, accessed December 4, 2019, <https://www.tribaltrafficking.org/articles-and-reports>.

## Talking Points: Slides 39–40 “Trafficker Tactics”

### Use the following talking points:

Once a potential victim is identified, sex traffickers must deploy some set of actions to start the victimization process. It is important for anyone working with victims to be aware of how sex traffickers target victims. Once victimization occurs, sex traffickers use other tactics to keep their victims trapped in a cycle of victimization. Sex traffickers exploit others for the profit gained from commercial sex and need to force, coerce, manipulate, and/or exploit their victim’s vulnerabilities. The type of trafficking may impact the kinds of tactics used.<sup>26</sup>

Gang traffickers may promise a high-paying job, a loving community, or new and exciting opportunities and then use physical and psychological violence to control their victims.<sup>27</sup> A victim may feel ashamed for their initial abuse and may feel responsible and unable to seek help. Gang members may also blackmail a victim into commercial sex by threatening to expose prior consensual sexual activities to the victim’s family or tribal community.

Family traffickers who target children/youth may use a child’s ignorance, drugs and alcohol, or physical confinement to exploit their victims. Family traffickers may be aware that another person is sexually abusing their child or young family member but continue to provide access to the child because the abuser provides the parent/family member with gifts or financial support.<sup>28</sup>

For “officials” trafficking in the criminal justice context, the threat of arrest or criminal prosecution for participation (either forced or voluntary) in sex industries can keep victims within the control of sex traffickers abusing their authority.<sup>29</sup> These kinds of threats cause further trauma and leave victims with a profound distrust of law enforcement and authority figures in criminal justice systems. This can prevent victims from seeking future assistance from people they perceive as linked to a tribal government, including tribal advocates.

Pimp trafficking and trafficking involving domestic violence may also involve the same tactics used by batterers. However, in the context of this curriculum, pimp traffickers will likely have more than one victim at a time, or a series of victims.

Advocates can use their sexual assault and domestic violence training to help understand some tactics traffickers may use. For example, the primary goal of some pimps, like that of a batterer, is to focus the victim’s complete attention upon them and what they want. Traffickers, like batterers, may use access to children as a means of controlling their victim.<sup>30</sup>

<sup>26</sup> “The Victims & the Traffickers,” Polaris, accessed December 4, 2019, <https://polarisproject.org/victims-traffickers>.

<sup>27</sup> “Types of Sex Trafficking,” Bakhita Foundation, last modified 2016, <http://thebakhitafoundation.com/sex-trafficking/types-of-sex-trafficking/>.

<sup>28</sup> Ibid.

<sup>29</sup> “What is Human Trafficking?,” Polaris Project, accessed December 4, 2019, <https://humantraffickinghotline.org/what-human-trafficking>.

<sup>30</sup> Ibid.

Ask participants if they have any questions. Be sure to stay within the time limits set in the agenda.

### Talking Points: Slides 41–42 “Correlations to Domestic Violence”

#### Use the following talking points:

Because advocates working at domestic violence programs may encounter victims of sex trafficking presenting as a victim of domestic violence, it is critical that advocates understand nuances of both (sometimes co-occurring) forms of victimization to better identify and appropriately respond to trafficking victims. *Domestic violence* is typically defined as a pattern of abusive behavior in any relationship that is used by one partner to gain, or maintain, power and control over another intimate partner. *Domestic violence* can be physical, sexual, emotional, economic, as well as psychological actions or threats of actions that influence another person.

Similarities include:

- Physical/psychological methods of power and control;
- Victim has an overwhelming sense of fear;
- Beatings or physical restraint not necessary;
- Dependency;
- Dictates or restricts movement/outside contact; and
- Isolation.

Because of a batterer and trafficker’s assertion of power over the victim, victim-centered advocacy, confidentiality, and safety must be the foremost priorities of advocates working with both domestic violence and sex trafficking victims.<sup>31</sup>

Threats and physical abuse may also enforce silence when the victim encounters the justice system.<sup>32</sup> Emotional harm can be just as damaging to a victim as physical violence. For example, threatening to “out” an LBGTQ2/ individual to their community or family may mean the loss of social and economic support.<sup>33</sup>

### Talking Points: Slides 43–44 “Correlations to Domestic Violence”

#### Use the following talking points:

Sex trafficking and domestic violence can include isolation, economic abuse, and gaslighting so the victim feels responsible for the violence.

<sup>31</sup>National Resource Center on Domestic Violence, “What Are the Connections between Domestic Violence and Human Trafficking?,” <https://dvawareness.org/sites/default/files/2019-06/HumanTrafficking%26DV-TalkingPointsForm.pdf> (accessed February 8, 2017).

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

Ask participants to consider the following question and write their responses in the lines provided in their materials:

As you think about correlations to domestic violence, think about the trafficker's motives. What are their motives? Why are they doing this?

Once complete, ask participants to share their answers. Instructor should ask participants to raise their hands to respond. Instructor should call on participants that have their hands raised. Instructor should try to avoid duplicative answers, so after thanking the first participant for their answer, ask "Does anyone have a different answer?" to get a diversity of answers.

Skip this mini exercise if you are worried about time constraints.

#### **Talking Points: Slides 45–46 "Correlations to Domestic Violence"**

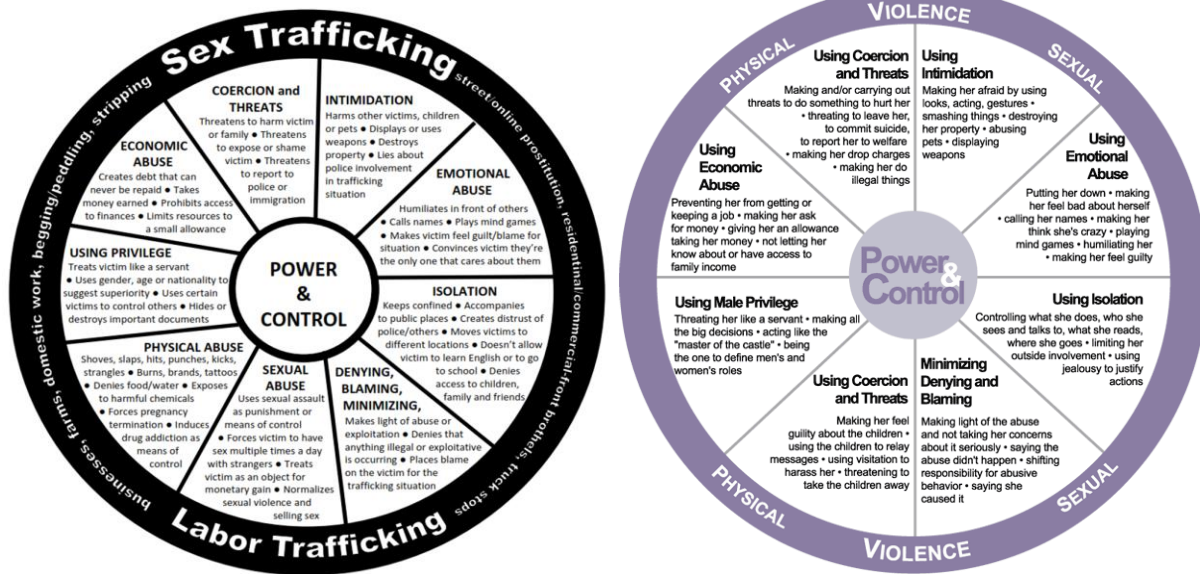
Read through the sex trafficking power and control wheel with participants (left-hand image). Read through the center of the wheel, then the outside portions of the wheel, using each heading to discuss how sex trafficking might occur according to each "spoke" in the wheel.

Repeat for the domestic violence and control wheel (right-hand image).

Finally, discuss some of the similarities between the two wheels. Be sure to note that for both wheels, the core/hub of the wheel is power and control, the primary motive. The spokes are the tactics and the outer portion represents the criminal acts that are chargeable offenses, depending on the jurisdiction.

If you are unfamiliar with the power and control wheel, be sure to watch the explanatory video available here: [https://www.youtube.com/watch?time\\_continue=63&v=5OrAdC6ySiY](https://www.youtube.com/watch?time_continue=63&v=5OrAdC6ySiY) . And, consider visiting the Domestic Abuse Intervention Program website at [www.TheDuluthModel.org](http://www.TheDuluthModel.org) for more information.





The trafficking wheel on the right was adapted from the Domestic Abuse Intervention Project's Duluth Model Power and Control Wheel, available at: [www.theduluthmodel.org](http://www.theduluthmodel.org).

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### Talking Points: Slides 47–48 “Sex Trafficking Red Flags”

#### Use the following talking points:

Anecdotal evidence suggests that trafficking victims may exhibit certain “red flags”; multiple red flags may indicate trafficking. **Some signs may be more obvious than others and it's important to avoid assumptions based on the presence of one “red flag” on its own.**

It is very important to keep in mind that “red flags” will be different depending on the community, type of sex trafficking, and type of trafficker. Additionally, if there is more than one kind of trafficking happening in your community, the red flags may be different.

Keep in mind that the trauma caused by a sex trafficker(s) can be so great that people may not identify themselves as victims or seek help.<sup>34</sup> Other barriers to requesting help include language barriers, fear of the trafficker(s), fear of public scrutiny, and/or fear or distrust of law enforcement. Furthermore, you may encounter compliant victims who may have strong bonds with their trafficker.<sup>35</sup>

<sup>34</sup> “What is Human Trafficking?” Blue Campaign, Department of Homeland Security, accessed November 22, 2019, <https://www.dhs.gov/blue-campaign/what-human-trafficking>.

<sup>35</sup> Compliant victim is not used to place any blame on the victim but to note that some victims may appear cooperative in their victimization; See Kenneth V. Lanning, “Chapter 4: Compliant Child Victims: Confronting an Uncomfortable Reality,” *Viewing Child Pornography on the Internet*, (Russell House Publishing, 2016); See also Abraar Karan and Nathan Hansen, “Does the Stockholm Syndrome affect female sex workers? The case for a “Sonagachi Syndrome” *BMC international health and human rights* Vol. 18, Feb. 2018, [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5802051/pdf/12914\\_2018\\_Article\\_148.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5802051/pdf/12914_2018_Article_148.pdf).



Often, either advocates or law enforcement have first contact with the victim. This initial contact is critical for helping the victim find safety, receive support, access needed resources, and begin the process of criminal justice intervention if that is the choice of the victim.<sup>36</sup>

Red flags include

- Fearful, extremely intimidated speaking to others;
- Inability or unwillingness to make eye contact;
- Physically malnourished;
- Signs of abuse, torture, or injury;
- Tattoos, burns, or brands to indicate ownership;
- Signs of chemical abuse/addiction—tracks, lethargic, incoherent;
- Clothing inappropriate for climate;
- Personal hygiene unkempt, not being allowed to shower or bathe;
- Receives a call or text that makes them want to leave immediately;
- Signs of external monitoring, lack of freedom;
- Scripted responses;
- Financial dependency;
- Communicates they are not in danger when similarly situated individuals might feel afraid;
- Incomplete or contradictory victim disclosures; and
- Youth that may appear in denial and put on a brave face.

### **Talking Points: Slides 49–50 “Red Flags in Adolescents”**

**Use the following talking points.**

Some red flags that may appear in relation to minors and children<sup>37</sup> include:

- Cuts ties with usual friends;
- Involved in a subordinate relationship with an older “friend”;
- School performance/attendance has dramatically diminished;
- Picked up/dropped off by a much older, unrelated person they described as their boyfriend/girlfriend;
- Refers to sexual situations that are beyond their developmental age;
- Accompanied by someone who monitors who they talk to and what they say;
- Has clothing, jewelry, new hair/makeup, and electronics that they have no income to pay for;
- Complains that someone is “taking all my money”; and
- May appear in denial and put on a brave face.

Minor victims of sex trafficking—while too young to consent to sexual activity with adults—may at times be labeled as prostitutes or juvenile delinquents and treated as criminals rather than

<sup>36</sup> Be advised that intervention may be different with child victims, especially if there are mandatory reporting laws in your jurisdiction.

<sup>37</sup> “Report Trafficking,” Shared Hope International, accessed November 25, 2019, <https://sharedhope.org/join-the-cause/report-trafficking/>.

being identified and treated as trafficking victims.<sup>38</sup> Children who are arrested may be placed in juvenile detention facilities instead of environments where they can receive needed social and protective services.<sup>39</sup> Recently, the trend among states is to enact “Safe Harbor Laws” that prevent the prosecution of minors for prostitution and related crimes based on the theory that minors cannot consent and should be treated as victims under criminal laws.<sup>40</sup>

Remember that the trafficker may be monitoring the victim’s every move, or the victim’s responses to questions. This is especially true for youth victims who can be more vulnerable to the trafficker’s tactics. The trafficker may have already instructed the victim on how to respond if ever questioned and the victim may fear the trafficker’s threats of harm if they do not comply. The victim may deny any victimization or may react in a manner that does not fit the profile of a typical victim. This conflicting reaction may be confusing to the advocate, so it is important that the advocate use their discretion and experience to determine if the youth is being trafficked. More obvious signs include tattoos with the name of their trafficker, signs of abuse, and appearing malnourished. The victim may have signs of substance abuse/addiction. The trafficker may have introduced the victim to drugs to keep the victim trapped.<sup>41</sup>

**If time allows, ask participants what they are seeing in their community. What additional red flags are unique to their community? Possible answers may include “low self-esteem” and “exhibits signs of depression.”**

### **Talking Points: Slides 51–52 Small Group Exercise: “Fact Patterns”**

**Guide participants through this exercise.**

Supplies Needed: Flipchart, easel, and markers

#### **Exercise Instructions:**

- **Create small groups and provide each small group with a flipchart paper and a marker.**
- **Assign one fact pattern scenario to each small group (see fact patterns listed in the following text, also available in the Participant Workbook). Depending on the number of small groups, you may not use all scenarios listed.**
- **Ask each small group to review their assigned scenario and discuss the questions on the slide.**

<sup>38</sup> Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin, *Sex Trafficking of Children in the United States: Overview and Issues for Congress* (Congressional Research Service, January 28, 2015), 2, accessed February 9, 2017, <http://fas.org/sgp/crs/misc/R41878.pdf>.

<sup>39</sup> Ibid.

<sup>40</sup> National Conference of State Legislatures, *Safe Harbor: State Efforts to Combat Child Trafficking*, (April 2017), <https://www.ncsl.org/research/civil-and-criminal-justice/safe-harbor-state-efforts-to-combat-child-trafficking.aspx>.

<sup>41</sup> MHeffern, “ABC’s of Human Trafficking: Debt Bondage, Exploitation, and Force,” *Renewal Forum* (July 11, 2013), accessed September, 19, 2016, <http://renewalforum.org/abcs-of-human-trafficking-debt-bondage-exploitation-and-force/>.

- Ask each small group to assign a person to be a recorder/reporter. The reporter for each group should record the items in the note space provided in their workbooks and report back to the large group and/or write responses on the large notepad.
- Encourage participants to take personal notes in their Participant Workbook and participate in the group discussion for the group recorder to document their key points.
- Give participants five to ten minutes to discuss the questions in their small groups.
- After the allotted time is completed, encourage each small group reporter to inform the larger group of key points from their discussion.

### **Exercise Fact Patterns:**

1. Sixteen-year-old Trey met a male online. He told Trey he was seventeen years old. Asked him to meet at the mall. When Trey met him, he clearly was not seventeen. Trey has gone missing.

#### **Takeaway for breakout scenario #1 is to generate awareness that:**

- Trafficking may be occurring in common scenarios involving youth.
  - There are predators who may pose as trustworthy people or as peers the same age as the victim on social media. So, it's important to provide community education to parents and guardians to be vigilant over children such as knowing what sites they are visiting on social media and with whom they are corresponding.
  - When we learn of missing people, in particular women or youth, we should not dismiss the possibility that this could be a trafficking problem.
2. Samantha is fifteen years old and has a friend named Tina who is also fifteen. Tina would like to introduce Samantha to guys who can hook her up with work. Tina tells Samantha the job will allow Samantha to earn enough money to buy the shoes, makeup, and clothes she's been wanting. Tina tells Samantha just one job won't hurt.

#### **Takeaway for scenario #2 is to generate awareness that:**

- Peers can recruit their friends for traffickers.
  - Native youth are vulnerable due to poverty and the lure of being able to purchase items that may not otherwise be able to afford.
3. Adult woman, Toni, is unable to pay her rent. Toni is approached by her landlord and he says he'll overlook one month's rent if she does something for him. He tells her he knows some people who may help her with rent in exchange for favors. The landlord tells her if she wants to continue living there she better think seriously about it.

#### **Takeaway for scenario #3 is to generate awareness that:**

- Victims may exchange a sex act for "something of value" such as a place to live.

- People such as landlords and directors of tribal housing may use their positions of power to force the victim to comply with trafficker's demands.
4. Seventeen-year-old homeless runaway, James, is taken in by a friend's parents. The parents tell James that they need his help and want him to do something so that he can help earn his keep and continue staying with them. James agrees.

**Takeaway for scenario #4 is to generate awareness that:**

- Runaways are often vulnerable for trafficking because no one is responsible for the safety of the runaway youth and the trafficker can capitalize on that vulnerability.
  - Victims may exchange a sex act for "something of value" such as a place to live.
5. Adult woman, Summer, has a boyfriend who wants her to make them some quick money. He tells her that there are some high rollers at the casino that he wants her to meet. He said just hang out and give the high rollers what they want—just this once—so they can get caught up on bills. Together they buy makeup to hide her bruises and head to the casino. Once turned into more. Now, she feels trapped, but loves her boyfriend.

**Takeaway for scenario #5 is to generate awareness that:**

- Trafficking may be occurring in places such as local tribal casinos or other places in tribal communities where there is a high influx of nontribal members.
  - A trafficker may be a family member such as a spouse, parent, or sibling. It isn't always a stranger.
  - Exchanging a sex act for "something of value" such as to survive and not be beaten by a spouse/partner or the trafficker. The victim may comply out of fear of the trafficker/abusive partner.
6. Fourteen-year-old Rebecca's parents told her she had to help them out financially. The parents tell Rebecca that a friend of theirs needs some help and the friend will treat her well; she just has to do a few things for him. Rebecca agrees, gives her parents the money she makes, and goes back to their friend's house. Rebecca has been missing and word has it she went to the city with him.

**Takeaway for scenario #6 is to generate awareness that:**

- Young Native children can be trafficked and that the average age of child victims is fourteen years old.
- Traffickers aren't always strangers and sometimes it can be a parent, guardian, or foster parent.
- Trafficking can be occurring in the victim's home.

- When we learn of missing people, it may be that they are victims of trafficking and the trafficker may have taken them to a new location where the victim can make more money

### Talking Points: Slides 53–54 “Interviewing a Victim”

#### Use the following talking points:

Keep in mind that the trauma caused by a sex trafficker(s) can be so great that people may not identify themselves as victims or seek help.<sup>42</sup> Other barriers to requesting help are language barriers, fear of the trafficker(s), and/or fear of law enforcement. Note that some victims may appear angry and distrustful of all systems. Whatever the timing and context of the interview, victim service providers should begin and end with comfortable topics of conversation to minimize the client’s discomfort.

Additionally, it may be helpful to avoid rooms where the victim may feel trapped. Provide the victim the choice of where they will sit during the interview or set up the room to make it easy for the victim to leave if they feel they need to do so. Provide a sense of equality between you and the victim and avoid physical barriers between you during the interview, preferably by sitting at eye level with the victim.

There are numerous ways to empower a victim by allowing the victim to make choices where possible because traffickers have denied the victim decision-making power. It is critical that the victim is empowered to make their own choices and you should support the victim by identifying safety measures despite what options the victim chooses.

Another way to empower the victim is to employ culturally relevant methods of interviewing. Tribal services have often relied heavily on non-Native services, mental health/behavioral health programs, to provide that need rather than looking internally for existing resources that have existed for centuries. One of those tribal traditions is what is known as “visiting.” This tradition of visiting has been practiced for generations, in protected safe spaces where people could find support by visiting with mentors, elders, and healers. A victim of violence could turn to a mentor, an elder, or a respected healer for support often around a kitchen table and with no interruptions to acquire support, guidance, and support needed in order to heal. This space and support was considered sacred safe space and information kept confidential. Today, those mentors, elders, and healers are the advocates in tribal communities.

Overall, it is important to keep an open mind and to follow the lead of the victim during the interview process. This will require patience and compassion. Likely, the relationship between the victim service provider and the victim will take time to evolve into a trusting relationship. Victims come from all walks of life and may present in many different ways.

#### Read through the text on Slides 53 and 54.

<sup>42</sup> Blue Campaign, *supra* note 34.

## Talking Points: Slides 55–56 “Initial Safety Assessment”

### Use the following talking points:

Victims are usually the best judges of the dangers trafficker(s) pose to them. However, an advocate can help a victim assess the risk and develop a practical plan to stay safe—a safety plan. A safety plan is a plan that identifies ways a person can protect themselves from a violent perpetrator and reduce the risk of serious harm.<sup>43</sup> It is crucial that the victim advocate does not blame the victim.<sup>44</sup> While evaluating risks and creating safety plans can help a victim, safety planning is not a guarantee that they will not be injured again.

Advocates can encourage the victim to follow the safety plan if they are in immediate danger or leave (if possible) to preserve their safety. When working with a victim on the issue of safety, an advocate must discuss whether the victim plans to stay at their current location or intends to leave. If the person wishes to stay at their current location, advocates should help prepare a safety plan to protect the individual if an incident occurs to increase their chances of avoiding injury or death.

Upon the first contact with a victim, making an initial assessment of safety needs is of critical importance. Because each victim may have unique needs, including family safety concerns, and each situation has distinctive characteristics, it is important to consider all possibilities.

Some important questions to ask the victim are:

- Do you feel safe talking with me right now?
- Is there anything that would help you feel safer while we talk?
- Is anyone watching, listening, calling, or texting you now?
- Is a person controlling you or one of your group, in the building or waiting outside?
- Are you or someone you love in danger if you talk to me?
- Are you or someone you love in danger if you accept my help to escape?
- Is there anything I can do to make this conversation easier or safer for you?
- Do you have a safe place to sleep and live?

**Refer participants to their workbook for information on locating more resources from the National Human Trafficking Resource Center.**

<sup>43</sup> “Safety Planning and Prevention for Human Trafficking At-A-Glance,” National Human Trafficking Resource Center, Polaris Project, last modified 2011, <http://www.traffickingresourcecenter.org/sites/default/files/Safety%20Planning%20At%20A%20Glance.pdf> (accessed September 12, 2016).

<sup>44</sup> “Human Trafficking in Indian Country,” National Indian Country Clearinghouse on Sexual Assault, Southwest Center for Law and Policy, <http://niccsa.org/human-trafficking/> (accessed September 12, 2016).

## Talking Points: Slides 57–58 “Screening Tools”

### Use the following talking points:

For victim service providers, screening tools are often used as part of a regular intake process or as part of enrollment for specific programs in an attempt to identify sex trafficking victims. However, screening tools are not exact and cannot definitively declare an individual as a victim of sex trafficking. Instead, these tools should be utilized to raise red flags relative to the possibility an individual is being sex trafficked. Remember, each agency’s intake process is unique. Agencies should determine how to best integrate screening tools with their other intake forms or procedures. Screening timing may vary by discipline. The screening should be administered according to prearranged protocols, whether or not the client is believed to be a victim of sex trafficking. Currently, we are unaware of a tribal-specific sex trafficking screening tool in place. However, implementation of screening tools usually involve the following considerations:

- Setting up the client interview;
- Developing client trust;
- Demonstrating respect;
- Maintaining client confidentiality; and
- Understanding effects of trauma and victimization.

Screening tools may also include additional resources such as sample questions for the victim’s use.<sup>45</sup> It is very important to never begin by asking directly whether the person has been beaten or held against their will.<sup>46</sup>

Existing screening tools may not be culturally relevant to the needs of victims of sex trafficking from tribal communities. Some of the existing tools may not include specific questions on being trafficked in a tribal community and how effects of historical trauma have impacted the victim in other ways in addition to the sex trafficking. Some screening tools may not consider the complex jurisdictional issues. If an advocacy program or a law enforcement agency develops its own interview/screening tool, there are many nontribal examples to help shape a unique screening tool for sex trafficking of American Indian and Alaska Native individuals.<sup>47</sup>

<sup>45</sup> “Rescue and Restore Campaign Tool Kits,” Administration for Children and Families, Office on Trafficking in Persons, accessed September 16, 2016, <http://www.acf.hhs.gov/endtrafficking/resource/rescue-restore-campaign-tool-kits>.

<sup>46</sup> Ibid.

<sup>47</sup> See, e.g., Administration for Children and Families Office on Trafficking in Persons, and National Human Trafficking Technical Assistance Center, *Adult Human Trafficking Screening Tool and Guide* (January 2018), [https://www.acf.hhs.gov/sites/default/files/otip/adult\\_human\\_trafficking\\_screening\\_tool\\_and\\_guide.pdf](https://www.acf.hhs.gov/sites/default/files/otip/adult_human_trafficking_screening_tool_and_guide.pdf); See also Child Welfare Capacity Building Collaborative, *Identifying Minors and Young People Exploited Through Sex Trafficking: A Resource For Child Welfare Agencies*, accessed January 9, 2019, <https://library.childwelfare.gov/cwig/ws/library/docs/capacity/Blob/106060.pdf?r=1&rpp=10&upp=0&w=+NATIVE%28%27recno%3D106060%27%29&m=1>. Note these examples are not adapted for tribes.

Encourage participants to consider utilizing the assessment of safety questions in the first minutes during an advocate's first encounter with the victim. Also note that participants should keep these questions and concerns in mind throughout the interview.

**Talking Points: Slides 59–60 Small Group Exercise: “Developing a Culturally Appropriate Screening Tool”**

Guide participants through this exercise.

**Supplies Needed:** Easels for notepads, large post-its, markers, and screening templates by Vera Institute (see next page and **Participant Workbook**)

**Main Exercise Instructions:**

- Create small groups of two to three. Provide each small group with a flipchart paper and a marker.
- Ask each small group to appoint a note taker to record issues the group identified on the large notepad.
- Ask each group to assign a reporter, who will describe the group's preferences to the large group for the small group.
- Allow the small groups to take a few minutes to review the template of screening questions from the Vera Institute (see next page).
- Ask each small group to answer the following prompts on their large notepad:
  - Identify questions on the template of screening questions that would be helpful to use in your current screening tool/questionnaire/intake form.
  - Identify questions that may not be culturally relevant.
  - Add culturally relevant questions that you believe need to be included in the handout.

**Wrap-Up Exercise Instructions:**

- Call on each group reporter to report a few of their answers to your questions from the exercise.
- Display some of the suggestions regarding cultural adaptation of the screening tool on a large easel. If possible, the instructor can take notes from the exercise and create a slide or handout of the culturally adapted tool.

The instructor should note that this screening tool is for reference and is not tailored to meet the needs of each tribal community. Participants should understand each tribal community is unique and what may work in one community may not work in another community. Therefore, the participants should utilize the tools as a starting point and adjust the tool to better meet the needs of their tribal community.

Also, keep in mind, the trafficker may not be part of the community.



### Trafficking Identification Tool (TLPI Template)<sup>48</sup>

- ☐ Name
- ☐ Date of birth
- ☐ Place of birth
- ☐ Sex of interviewee
- ☐ Source of referral
- ☐ U.S. citizen
- ☐ Last year of completed schooling
- ☐ Have you ever worked without getting the payment you thought you would get?
- ☐ What kind of work or activities were you doing?
- ☐ What payment did you expect and why?
- ☐ What did you receive?
- ☐ Did someone ever withhold payment/money from you? Give your payment to someone else? Control the payment/money that you should have been paid?
- ☐ Did anyone where you worked ever make you feel scared or unsafe? Could you tell me what made you feel scared or unsafe?
- ☐ Did anyone where you worked (or did other activities) ever hurt you or threaten to hurt you? Could you tell me what they did or said?
- ☐ Did anyone where you worked ever harm or threaten to harm people close to you like family or friends?
- ☐ Were you allowed to take breaks where you worked, for example, to eat, use the phone, or use the bathroom?
- ☐ What if you were sick or had some kind of emergency?
- ☐ What do you think would happen if you took a break?
- ☐ Did you have to ask for permission?
- ☐ What did you think would happen if you took a break without getting permission?
- ☐ Were you ever injured or did you ever get sick where you worked?
- ☐ Were you ever stopped from getting medical care?
- ☐ Do you live, or have you ever lived, in the same place where you work?
- ☐ Have you ever felt you could not leave the place where you worked?
- ☐ Could you tell me why you couldn't leave?
- ☐ What do you think would have happened to you if you tried to leave?
- ☐ Did anyone at the place where you lived or worked (or did other activities) monitor you or stop you from contacting your family, friends, or others?

<sup>48</sup> Adapted by TLPI from Vera Institute of Justice, *Screening for Human Trafficking Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)* (New York: Vera Institute of Justice, June 2014), 13–23, accessed February 8, 2017 <https://www.vera.org/downloads/publications/human-trafficking-identification-tool-and-user-guidelines.pdf> (developed from both labor and sex trafficking). Note this resource is not specific to tribes.

- ☐ Did anyone ever take and keep your identification, for example, your passport or driver's license?
- ☐ Did anyone ever force you to get or use false identification or documentation?
- ☐ Did anyone where you worked (or did activities) ever tell you to lie about your age or what you did?
- ☐ Could you explain why they asked you to lie?
- ☐ Did anyone you ever worked for or lived with threaten to report you to the police or other authorities?
- ☐ Did you ever see anyone else at the place where you lived or worked harmed or threatened with harm?
- ☐ If you are comfortable talking about it, could you tell me what happened?
- ☐ Did anyone where you worked ever trick or pressure you into doing anything you did not want to do?
- ☐ If you are comfortable talking about it, could you please give me some examples? Did anyone ever pressure you to touch someone or have any unwanted physical (or sexual) contact with another person?
- ☐ If you are comfortable talking about it, could you tell me what happened?
- ☐ Did anyone ever take a photo of you that you were uncomfortable with?
- ☐ If you feel comfortable talking about this, could you tell me who took the photo?
- ☐ What did they plan to do with the photo, if you know?
- ☐ Did you ever have sex for things of value (e.g., money, housing, food, gifts, or favors)?
- ☐ Were you pressured to do this?
- ☐ Were you under the age of eighteen when this occurred?
- ☐ Did anyone where you worked (or did other activities) ever take your money for things, for example, for transportation, food, or rent?
- ☐ Did anyone you ever worked (or did other activities) for or lived with control how much food you could get?
- ☐ Did you get enough food?
- ☐ Did anyone you ever worked (or did other activities) for or lived with control when you could sleep?
- ☐ Did you get enough sleep?

**Talking Points: Slides 61–63 “Additional Resources”**

Guide participants through the slides on additional resources, which you should create/populate (prior to the training) from the Additional Resources sections at the end of each unit in both the Instructor Guide and Participant Workbook.

Be sure to provide additional resources that you may use yourself or have been recommended by trusted tribal advocates in your community. It is particularly important to provide any regional resources that participants may find useful.

If the empty Additional Resources slides provided in the Trainer’s PowerPoint do not have enough room for you to add all the resources you would like, simply use the slides for your regional resources and direct participants to the Additional Resources section at the end of the unit.

Please Note: If you add extra slides, that will throw off the slide numbers for the talking points in this Instructor Guide. If you find it necessary to add slides, be sure to manually change the talking points in this Instructor Guide to match the new slide numbers in your Trainer’s PowerPoint.

Remind participants of the many resources available at [www.TribalTrafficking.org](http://www.TribalTrafficking.org) and [www.Home.TLPI.org/publications](http://www.Home.TLPI.org/publications).

**Talking Points: Slide 64 “Questions”**

Field any questions participants may have. If you’re running short on time, let participants know how long you will answer questions with the large group and encourage people to come speak with you after the presentation. Be sure to respect participant’s time, particularly if this training is part of a larger training with limited breaks.



## Unit 2: Additional Resources

1. **Tribal Law and Policy Institute, “Tribal Sex Trafficking Resources,”** [www.TribalTrafficking.org](http://www.TribalTrafficking.org).  
A website created by the Tribal Law and Policy Institute that contains the latest information on sex trafficking in Indian country. Including the [Sex Trafficking Victim Services Directory](#) and blog [Sex Trafficking in Indian Country Update](#).
2. **Tribal Law and Policy Institute, *Sex Trafficking in Indian Country: Victim/Survivor Resource Book* (2016),** <https://www.tribaltrafficking.org/victim-services>.  
This *Resource Book* is intended to provide Tribal Coalitions and tribal advocates with basic information on sex trafficking as it impacts Native people and to provide access to direct services that may assist victims of sex trafficking. This resource contains a 900+-page victim services directory that is organized by state. Only the states with a Tribal Coalition are represented in this directory.
3. **Administration for Children and Families, Office on Trafficking in Persons, “Rescue and Restore Campaign Tool Kits,”** <http://www.acf.hhs.gov/endtrafficking/resource/rescue-restore-campaign-tool-kits>.  
This page provides screening information and tool kits for health care providers, social service organizations, and law enforcement officers to utilize in sex trafficking cases, along with other resources on the topic.
4. **Vera Institute of Justice, *Screening for Human Trafficking Guidelines for Administering the Trafficking Victim Identification Tool (TVIT)* (New York: Vera Institute of Justice, June 2014),** <https://www.vera.org/downloads/publications/human-trafficking-identification-tool-and-user-guidelines.pdf>.  
Although not tribal specific, this manual is intended primarily for victim service agency staff and other social service providers, who will administer the Trafficking Victim Identification Tool (TVIT) to clients who are potential trafficking victims. Law enforcement, health care, and shelter workers will also find it helpful in improving trafficking victim identification, especially in conjunction with appropriate training or mentoring.
5. **Andrea L. Johnson, “A Perfect Storm: The U.S. Anti-Trafficking Regime’s Failure to Stop the Sex Trafficking of American Indian Women and Girls,” *Columbia Human Rights Law Review* 43 (2012).**  
While many characteristics are shared by domestic sex trafficking victims, the risk factors for Native Americans come together in a “perfect storm,” rendering Native women and girls particularly vulnerable to the crime.

6. **Office for Victims of Crime Training and Technical Assistance Center, “Trauma-Informed Victim Interviewing,”**

[https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/53-victim-interview-preparation/trauma-informed-victim-interviewing/.](https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/53-victim-interview-preparation/trauma-informed-victim-interviewing/)

This website provides trauma-informed guidance and advice on conducting interviews with victims. Also provides links to other helpful documents.

7. **Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin, *Sex Trafficking of Children in the United States: Overview and Issues for Congress* (Congressional Research Service, January 28, 2015),**

<http://fas.org/sgp/crs/misc/R41878.pdf>.

An overview report created to inform congressional leaders about child sex trafficking and recommendations to address this issue. The report also addresses intergovernmental agency issues and related child sex trafficking policy issues.

8. **Administration for Children and Families, Office on Trafficking in Persons, “Native Youth Toolkit on Human Trafficking,”** <https://www.acf.hhs.gov/otip/resource/native-communities>.

This toolkit provides Native youth an overview of what human trafficking is, tips to keep themselves safe, and additional resources.

## Unit 3: Advocacy for Victims of Sex Trafficking

This workshop is based on Unit 3 of the *Sex Trafficking in Indian Country: Advocacy Curriculum, Participant Workbook*. The presentation can be effective without a reading of the Participant Workbook by participants.

Suggested Time for Unit 3: *Estimate 1 hour and 30 minutes*

Supplies Needed: Laptop, PowerPoint projector, extension cords, screen, and microphones (optional). This unit includes two large group discussions and one small group exercises.

Training Agenda and Time Breakdown:

- *Introductions, Agenda, Overview of Unit, and Learning Objectives (15 mins)*
- *Using the Medicine Wheel: The Impact of Trauma (10 mins)*
- *“How Might Trauma Impact a Person as a Whole?”—Small Group Exercise (15 mins)*
- *Victim’s Service, Safety, and Long-Term Needs (10 mins)*
- *Establishing and Maintaining Trust (5 mins)*
- *Why Victims May Fear Accessing Services (5 mins)*
- *“Finding Services”—Large Group Demonstration (15 mins)*
- *Remember Poem (5 mins)*
- *Question and Answer (10 mins)*

Be sure to read Unit 3 of the Participant Workbook before conducting this training. Have a copy of the Participant Workbook on hand for your own reference.

### Talking Points: Slide 65 “Introduction and Overview of Unit”

Skip the welcome and introductions if the participants have done a similar activity earlier in the day/training. Your presentation should begin with the following:

- ❑ Opening remarks and introductions—include those from the sponsoring organization(s) or lead presenter(s).
- ❑ Introduce yourself and have participants introduce themselves. Encourage participant introductions, and ask participants to introduce themselves with their name, tribal affiliation or tribe they are working for, and current employment title. Skip audience introductions if the group is larger than 10 - 15 people in order to stay on schedule.
- ❑ Provide logistical details: restrooms, lunch locations, expectations of training (e.g., cell phones on vibrate, appropriate to leave room for calls, try to be punctual).
- ❑ Explain the layout of the Participant Workbook. The blank lines are for note taking and will be used for some exercises throughout the training. Also, be sure to point out the function of the footnotes as a source of explanatory information and/or citations.
- ❑ Finally, be sure to let participants know that the additional resources listed at the end of each unit can all be found for free online. Participants can use the electronic version of their workbook for clickable links to those resources.

This unit and corresponding training workshop will provide participants with practical tips and guidance for effective advocacy on behalf of sex trafficking victims.

### Talking Points: Slide 66 “Training Agenda”

Go over the training agenda with the participants:

- |  |   |
|--|---|
| • <i>Introductions, Agenda, Overview of Unit, and Learning Objectives</i>    | • <i>Establishing and Maintaining Trust</i>           |
| • <i>Using the Medicine Wheel: The Impact of Trauma</i>                      | • <i>Why Victims May Fear Accessing Services</i>      |
| • <i>“How Might Trauma Impact a Person as a Whole?”—Small Group Exercise</i> | • <i>“Finding Services”—Large Group Demonstration</i> |
| • <i>Victim’s Service, Safety, and Long-Term Needs</i>                       | • <i>Remember Poem</i>                                |
|  | • <i>Question and Answer</i>                          |



You may wish to create a less detailed agenda for participants. For example, participants should not receive time estimates by topic, allowing the presenter more flexibility to tailor the presentation to the audience.

### **Talking Points: Slide 67 “Learning Objectives”**

Go over this unit’s learning objectives with participants.

As a result of participating in this workshop, you will be better able to:

- Identify how a sex trafficking victim may be impacted;
- Identify possible needs of a sex trafficking victim; and
- Discuss how social and systems change are an important part of advocacy efforts that can create safety for victims of sex trafficking by addressing root causes.

### **Talking Points: Slides 68–69 “Using the Medicine Wheel: The Impact of Trauma”**

Use the following talking points:

Trauma impacts individuals in many ways. Tribal advocates have found that survivors may find it helpful to be introduced or reintroduced to the traditional and cultural practices of the survivor’s tribal community. Advocates can use cultural teachings and resources to provide a better understanding of a Native individual’s trauma and path to wellness.

This section of the resource will use the medicine wheel, as understood by one tribal community, to demonstrate the impact of trauma on the whole person and how understanding that impact from a cultural perspective can help guide an advocate’s work of providing advocacy, support, and services. In some tribal communities, the medicine wheel is a symbol that has a great deal of meaning and ties in to cultural beliefs. It can be a useful way of thinking about trauma and help forge a path to healing. Remember each tribe is unique and will likely have different cultural ways to evaluate and address trauma.

The quadrants represent many parts of creation and life. In this example, the quadrants represent the four parts of a person (mind, body, spirit, and emotions) that are interconnected and related. The line represents a violation. When a person is healthy in all four areas, they walk in balance. When a person has been traumatized in one area, there is imbalance that impacts the other three areas. So, advocates must understand that they are interacting with an individual who has complex trauma, and healing must focus on the person as a whole. In the context of sex trafficking, a victim from the tribal community with a similar medicine wheel may be impacted in the following ways:

Body: Physical injury, sexually transmitted infection, pregnancy, chronic illness such as headaches, eating disorders, weight loss, untreated illnesses, addiction and withdrawal, traumatic brain injury, or broken bones.

**Mind:** Decision making and confusion as brought on by societal attitudes and self-blame. Victims of many types of crime may think they caused the victimization.

**Emotions:** As a result of the victimization, the victim may feel a wide range of emotions. Every victim is different, and the response will vary. Some victims will exhibit no emotional signs of trauma, while others may express or display a wide range of emotions such as fear, depression, anxiety, and sadness.

**Spirit:** The violence perpetrated by the trafficker may harm the spirit of the victim. The victim may have dissociated, and their victimization may have isolated them from their spiritual and cultural practices.

**Talking Points: Slides 70–71 Small Group Exercise: “How Might Trauma Impact a Person as a Whole?”**

Guide participants through this exercise. Because medicine wheels are not universal across Native communities, participants will have the option to use the medicine wheel and corresponding explanation or use an analogous cultural resource from their own community. Participants may even choose to use a medicine wheel, but one that is specific to their tribal community.

**Supplies Needed:** Large (easel size) notepads, easels for the notepads, markers

**Participant Questions:** Read questions aloud and tell participants that they should only choose one question to answer for this exercise.

**Question 1:** Please review the medicine wheel provided. While reviewing this medicine wheel, what is the impact of sex trafficking trauma on a whole person?

**Question 2:** Choose a cultural resource from your community that is analogous to the medicine wheel provided. Within that cultural resource, what is the impact of sex trafficking trauma on a whole person?

#### **Exercise Instructions:**

- Create small groups and should break large group into small groups of two to three. Provide each small group with a flipchart paper and a marker.
- Have each small group appoint a note taker to record issues the group identified on the large notepad.
- Have each group assign a reporter, who will report back one to two items for each of the four parts of the person to the large group for the small group.
- Ask each group to choose one participant question and discuss amongst their small group.
- When the small groups have answered the questions, ask the reporters to report back to the large group with one to two items for each of the section.

Try to avoid duplication of answers. Be sure to stress that it is important to learn from victims about the impact and to view victims not as broken individuals but to work with victims from an empowerment perspective. By listening and learning from victims we will know how to help them and provide great support so that they can make informed decisions with the information we provide. Thus, empowering victims with adequate information will allow them to make their own decisions and create their own path to healing.

### Talking Points: Slides 72–73 “Victim’s Service, Safety, and Long-Term Needs”

#### Use the following talking points:

Despite the seeming multitude of options for crime victims, victims of sex trafficking need a complex and comprehensive set of services that require sensitivity and specialized training from all that are involved in serving them.

**The needs of victims and choice of services must come from the victim. As a provider or responder, it is important to respect the choices made by the victim even if you don’t agree—it is still their life and it is best for them to make their own choices.** Advocacy should always be about empowering the victim and respecting their decisions, concerns, and choices. Additionally, the victim may have information the advocate does not that is guiding their decision making and may be making the best choice considering that information. Finally, while an interview and screening tool should guide advocates, there is always the possibility that a victim has been misidentified. Insisting that a person is a victim when they’re not will only frustrate all involved and may make it more difficult to conduct advocacy in the future.

The situations that sex trafficking victims face vary dramatically, and the victim services available will vary greatly across the United States and from one tribal community to another. Victims may require several emergency and long-term nonlegal services.

Additionally, be mindful of the additional barriers LGBTQ/2 clients face when it comes to accessing services. Because it may not be obvious that individuals are part of the LGBTQ/2 community, never assume anything about a person’s gender, pronouns (i.e., she/her), sexual orientation, or whether their tribal community or family is a good place to find support. Some LGBTQ/2 individuals face additional challenges and may not always have access to the usual source of support. Try to keep an updated list of LGBTQ/2-friendly services for reference.

Victims of sex trafficking from tribal communities may face unique challenges in accessing resources or seeking justice to address their victimization due to historical trauma, lack of culturally appropriate services, and tribal jurisdiction issues. Generally, Tribal Coalitions are a good point of first contact in exploring available services.

Possible long-term needs are:

- Permanent, affordable housing;
- Employment;
- Health care;
- Education;

- Substance abuse treatment;
- Counseling;
- Advocacy;
- Ongoing safety concerns; and
- Ongoing treatment for physical and psychological trauma.

**Instructor should stress that the main message is that responders need to listen to what the victim is or is not telling you. Sometimes the best thing that any responder or service provider can do is to listen without interruption, follow the victim's lead, be patient, and remove distractions. Instructor(s) should also highlight the following points.**

- **As advocates, it is important to address long-term needs. In a recent study by the Minnesota Indian Women's Sexual Assault Coalition, two-thirds of the Native women interviewed who were victims of commercial sexual exploitation said they needed housing and vocational counseling.**

#### **Talking Points: Slides 74–75 “Culturally Appropriate Approach to Advocacy”**

**Instructor should point out the importance of thinking ahead and reviewing the long-term needs of victims as an advocate. Explain to participants that trafficking victims may return to a trafficker because they feel they have no other options. Advocates can engage in some collaborative work with their tribal programs to create the resources needed for victims of trafficking, who are attempting to rebuild their lives.**

#### **Use the following talking points:**

As advocates, it is important to provide a safe, supportive, and comfortable environment for victims. This was a practice used by our grandmothers and aunties where they would share food, coffee, and tea and visit about concerns, joys, and problems. This welcoming, non-threatening environment would elicit better communication and engender trust. This type of environment involves no paperwork, just supporting the victim and discovering where she is in her life. Advocates should be trained on active listening, how to provide validation, and asking open-ended questions.

Another role of advocates is providing one-to-one counseling or support to victims. This counseling is not therapy although it can result in therapeutic outcomes. From a cultural perspective, it can also be referred to as “visiting.”<sup>49</sup> In many tribal communities, it is believed that all are related and as relatives, it is our responsibility to be helpful and supportive to others; this belief makes community education key. Loop in the community with education and awareness, so they may also be good relatives and broaden the support available to the victim.<sup>50</sup>

Community education and awareness is extremely important in a culturally appropriate approach. The community, along with the service providers, should be considered first

<sup>49</sup> See Unit 2: Interviewing for more information on visiting.

<sup>50</sup> Remember client information is key to victim safety. Privacy, confidentiality, and privilege are reviewed in Unit 4.

responders and keep the following advice in mind. When a victim of sex trafficking discloses to a family, friend, or relative, it is important that the response is one of support. An appropriate response is one that shows concern for the victim's safety, identifies ways to help the victim gain access to information, and supports choices the victim makes. The victim should never be blamed or shamed for their victimization.

Provide opportunities to participate in tribal healing ceremonies such as welcome home ceremonies, grieving ceremonies, sweat lodge ceremonies, talking circles, or speaking with an elder. Native Nations all have their own unique cultural and traditional practices of healing; it is important for tribal advocates to become familiar with local resources to provide referrals, and accompaniment, when appropriate.

Culturally appropriate advocacy may also involve providing medicines for healing and cleansing. For example, access to smudging with sage, sweetgrass, or cedar can be considered medicines for healing. Keep in mind that each community has its own traditional medicines, so become familiar with regional demographics and culture. Be sure to respect cultural protocols, if you are not part of the same community as the victim, it may not be appropriate for you to provide certain medicines, but you can provide referrals or encourage clients to fall back on their own cultural teachings.

### Talking Points: Slides 76–77 “Advocates as Social Change Agents”

Use the following talking points:



The diagram shows the victim at the center along with the word *safe*. It would be challenging for any victim to come forward after being threatened or having family members threatened. Keep in mind that victims may have been deprived of choice, so the ability to be forthcoming with people they hardly know takes courage.

The circles around the victim indicate the investment that service providers must make to keep a victim safe and to ensure that their needs are addressed. This diagram indicates how we will have more cooperative witnesses/victims throughout this process. Service providers must also remember that while this investigation is happening, the victim may continue to have needs. If the victim has children, the children may have needs especially if the family will be rebuilding their life after escaping trafficking.

Service providers will often need victim-centered training. Service providers include anyone that provides a service to the victim, such as court staff, judges, law enforcement, and medical personnel. Advocates/victim service providers are those providing direct services and support to the victim, helping them navigate what service providers are available.

The work of advocates does not end with providing direct services. It is critical for advocates to look at the types of responses that other agencies are providing, contributing factors, and the root causes of the problem of sex trafficking. By examining these roots and responses, advocates can create positive changes.

### **Talking Points: Slides 78–79 “Establishing and Maintaining Trust”**

#### **Use the following talking points:**

The criminal justice system can be a traumatic place for victims. As victim service providers, we may wonder why victims choose to not move forward with the investigation and criminal justice response. We need to remember that this person was violated, was betrayed by someone they may have grown to care for, and may have developed an emotional bond due to the tactics used by a trafficker. Trusting others may be challenging for the victim. Advocates should:

- Provide as many safety measures as possible;
- Inform victims of their rights and options so they can make informed decisions;
- Address basic needs (food, clothing, housing);
- Not duplicate tactics used by traffickers (appearing forceful, pressuring victim to make decisions, making a victim feel indebted to you as a way to manipulate their actions);
- Keep victim informed of status of case if there is criminal justice involvement; and
- Make sure the victim knows that you respect their decision-making process.

Remember, establishing a maintain trust is an ongoing process that will take time and patience. With this in mind, be sure to:

- Acknowledge the harm caused;
- Avoid taking the victim’s reluctance to divulge information personally;

- Check in with victim from time to time; and
- If appropriate, let victim know you are thinking of them so they remember they can call if they need to.

**First and foremost, the advocate must be sure to inform the victim of what happens to the information provided by the victim. The advocate should discuss client consent, mandatory reporting, and any official information-sharing agreements that may exist with other governmental departments. The advocate should explain who will see or hear any information provided by the victim and why the information will be (or must be) shared.<sup>51</sup>**

Keep in mind that victims of sex trafficking have likely endured physical and emotional harm, or threats of harm. Some may have had their loved ones threatened as well. As such, trust can be difficult; it will not come quickly or easily. This is especially true with victims who appear to cooperate with their own victimization. Advocates and first responders must have patience and maintain consistency as their trustworthiness may be tested.<sup>52</sup>

### **Talking Points: Slides 80–81 “Why Victims May Fear Accessing Services”**

#### **Use the following talking points:**

Advocates and other responders should remember the risks the victim is facing and the other fears they may have. Often pressuring the victim to move forward may replicate how they were treated by a trafficker. This type of response may only create apprehension and resistance on the part of the victim. Everyone involved in service providing for the victim should respect the victim’s choices and decision-making process. Advocates should not use access to services as way of forcing a victim to take actions and should limit assistance to the scope of the victim’s request.

People may also be afraid to seek help accessing services due to:

- Fear of not being believed;
- Lack of knowledge about potential processes;
- Fear of confidentiality violations;
- Fear of rumors and misperceptions;
- Distrust of criminal justice system;
- Fear of being arrested and jailed;
- Fear of having to testify against the perpetrator;
- Fear of becoming a target of investigation and/or prosecution;
- Fear of being deported; and
- Fear of losing custody of children.

<sup>51</sup> Client information sharing is discussed further in Unit 4.

<sup>52</sup> This includes victims that may have warrants out for their arrest. See Tribal Law and Policy Institute, *Tribal Law Enforcement Protocol Guide: Sexual Assault*, (2008), 16, [http://www.tribal-institute.org/download/Tribal\\_Law\\_Enforcement\\_Protocol\\_Resource\\_Sexual\\_Assault.pdf](http://www.tribal-institute.org/download/Tribal_Law_Enforcement_Protocol_Resource_Sexual_Assault.pdf).



Furthermore, victims may be worried about whether the criminal record that results from being convicted if they are prosecuted for involvement in commercial sex industries can act as a barrier to future employment, housing, and other opportunities.

### **Talking Points: Slides 82–83 Large Group Demonstration: “Finding Services”**

*Prior to the start of this unit, please ensure that your laptop has Internet capabilities, and your projector will transfer the picture for this website demonstration. To find the website, please place the URL ([www.TribalTrafficking.org](http://www.TribalTrafficking.org)) on the PowerPoint slide into your Internet browser. You will be directed to the web page photographed in this slide.*

#### **Demonstration Instructions:**

- Instructor should bring up the website listed ([www.tribaltrafficking.org](http://www.tribaltrafficking.org)) for this portion of the workshop.
- Instructor will provide an overview of the website and participate in question and answers regarding the website.

*Instructor should be familiar with the website and its resources before conducting the demonstration.*

### **Talking Points: Slides 84–85 “Remember Poem”**

*Read the poem or ask a volunteer to read the poem aloud to the group from their workbook or the slide:*

*Remember...We are here to listen,  
Not to work miracles.  
We are here to help “victims” discover  
What they are feeling  
Not to make the feelings go away.  
We are here to help “victims” identify their options.  
Not to decide for them what they should do.  
We are here to discuss steps with them.  
Not to take steps for them.  
We are here to help victims discover they can help themselves.  
Not to rescue them leaving them still vulnerable.  
—Anonymous*

### **Talking Points: Slides 86–87 “Additional Resources”**

*Guide participants through the slides on additional resources, which you should create/populate (prior to the training) from the Additional Resources sections at the end of each unit in both the Instructor Guide and Participant Workbook. Be sure to provide*



additional resources that you may use yourself or that have been recommended by trusted tribal advocates in your community. It is particularly important to provide any regional resources that participants may find useful.

If the empty Additional Resources slides provided in the Trainer's PowerPoint do not have enough room for you to add all the resources you would like, simply use the slides for your regional resources and direct participants to the Additional Resources section at the end of the unit.

**Please Note:** If you add extra slides, that will throw off the slide numbers for the talking points in this Instructor Guide. If you find it necessary to add slides, be sure to manually change the talking points in this Instructor Guide to match the new slide numbers in your Trainer's PowerPoint.

Remind participants of the many resources available at [www.TribalTrafficking.org](http://www.TribalTrafficking.org) and [www.Home.TLPI.org/publications](http://www.Home.TLPI.org/publications).

#### **Talking Points: Slide 88 "Questions"**

Field any questions participants may have. If you're running short on time, let participants know how long you will answer questions with the large group and encourage people to come speak with you after the presentation. Be sure to respect participant's time, particularly if this training is part of a larger training with limited breaks.



## Unit 3: Additional Resources

1. **Tribal Law and Policy Institute, “Tribal Sex Trafficking Resources,”**  
[www.TribalTrafficking.org](http://www.TribalTrafficking.org).  
 A website created by the Tribal Law and Policy Institute that contains the latest information on sex trafficking in Indian country. Including the [Sex Trafficking Victim Services Directory](#) and blog [Sex Trafficking in Indian Country Update](#).
2. **Tribal Law and Policy Institute, *Sex Trafficking in Indian Country: Victim/Survivor Resource Book* (2016),** <https://www.tribaltrafficking.org/victim-services>.  
 This *Resource Book* is intended to provide Tribal Coalitions and tribal advocates with basic information on sex trafficking as it impacts Native people and to provide access to direct services that may assist victims of sex trafficking. This resource contains a 900+-page victim services directory that is organized by state. Only the states with a Tribal Coalition are represented in this directory.
3. **Alexandra (Sandi) Pierce, *Shattered Hearts: The Commercial Sex Exploitation of American Indian Women and Girls in Minnesota* (Minneapolis: Minnesota Indian Women’s Resource Center, 2009),**  
[http://www.sdcedsv.org/media/sdcedsvfactor360com/shattered\\_hearts\\_full\\_report-web\\_version.pdf](http://www.sdcedsv.org/media/sdcedsvfactor360com/shattered_hearts_full_report-web_version.pdf).  
 A report on the commercial sexual exploitation of American Indian/Alaska Native women and girls in Minnesota, including sex trafficking.
4. **Sarah Deer et al., *Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota* (St. Paul, MN: William Mitchell College of Law, October 27, 2011),**  
[http://www.prostitutionresearch.com/pdfs/Garden\\_of\\_Truth\\_Final\\_Project\\_WEB.pdf](http://www.prostitutionresearch.com/pdfs/Garden_of_Truth_Final_Project_WEB.pdf).  
 The study provides powerful personal accounts of violence, poverty, survival, and strength by Native women. The study authors stress that these women’s strengths as well as their vulnerabilities must be seen in the context of a history of systematic harm to Native people, racism, poverty, and a lack of housing, health care, jobs, and education opportunities.
5. **Office for Victims of Crime Training and Technical Assistance Center, “Trauma-Informed Victim Interviewing,”**  
<https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/53-victim-interview-preparation/trauma-informed-victim-interviewing/>.  
 This website provides trauma-informed guidance and advice on conducting interviews with victims. Also provides links to other helpful documents.



## Unit 4: Legal Advocacy

This workshop is based on Unit 4 of the *Sex Trafficking in Indian Country: Advocacy Curriculum, Participant Workbook*. The presentation can be effective without a reading of the Participant Workbook by participants.

Suggested Time for Unit 4: Estimate 1 hour 55 minutes

Supplies Needed: Laptop, PowerPoint projector, extension cords, screen, microphones (optional), Internet

Training Agenda and Time Breakdown:

- *Introductions, Agenda, Overview of Unit, and Learning Objectives (10 mins)*
- *“Meeting the Legal Advocacy Needs of Sex Trafficking Victims” – Small Group Exercise (10 mins)*
- *Victim Advocacy Roles (15 mins)*
- *Legal Advocacy Responsibilities (15 mins)*
- *“Meeting the Legal Needs of Sex Trafficking Victims” – Small Group Exercise (10 mins)*
- *Overview of Legal Needs in Criminal Systems (10 mins)*
- *Overview of Legal Needs in Civil Systems (5 mins)*
- *The Basics of Criminal and Civil Jurisdiction (5 mins)*
- *Navigating Criminal Jurisdiction in Indian country (5 mins)*
- *Criminal Legal Advocacy (5 mins)*
- *Victim’s Rights Laws (5 mins)*
- *Navigating Civil Jurisdiction in Indian country (5 mins)*
- *Civil Legal Advocacy (5 mins)*
- *Civil Protection Orders (10 mins)*
- *Enforcing Tribal Protection Orders (5 mins)*
- *Full Faith and Credit (5 mins)*
- *Advocate’s Tribal Protection Order Checklist (5 mins)*

Be sure to read Unit 4 of the Participant Workbook and review Unit 4 slide deck before conducting this training. Have a copy of the Participant Workbook on hand for your own reference.

### Talking Points: Slide 89 “Introduction” and Overview of Unit

Skip the welcome and introductions if the participants have done a similar activity earlier in the day/training. Your presentation should begin with the following:

- ❑ Opening remarks and introductions—include those from the sponsoring organization(s) or lead presenter(s).
- ❑ Introduce yourself and have participants introduce themselves. Encourage participant introductions, and ask participants to introduce themselves with their name, tribal affiliation or tribe they are working for, and current employment title. Skip audience introductions if the group is larger than 10 - 15 people in order to stay on schedule.
- ❑ Provide logistical details: restrooms, lunch locations, expectations of training (e.g., cell phones on vibrate, appropriate to leave room for calls, try to be punctual).
- ❑ Explain the layout of the Participant Workbook. The blank lines are for note taking and will be used for some exercises throughout the training. Also, be sure to point out the function of the footnotes as a source of explanatory information and/or citations.
- ❑ Finally, be sure to let participants know that the additional resources listed at the end of each unit can all be found for free online. Participants can use the electronic version of their workbook for clickable links to those resources.

This unit and corresponding training workshop will provide participants with practical tips and guidance for effective advocacy on behalf of sex trafficking victims navigating tribal legal systems.

### Talking Points: Slide 90 “Training Agenda”

Go over the training agenda with the participants:

- *Introductions, Agenda, Overview of Unit, and Learning Objectives*
- *“Meeting the Legal Advocacy Needs of Sex Trafficking Victims” – Small Group Exercise*
- *Victim Advocacy Roles*
- *Legal Advocacy Responsibilities*
- *“Meeting the Legal Needs of Sex Trafficking Victims” – Small Group Exercise*
- *Overview of Legal Needs in Criminal Systems*
- *Overview of Legal Needs in Civil Systems*
- *The Basics of Criminal and Civil Jurisdiction*
- *Navigating Criminal Jurisdiction in Indian country*
- *Criminal Legal Advocacy*
- *Victim’s Rights Laws*

- *Navigating Civil Jurisdiction in Indian country*
- *Civil Legal Advocacy*
- *Civil Protection Orders*
- *Enforcing Tribal Protection Orders*
- *Full Faith and Credit*
- *Advocate's Tribal Protection Order Checklist*

You may wish to create a less detailed agenda for participants. For example, participants should not receive time estimates by topic, allowing the presenter more flexibility to tailor the presentation to the audience.

#### **Talking Points: Slide 91 “Learning Objectives”**

Go over this unit’s learning objectives with the participants.

Learning Objectives –

As a result of participating in this workshop, you will be better able to:

- Identify critical roles advocates fill when providing victim advocacy;
- Identify legal advocacy needs of sex trafficking victims;
- Identify concerns related to victim information;
- Identify potential needs of victims in criminal systems;
- Identify potential needs of victims in civil systems;
- Identify victim’s rights and explain the importance of each right identified; and
- Identify important issues regarding tribal protection order issuance and enforcement.

#### **Talking Points: Slide 92-93 “Meeting the Legal Advocacy Needs of Sex Trafficking Victims”**

Guide participants through this exercise.

#### **Exercise Instructions:**

- **Assign participants to a small group of at least three people. “Small groups” can be larger depending on the number of participants. To save time, group people who are already sitting near each other.**
- **Ask participants individually to reflect on the following question “What concerns may the victim have about interacting with legal systems?”**
- **Have participants jot their answers down in their workbooks and then, share out with their small group for a few minutes to *brainstorm how an advocate might address those in a realistic but supportive way.***

Once complete, ask participants to share their answers. Instructor should ask participants to raise their hands to respond. Instructor should call on participants that have their hands raised. Instructor should try to avoid duplicative answers, so after thanking the first participant for their answer, ask “Does anyone have a different answer?” to get a diversity of answers.

### Talking Points: Slide 94-95 “Victim Advocacy Roles”

**Begin this session with the following statement:** *Victim advocates are professionals trained to support victims of crime. An advocates’ role is to act as the **BIASED** supporter of Indian women experiencing violence, advocating for their **expressed** interests, including safe space and other resources to regain control over their lives; to provide expertise founded on women’s experiences within justice, social service and medical systems; and to prioritize women’s safety and offender accountability in all aspects of advocacy, including maintaining confidentiality.*<sup>53</sup>

Stress that as a biased supporter of a victim’s expressed interests, advocates play an important part in empowering victims. Remind participants that victims of sex trafficking are often faced with making fast-paced and important decisions. The seriousness of those decisions may cause feelings of fear and nervousness, especially when navigating legal systems. Many of those fears may be addressed by equipping the victim with as much accurate information as possible and updating safety plans on a consistent basis.

### State that victim advocates may share some common roles:

- Direct Victim Advocacy
- Emotional and Family Support
- Community and Collaborator Accountability
- Legal System Advocacy

### Use the following talking points:

Direct Victim Advocacy - One of the roles that advocates fill is providing immediate crisis intervention following a crime. This is a critical time for victims. The type of response received at this time can either hurt or help heal the victim. Their first point of contact can also make or break the victim’s willingness to participate within the legal process. It is important for an advocate to have crisis intervention training, practice active listening, and provide clear information about the services the advocate can offer.

<sup>53</sup> Mending the Sacred Hoop, *The Principles of Advocacy: A Guide for Sexual Assault Advocates*, (1995), 13, <https://mshoop.org/resources/manuals/sexual-assault-advocacy-guide/#close>.



**Emotional and Family Support** - When a person is victimized, there is emotional harm to the victim and often to the victim's family, friends, and the community. This is especially true when a family or community member is the perpetrator. An advocate must avoid projecting their personal emotional responses on to the victim and should make space for the victim to express their emotions. Relationships with community and agency partners can be particularly useful in maintaining support for the victim's emotional needs, especially when family and friends are not a source of positive emotional support.

**Community and Collaborator Accountability** - One of the vital roles of advocates is working with agencies on behalf of victims to ensure that services rendered to the victim are appropriate, sensitive, timely, professional, and free from victim-blaming attitudes. Being familiar with who the multi-disciplinary service providers are in the appropriate jurisdiction will prove to be beneficial to the victim. Throughout an advocate's time with the victim, advocates must continue to examine the responsiveness of community agencies and collaborators, including individuals like the victim's lawyer, and hold them accountable to ensure the client is not re-victimized and all services support the victim's healing.

**Legal Systems Advocacy** - One of the most important roles of an advocate is legal and systems advocacy. Legal advocacy may involve either or both the civil and criminal justice system, depending on the victim's wishes. Both justice systems can be confusing for victims and as such, the advocate should be there to guide the victim through each system. The advocate does this by providing accurate information about what the victim can expect and support the victim's decisions throughout the process.

### **Talking Points: Slide 96-97 "Legal Advocacy Responsibilities"**

**State that there are particular responsibilities that advocates should keep in mind when fulfilling the role of legal advocate.**

**Ask participants to name a few advocate responsibilities in either the civil or criminal justice system.**

**After receiving a few responses, add to the responses from the following list:**

- Protecting victim information;
- Providing emotional support;
- Helping victims with safety planning throughout;
- Assisting victim with obtaining a protection order (in both civil and criminal systems);
- Providing information on victim's rights (in the criminal justice system);
- Providing information to victim on available legal protections and community resources;
- Obtaining information from law enforcement/jail regarding arrests, where the trafficker is being held, charges filed if any, how long perpetrator will be held;

- Accompanying victim as needed and requested to hearings, trial, and appointments;
- Assisting victim with possible testimony and trial preparation (in civil and criminal systems) and victim impact statement (in criminal system);
- Working with other advocates involved in the case as needed and requested by victim while adhering to confidentiality policies;
- Assisting victim through civil legal process working with child protection agencies and making referrals as needed for civil legal representation;
- Monitoring cases for compliance with policies, protocols, codes;
- Providing follow up on cases as needed and appropriate; and
- Educating service providers and surrounding community on the best way to assist victims of sex trafficking and their children from a victim-centered perspective while prioritizing victim safety and offender accountability.

#### **Talking Points: Slide 98 “Legal Advocacy Responsibilities”**

**Stress that two responsibilities, protecting victim information and accompanying the victim in the courtroom, have important implications – ethical and legal – for an advocate to understand.**

#### **Use the following talking points:**

Underscore that keeping victim information private is the cornerstone of victim safety. When a victim discloses information to an advocate, oftentimes the victim expects that the information will not be shared with others. Various practices, protocols, and statutes may mandate that the victim’s information not be shared with others. Protecting victim information encourages the victim to freely disclose the full story with the assurance that the victim’s information will not be shared without the victim’s consent.

#### **Talking Points: Slide 99 “Protecting Victim Information**

#### **Indicate that there are four basic types of victim advocates:**

- Community based (grassroots);
- Hospital based;
- Prosecutor based; and
- Law enforcement based.

#### **Use the following talking points:**

Hospital based, prosecutor based, and law enforcement based victim advocates generally do not have the same ability to maintain a victim’s private information. Instead, these system’s based advocates may have an affirmative duty to share the victim’s information with another agency, law enforcement, or the prosecutor. This information, in turn, may need to be turned over to the law enforcement or the court. In legal terms, this is called discovery. Therefore, the community based advocate must understand that disclosure of victim information without client consent to these types of system based victim advocates may compromise victim

safety. All four types of advocates should carefully explain to the victim when they may have to disclose victim information without the victim's consent.

### **Talking Points: Slides 100-106 "Protecting Victim Information"**

**Note that there are three related but distinct concepts are core to an advocate's responsibility to protect the victim's information: privacy, confidentiality, and privilege.**

Each have an impact on the advocate's ability to communicate honestly with the victim, protect the victim's safety, and avoid legal consequences.

**Lecture from the following text but do not read word-for-word.**

**[Slide 101] The first victim information concept is: Privacy.**

**Privacy is the expectation that when a victim shares information with another individual (the individual does not have to be a professional), the information will go no further without the victim's consent.** Reporting matters of violence may be very humiliating and traumatic for the victim to disclose even to relatives or friends. Privacy allows the victim to report matters outside of the public eye and to expect the information to remain private. An example of privacy includes a victim discussing an issue with a friend over the phone and the victim expecting the information to not be repeated to others.

**There are numerous challenges to keeping victim information private as the victim navigates the civil and/or criminal justice systems.** For instance, victim service providers working with the victim may not have sufficient protocols and policies to keep victim's information safe. The victim's use of social media may compromise victim information. The victim services location in the tribal community may compromise victim information if community members see the victim coming and going from the location. Signs on the office door may provide information as to why an individual would be entering and exiting the office. Waiting areas that are not private may compromise victim information. Professional service providers that acknowledge victims in public places may also compromise victim information. An advocate must remain cognizant of potential vulnerabilities in communications, facilities, locations, and service provider policies.

**[Slide 102] The second victim information concept is: Confidentiality**

Privacy and confidentiality have some overlap. However, **maintaining the confidentiality of communications is an ethical and legal duty to keep the victim's information private.** This duty is created by the nature of a professional relationship between the victim and the service provider. Victim statements are meant only for the service provider and the information may only be disclosed with client consent, a court order, or statutory mandate. If the service provider discloses the victim's information without the victim's consent, the service provider may be liable for an ethical breach of duty and may lose their licensure or certifications.

Grant funding may also come with confidentiality restrictions.<sup>54</sup> For example, the Violence Against Women Act confidentiality provision attached to grants funded by the Office on Violence Against Women prohibits sharing of identifying victim information unless: 1) the victim signs an informed, written, time-limited release; or 2) the release is subject to a legal (court or statutory) mandate.<sup>55</sup> The Family Violence Prevention and Services Act federal grants have a similar confidentiality provision. Another possible area of concern arises when the tribal victim services department/program is a part of the tribal government, which can create additional hurdles in keeping information private from other parts of the tribal government.

**[Slide 103] Types of information that are usually confidential include:**

- Name/address of client requesting services;
- Name/address of client receiving services;
- Other private, identifying information about client (telephone number, birthdate, health issues, etc.);
- Location of victim; and
- Domestic violence shelter location.

**Discuss when confidentiality breaches might occur and consider selecting scenarios from the following list:**

- Agency files or information are exchanged with another agency without client consent, or an exchange of information with an agency that has no confidential relationship with the victim;
- Hospital/medical records or information are exchanged without victim consent or an exchange of information with an agency that has no confidential relationship with victim;
- During case reviews, files or information is shared with other agencies without client consent, or an exchange of information with agencies that do not have a confidential relationship with the victim;<sup>56</sup>
- During civil cases and/or criminal prosecution where the victim's information has been subpoenaed; and
- During the judicial process in which judges put confidential victim information in court orders such as a victim's address or place of work.

<sup>54</sup> Note that federally funded grants may require funded programs to adhere to very specific confidentiality protocols to be adhered to as a condition for continued funding. The grant award documents and other relevant documents should be reviewed carefully for required protocols.

<sup>55</sup> 34 U.S.C. § 12291(b)(2).

<sup>56</sup> Many challenges exist with respect to keeping victim information private. Victims may utilize the services of many agencies and not all agencies adhere to sufficient protocols and policies to keep victim information private and protected. Some agencies may be required to disclose victim information to an agency, attorney or law enforcement official. Remember that agreements between agencies do not bind individuals outside of the agencies and disciplines sharing victim information could compromise victim privacy, confidentiality and privilege unless executed very carefully.

[Slide 104] State that confidentiality issues do NOT arise when the victim grants written permission to disclose information and the information is strictly shared according to the victim's instructions.

Point out that the victim's permission to disclose certain victim information should be executed in a written form.

Select from the following list some of the best practices of a written form.

- List what specific information you can disclose;
- Identify whom the information can be disclosed to;
- Signed by the client;
- Include an expiration date; and
- Provide notice that the client can rescind their permission at any time if they choose.

[Slide 105] The third concept is Privilege.

In addition to being confidential, a victim's information may be protected by a privilege. **A privilege is an evidentiary rule that prevents the disclosure of information, even if relevant, in court.**

[Slide 106] Use the following talking points:

- Privilege can come into play when the information was originally communicated in a professional or confidential relationship.<sup>57</sup>
- Privileged communications include victim statements and conversations made under circumstances of assured confidentiality and the disclosed information is protected by a statute or caselaw.
- Privileged communications may only be allowed to be disclosed under a very restricted set of circumstances.
- Victim information protected by a privilege is usually set out in statutes or case law in the applicable jurisdiction.<sup>58</sup>
- A violation of the privileged information is a legal matter and may have legal and/or criminal consequences for the disclosure.
- Further, the information cannot be disclosed (absent victim consent, statutory mandate to disclose such as child abuse/neglect or absent court order) even if the agency is called to testify or reveal such privileged conversations to law enforcement.

<sup>57</sup> Garner, Bryan A. "Privilege." Black's Law Dictionary (Fourth Pocket Edition) 596. (2011).

<sup>58</sup> Note it is a best practice to have a tribal code that directly sets forth that victim information is privileged between the victim and the agency providing services.

**Point out that a privilege may be waived by the holder of the privilege** (the victim who communicated the confidential information, not the person who heard it).

Note that not all disciplines are covered by a statute creating a privilege.

**Provide the following examples of relationships that may have a recognized privilege:**

- Priest/parishioner;
- Lawyer/client;
- Psychologist/patient;
- Doctor/patient;
- Husband/wife;
- Licensed social worker/client; and
- Advocate/victim<sup>59</sup>

**Note that a privileged communication may be unintentionally waived<sup>60</sup> if:**

- A third party is in the interview room;
- Providing information to third parties not protected by the privilege; and
- The information is available in other public forums (such as Facebook).

### **Talking Points: Slide 107 - 112 “Victim Advocacy in the Courtroom”**

#### **Moving on to “Victim Advocacy in the Courtroom”**

**[Slide 107] Use the following talking points:**

Legal advocacy can involve court appearances for both the victim and the advocate. Courtroom appearances, whether in tribal, state, or federal court, are often stressful. Remember, stay in tune with the victim’s needs and fears. Be sure to address them before and throughout the court appearance. Knowing a few tips for courtroom appearances may calm nerves, especially around safety planning and courtroom decorum.

**Carefully review this section in the Participant Workgroup. As much as possible, lecture from the following text but do not read word-for-word.**

#### **[Slide 108] Safety Planning**

Safety planning specific to courtroom appearances is critically important. Victims may have a false sense of security. They may think that being surrounded by people like the bailiff, lawyers, friends, family in the courtroom will keep them safe. Victims may feel it is okay to let their

<sup>59</sup> An exception to this would be victim witness advocates working for the prosecutor, law enforcement, or healthcare agency who share information to build a case for possible prosecution.

<sup>60</sup> For more information on crafting comprehensive confidentiality policies and procedures, visit <https://www.ovc.gov/publications/infores/VictimsRightToPrivacy/policies.html>.

guard down. However, studies have shown that violent outbursts can happen anywhere, even in well-guarded places. This is why it is important to plan and to support victims with a safety plan during court appearances.

- 1) Learn as much about the perpetrator as possible, particularly if the advocate has not seen him before this. Obtain a description of perpetrator, a picture, the make, model, and color of perpetrator's vehicle, and information about friends who may accompany perpetrator. Ensure that anyone accompanying victim has the information about the perpetrator.
- 2) Request law enforcement accompaniment to the courthouse and courtroom.
- 3) Inquire about the presence of cameras in the parking lot. Park near cameras and entrances closest to courtroom if possible.
- 4) Ask those accompanying the victim to remain vigilant of the perpetrator at all times.
- 5) Accompany victim and remain at victim's side at all times such as if victim needs to use the restroom. Find out where the restrooms are located in advance.
- 6) Identify a safe room where an advocate, family, and friends can wait with the victim until victim is called or wants to be in the courtroom.
- 7) Identify all exits out of the courthouse in case there is a need to make a quick escape.
- 8) Inform the bailiff or court security in advance that the perpetrator should not attempt to engage with the victim or come close to the victim for any reason.
- 9) Leave the courtroom and courthouse accompanied and perhaps request that the bailiff or courthouse security officers accompany the victim to their vehicle. If possible, someone may want to pick up the victim at the exit door.

#### **[Slide 109-112] Courtroom Decorum**

**Provide the following tips from the perspective of an appearance in tribal court with most tips having general applicability to federal and state court.**

**[Slide 109] First and foremost, remember to demonstrate a deep respect for the tribal sovereign.** Tribes are all unique sovereigns with their own customs, traditions, and social norms. Do your homework prior to appearing in the tribal court. Know whether tribal law allows a community based advocate to speak on behalf of the victim. A good practice is to visit and observe the tribal court in session with the same judge presiding that will later hear the victim's case.

It is also important to know whether the trial/hearing will be a bench trial or a jury trial. Bench trials are before a judge while jury trials are comprised of a set number of tribal community members which may include non-Indians. The number of jurors to be seated on a jury is found in the tribal code.

**[Slide 110] Select from the following tips to testifying in tribal court include:**

- Be on time for court and urge the victim to be on time, which usually means being in the courthouse at least 30 minutes prior to the hearing;
- Make sure the victim has a safe and private place to wait for the case to be called (you might call ahead and ask the court clerk for such a space);
- Dress respectfully and advise your client to do the same. This would include conservative dress for the tribal community;
- Stand when speaking to the judge;
- Speak clearly and loudly enough so the recorder will capture your words;
- Usually sit on the side of the courtroom as the victim's attorney or the attorney calling the victim to testify;
- If the client has been served with a subpoena, appear at the time and place commanded. Do not disrespect the tribal court by not appearing or filing an objection to the subpoena; and
- If the client has been served with a *subpoena duces tecum*, appear at the time and place commanded and bring the documents listed in the *subpoena duces tecum*. The victim may need to seek assistance of legal counsel to objects to the disclosure of records. Do not disrespect the tribal court by not appearing or filing an objection.

**[Slide 111] Here are some tips on what not to do:**

- DO NOT bring confidential information with you to court unless court ordered (not a *subpoena duces tecum*) to do so. This is critical as any documentation that is brought to court is subject to discovery.
- DO NOT discuss the case while on the courthouse grounds. It is amazing how many ears are in very private places on the courthouse grounds.

Lastly, Federal Rules of Evidence 612<sup>61</sup> has been interpreted by some jurisdictions to require a person testifying to produce all documents the person reviewed to refresh their memory for testimony. Some attorneys may know of this rule, while others may not. The victim should be cautioned about reviewing any documents prior to testifying if there is documentation that the victim does not want provided to the court or defense attorney. Remember, victim information is directly connected to victim safety.

**[Slide 112] The unauthorized practice of law.**

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<sup>61</sup> Federal Rule of Evidence 612(a) "Writing Used to Refresh a Witness" sets forth the following: "(a) Scope. This rule gives an adverse party certain options when a witness uses a writing to refresh memory: (1) while testifying; or (2) before testifying, if the court decides that justice requires the party to have those options." [Emphasis added] (2020), [www.rulesofevidence.org](http://www.rulesofevidence.org). This rule is provided for illustrative purposes only and tribal law on evidence will apply in tribal court.



It is crucial to be mindful of the fine line between advocating for your client and the unauthorized practice of law. The unauthorized practice of law is a crime in many jurisdictions.<sup>62</sup>

**Lecture from the following talking points but do not read the text word-for-word:**

- Some tribunals allow advocates to speak on behalf of the client.
- Be very careful to repeat only what the client is telling you and do not add language for clarification purposes before the court.
- Do not provide legal conclusions or legal advice. Gathering facts is certainly permissible but the legal conclusion and any subsequent advice provided to the client is not and most likely would constitute the unauthorized practice of law.
- Advocates are certainly permitted to read and copy statutes that pertain to client needs and discuss the statutes with an attorney to provide a check and balance on whether the attorney is familiar with the statute and why the statute is being argued (or not argued) to the court.

**Talking Points: Slides 113-114 Small Group Exercise: “Meeting the Legal Needs of Sex Trafficking Victims”**

**Guide participants through this exercise.**

**Exercise Instructions:**

- **Assign participants to a small group of at least three people. “Small groups” can be larger depending on the number of participants. To save time, group people who are already sitting near each other.**
- **Ask participants to take a couple of minutes to consider the question “What are the legal needs of a sex trafficking victim?”**
- **Have participants jot their answers down in their workbooks and then discuss it with their small group for a few minutes.**

**Once complete, ask participants to share their answers. Instructor should ask participants to raise their hands to respond. Instructor should call on participants that have their hands raised. Instructor should try to avoid duplicative answers, so after thanking the first participant for their answer, ask “Does anyone have a different answer?” to get a diversity of answers.**

<sup>62</sup> See, e.g., State Bar of California, “Unauthorized Practice of Law”, <http://www.calbar.ca.gov/Public/Free-Legal-Information/Unauthorized-Practice-of-Law> (accessed September 5, 2019).

## Talking Points: Slides 115–116 “Overview of Legal Needs in Criminal Systems”

### Use the following talking points:

A victim of trafficking may be charged/convicted of a crime. If so, the victim may be able to access the following mechanisms:

- Affirmative defenses (a fact or set of facts asserted by the defendant that, if proven, defeats or mitigates a defendant’s otherwise unlawful conduct);
- Immunity provisions (usually offered by the prosecution as an exemption or provision that limits the liability of an individual for misconduct and provides legal protection for cooperation in an investigation for supplying information or testimony); and
- Vacating convictions/expungements (a type of lawsuit wherein a defendant has records sealed or destroyed so that the records become unavailable to jurisdictions).

If the perpetrator has been charged with a crime,<sup>63</sup> the victim may need assistance with:

- Filing a police report;
- Submitting a witness statement;
- Trial accompaniment;
- Getting a criminal protection order;
- Advocacy with the prosecutor;
- Victim impact statement; and
- Enforcement of Victim’s Rights.

**Let participants know that child welfare issues will not be the focus of this training, but the Participant Workbook contains some additional resources on this issue that they can read when their time allows.**

**Be sure to let participants know that advocacy in criminal legal systems is incredibly important and complex. The training and *Curriculum* materials highlight some foundational information, but advocates will need to use other resources and training opportunities to prepare for advocacy in criminal legal systems.**

## Talking Points: Slides 117–118 “Overview of Legal Needs in Civil Systems”

### Use the following talking points:

To better advocate for sex trafficking victims in civil legal systems, advocates should be familiar with the legal rights of the victim and determine which legal system to advocate for enforcement of those rights. In the context of sex trafficking victimization, a civil legal remedy is

<sup>63</sup> A list of tribal, state, and federal victim’s rights laws may be found at [www.victimlaw.org](http://www.victimlaw.org).

simply using the law or authority of the court to enforce a legal right or obtain other legal relief owed to the victim. Victim compensation<sup>64</sup> and protection orders are types of legal relief.

***Point out that legal relief in the civil legal realm for victims may include:***

- Victim's compensation
- Employment law;
- Tort law;
- Housing laws;
- Debtor/creditor law;
- Family law;
- Domestic violence law;
- Children's civil legal needs; and
- Protection orders (protection orders may arise in criminal cases as well).

**Let participants know that advocate tips and resources related to civil legal needs are available as an Appendix.**

It is important to note that tribal advocates working with sex trafficking victims that have children must be prepared to deal with many civil legal issues related to that child. Use the following list to provide examples of civil relief victims with children might need:

1. Child welfares issues.
2. Custody issues (issues of which parent will have legal and/or physical custody of the children with the noncustodial parent being required to pay child support).
3. Protection orders for the child (protection orders that specifically name the children and meet the statutory requirement for obtaining a protection order according to the laws of the jurisdiction issuing the protection order).
4. Truancy issues (legal issues that arise due to the child's absence from school).

**Let participants know that child welfare issues will not be the focus of this training, but the Participant Workbook contains some additional resources on this issue that they can read when their time allows. Encourage participants to visit [www.Home.TLPI.org](http://www.Home.TLPI.org) for free tribal resources along with contacting their regional Tribal Coalition.**

**Talking Points: Slides 119–120 “The Basics of Civil and Criminal Jurisdiction”**

**Use the following text for talking points but do not read the text word-for-word.**

**Jurisdiction refers to the power of a government to regulate conduct and to enforce those regulations through a court system.** There are generally two types of jurisdiction a court may exercise— criminal and civil.

<sup>64</sup> “State Crime Victims Compensation,” Benefits.gov, accessed January 8, 2020, <https://www.benefits.gov/benefit/4416>.

**Criminal jurisdiction** refers to the power of a court to hear and decide cases of a criminal nature.

If a person is found guilty of a crime, the penalty may be incarceration and/or fines. Criminal cases are initiated by governments; Native Nations, states, or the federal government may be the prosecuting party. The burden of proof in a criminal case requires the prosecutor to demonstrate that the defendant has committed a crime **beyond a reasonable doubt**. This is the highest burden of proof in American jurisprudence as a defendant's freedom may be at issue.

**Civil jurisdiction** generally refers to the power of a court to handle lawsuits or actions between two private persons or parties sometimes referred to as the plaintiff (person bringing the action) and the defendant (person being sued).

The plaintiff usually requests that the court order a defendant to do an act, refrain from doing an act, declare a defendant's action wrongful, and provide compensation for damages. The burden of proof of the plaintiff in a civil action may be a **preponderance of the evidence** (more likely than not plaintiff's assertions are correct).

Generally, there are two prerequisites to a court exercising jurisdiction (authority):

1. **Subject Matter Jurisdiction:** A court's authority over a particular type of case.
2. **Personal Jurisdiction:** A court's authority to require an individual to come before the court. Not all cases require personal jurisdiction as a prerequisite to a court exercising jurisdiction. Individuals can also consent to a court's jurisdiction.

Determining whether a court has jurisdiction over the case can be a complex determination, especially in Indian country.

### **Talking Points: Slides 121–122 “Navigating Criminal Jurisdiction in Indian country”**

Use the following talking points but do not read the text word-for-word.

**Criminal jurisdiction** refers to the power of a court to prosecute a crime. If a person is found guilty of a crime, the penalty may be incarceration and/or fines.

- Criminal cases are handled by governments; Native nations, states, or the federal government may be the prosecuting party.
- The burden of proof in a criminal case requires the prosecutor to demonstrate that the defendant has committed a crime beyond a reasonable doubt. This is the highest burden of proof in American jurisprudence as a defendant's freedom may be at issue.

Three sovereigns may be involved in sex trafficking cases involving Native people: tribes, federal government, and states.

Generally, Native Nations that create tribal trafficking laws will be able to prosecute Indian sex traffickers within the limits of their tribal criminal jurisdiction. Meaning, most Native Nations may prosecute Indians for trafficking any victim, Indian and non-Indian alike. Though, Tribes may not have jurisdiction over non-Indians that commit sex trafficking crimes in Indian country.<sup>65</sup>

The question of which sovereign(s) may have jurisdiction over a crime is a complex one that asks a series of subquestions: was the perpetrator Indian or non-Indian, was the victim Indian or non-Indian, what was the crime, and where did the crime occur.

Note that sex trafficking is a federal crime of general federal application and may be prosecuted in the federal system. When the crime is being prosecuted federally, federal laws will apply. The Indian law jurisdictional analysis provided above will apply only to crimes being prosecuted in tribal court.

**Remind participants that in-depth information on tribal criminal jurisdiction is available in the appendix of their Participant Workbook, a chapter on civil jurisdiction from *Introduction to Tribal Legal Studies* (3rd ed.) by Justin B. Richland and Sarah Deer.**

### **Talking Points: Slides 123–124 “Criminal Legal Advocacy”**

#### **Use the following talking points:**

Victims can initially enter the criminal justice system in one of two ways: being charged with a crime or being the victim of a crime. Either avenue presents various challenges, compounds trauma, and requires ongoing safety planning adjustments.

Victims may have many fears of the criminal legal system.

- Victims fear possible arrest and criminal prosecution resulting from reporting sex trafficking.
- Victims may have criminal histories themselves along with safety concerns that accompany reporting.
- Oftentimes, traffickers will threaten to report the victim to law enforcement about any illegal activities such as victim’s use of illicit drugs, prostitution, etc. Traffickers will use victim’s fear of being arrested to maintain power and control over the victim.
- A sex trafficking victim may also be involved in the prosecution of their trafficker(s).

<sup>65</sup> *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978); 25 USC §1304 (Special Domestic Violence Criminal Jurisdiction).

An advocate needs to be prepared to assist the victim with navigating the local criminal justice system. A sex trafficking victim may need assistance with:

- Filing a police report;
- Submitting a witness statement;
- Trial accompaniment;
- Getting a criminal protection order;
- Advocacy with the prosecutor;
- Victim impact statement; and
- Victim's Rights.

Advocates should be familiar with and develop good working relationships with these individuals in order to work collaboratively with individuals within these disciplines.

- Law enforcement (federal, state, and/or tribal);
- Prosecutor (federal, state, and/or tribal);
- Victim witness coordinator (note that this advocate works within the prosecutor's office and all victim information will be provided to the prosecutor and may be discoverable by the defense attorney);
- Defense attorney;
- Judge (federal, state, and/or tribal);
- Court staff;
- Pre-sentencing investigator;
- Probation/parole (upon conviction); and
- Warden of the detention facility.

### **Talking Points: Slides 125 - 127 "Victim's Rights Laws"**

**Use the following talking points:**

Until recently, the criminal justice system often seemed focused on defendant's rights and seemingly indifferent to the victim's needs. Victims were often excluded from courtrooms and denied the chance to speak at the sentencing hearing. The criminal justice system usually left victims on their own to attempt to reacquire their health, security, and dignity. Over the past thirty years, tribal, state, and federal jurisdictions have made sweeping changes to this paradigm.

**[Slide 126 - 127] Set out the following victim's rights but do not read the text word-for-word.**

**Right to Attend Hearings:** Victims may have the right to attend proceedings during the criminal or juvenile justice process. The proceedings that victims may attend, such as bail hearings, trials, or parole hearings, are set by federal, state, or tribal law. Some laws may limit the trial attendance of victims who are scheduled to testify as witnesses.

**Right to Compensation:** Victims may have the right to be financially compensated for certain injuries or damage caused by the crime. Compensation is a state program. Victims of federal crime or crime on tribal lands may apply for compensation in the state in which they live. Victims must file an application with the relevant compensation program and meet certain eligibility requirements.

**Right to Be Heard:** Victims may have the right to have written or oral input during the criminal or juvenile justice process. Every state gives victims the right to submit a “victim impact statement” at sentencing. Many states also allow victims to make a statement at bail or parole hearings or to meet with the prosecutor to discuss a plea bargain.

**Right to Be Informed:** Victims may have the right to be informed of events and proceedings in the justice process, such as trial or release of an offender from custody. Victims may also have the right to information about support services, the criminal or juvenile justice process, how to contact officials or agencies, or other matters.

**Right to Privacy:** Victims may have the right to protect the privacy of personal information, such as their name or identity, address, and phone number contained in criminal/juvenile justice documents, compensation records, and court testimony, as well as contact information provided for notification purposes. Certain victim populations, including children; victims of sexual assault, domestic violence, stalking, or trafficking; the elderly; and other vulnerable adults may have additional rights that address their unique privacy or safety concerns.

**Right to Protection:** Victims may have the right to be protected from intimidation or harassment by the offender or others involved in the criminal or juvenile justice process. Protection may include providing a separate waiting area in court for the victim, allowing victims to seek a court order preventing the offender from contacting the victim, or prohibiting improper questioning by a lawyer.

**Right to Restitution:** Victims may have the right to obtain restitution, or court-ordered reimbursement from offenders who have caused financial harm. Depending on the state and the crime, a court may have to order restitution in a case or restitution may be optional. Many states also have laws about collecting restitution from the offender.

**Right to Return of Property:** Victims may have the right to the return of their personal property being held as evidence.

**Right to a Speedy Trial:** Victims may have the right to have the case resolved within a reasonable amount of time. Some states require that courts consider the interests of the victim when ruling on a request to delay, or “continue,” a trial.

**Right to Enforcement/Remedies of Victim:** A few states give victims a way to have their rights enforced. In some states, victims may be able to file a complaint with a state agency. In others, victims may have the right to file a limited legal action.

Several Native Nations have victim's rights laws including Muscogee Creek Nation, Oneida Indian Nation, and the Confederated Tribes of the Colville Reservation.<sup>66</sup>

### **Talking Points: Slides 128-129 "Navigating Tribal Civil Jurisdiction"**

Due to the complexities of tribal civil jurisdiction, this unit will be limited to the civil legal needs of sex trafficking victims seeking protection orders in tribal court. For tribal civil matters arising in Indian country on tribal lands, it is well settled that tribes have the power to issue civil tribal protection orders in matters involving tribal members.<sup>67</sup> VAWA 2013 also directly endorses tribal civil jurisdiction over all persons when issuing tribal protection orders when matters arose in Indian country or otherwise was within the authority of the tribe.

*For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.*<sup>68</sup>

Please take note of an important footnote on page 134 of the Participant's Workbook regarding a tribe's power to issue a civil protection order in matters involving non-members.

Remind participants that the focus of this unit is advocacy in the legal realm. Remind participants that in-depth information on tribal civil and criminal jurisdiction is available in the appendix of their Participant Workbook, a chapter on civil jurisdiction from *Introduction to Tribal Legal Studies* (3rd ed.) by Justin B. Richland and Sarah Deer.

### **Talking Points: Slides 130–132 "Civil Legal Advocacy"**

Use the following talking points:

In the civil legal realm, victims turn to a variety of civil laws to meet their needs. Advocates should have some familiarity with the common civil legal issues to help assess a client's needs and create an advocacy plan. Because many of the common civil legal needs highlighted in this section will require specialized legal expertise,<sup>69</sup> an advocate's best course of action is likely as follows:

<sup>66</sup> Code Ann. Title 6, 3-308, NY Oneida Tribe Code; Ch. 11, R. 1101, Confederated Tribes of the Colville Reservation Code, Ch. 31, 3-5-6.

<sup>67</sup> *Williams v. Lee*, 358 U.S. 217 (1959).

<sup>68</sup> 18 USC 2265(c).

<sup>69</sup> For more information on specialized civil legal needs, see Appendix E.



- Be well versed on local civil legal resources and their intake processes;
- Be prepared to refer clients to the appropriate resource;
- Accompany your client, if appropriate, to their initial appointments; and
- Be prepared to advocate for your client's rights with their service providers and civil legal systems.

Relevant individuals that the victim may interface with in the civil legal system may include:

- Victim/plaintiff or petitioner's attorney and attorney's staff;
- Defendant's attorney;
- Tribal victim advocate;
- Social services child welfare (if children are involved);
- Guardian ad litem (if children are involved);
- Court clerk; and
- Judge (federal, state, and/or tribal).

Remind participants that a segment on specialized civil legal needs of victims is located in the Appendix.

#### Talking Points: Slides 133-134 "Civil Protection Orders"

Be sure to remind participants that this training is only focused on *civil* protection orders and will not discuss criminal protection orders (aka no contact orders).

Use the following talking points:

Protection orders may be known by a variety of names: injunctions, restraining orders, civil restraining order, or victim protection order. A protection order is a legal order issued by a court to protect the named person(s) from another person. Protection orders are used to protect victims of abuse, including sex trafficking victims. Generally, there are two types of protection orders available to victims of violence.

1. **Ex parte orders** can be issued without a full hearing if the victim can demonstrate immediate danger. *Ex parte* orders are available in most jurisdictions in emergency situations, but only last for a short period. The court can discuss the matter with one party to a dispute without the other party (i.e., the trafficker) being present.
2. **Permanent orders** can be issued after the defendant has been provided with notice and an opportunity to be heard. Although sometimes referred to as a permanent order, most protection orders will have an expiration date that is set forth by statutes in the issuing jurisdiction. Some can last up to several years, depending on the statute.

**The definition of *protection order* under federal law 18 U.S.C. 2266(5):**

1. *The term “protection order” includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court whether obtained by filing and independent action or as a pendent elite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and*
2. *any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.*

**Remind advocates that a “Protection Order Checklist” with full details is included in the Appendix.**

**Talking Points: Slides 135–136 “Enforcing Tribal Protection Orders”**

**Use the following talking points:**

While the process of obtaining a protection order is similar across state and tribal courts, when it comes to enforcement, it can be very difficult to achieve full enforcement of a tribal protection order outside of Indian country. The issue of whether the tribe had jurisdiction to issue the civil protection order is often raised. Tribes should refer to and cite to tribal code provisions related to jurisdiction to issue civil protection orders.

Recall that Congress recently clarified in the VAWA 2013 that tribal courts have full civil jurisdiction over all parties in protection order cases *if* the protection order (1) arose in Indian country or (2) was issued within the authority of the Indian tribe. **These protection order provisions apply to every tribe, including those in Alaska.**<sup>70</sup>

According to VAWA, a Native Nation must demonstrate:

1. The matter must have arisen on tribal (Indian) land  
OR
2. The matter must be within the authority of the Indian tribe.

<sup>70</sup> Please visit [www.TribalProtectionOrder.org](http://www.TribalProtectionOrder.org) for more information and resources on this topic.

What constitutes “Indian country” or “Indian land” can be a complex issue for Native Nations, especially those without a contiguous land base.<sup>71</sup> An advocate must consult the relevant constitution and tribal laws to confirm the nation’s “Indian land” where tribal civil jurisdiction exists.

The VAWA statute also specifically mentions two examples of civil enforcement remedies available to address violations of tribal protection orders by any person (including non-Indians):

1. Tribal court enforcement for violations of protection orders through civil contempt or
2. By excluding the violator from tribal lands.

The statute also recognizes that there are “other appropriate mechanisms” potentially available to enforce violations of protection orders and these remedies might include monetary penalties, community service, restitution, forfeiture, and posting of a Peace Bond.

### **Talking Points: Slides 137–139 “Full Faith and Credit”**

#### **Use the following talking points:**

Moving across jurisdictional boundaries may pose enforcement issues for sex trafficking victims with tribal protection orders. So, it is critical that the advocate make every effort to ensure that the victim’s protection order will be given “full faith and credit” in every jurisdiction.

**“Full faith and credit” simply means that every jurisdiction should enforce the protection order as if it had been issued by a court within that jurisdiction.**

- For example, under “full faith and credit” a protection order issued by a California court can be enforced in a Florida court. Tribal courts have historically been treated as “lesser” courts by state government, so it can be difficult to receive “full faith and credit” of a tribal protection order. Progress has been made, but depending on the state, local courts and law enforcement may be unwilling (or lack familiarity) when it comes to tribal protection orders. So, it’s up to advocates to learn the federal law requiring “full faith and credit” of tribal protection orders and educate and advocate on behalf of their clients.

Under the VAWA, tribal protection orders must have specific language indicating that VAWA requirements have been met for the protection order to be enforceable in all jurisdictions. VAWA’s full faith and credit language 18 U.S.C. 2265(a) states:

***Any protection order that is consistent with subsection (b) of this section by the court of one State, Indian tribe or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and***

<sup>71</sup> See footnotes in Navigating Tribal Civil Jurisdiction.

***enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State, Indian tribe, or territory.***

To meet VAWA's full faith and credit requirements found at 18 U.S.C. 2265(b), the following specific issues need to be met:

*(b) Protection Order. A protection order issued by a State, tribal, or territorial court is consistent with this subsection if—*

- 1. such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and*
- 2. reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.*

A tribal protection order form should contain the following language:

- 1. "This court has jurisdiction over the parties and matter under the law of the Indian tribe" (consider inserting the name of your tribe for the words "Indian tribe" and insert the tribal code statute number that allows the tribal court to issue protection orders).*
- 2. "Reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process."*

### **Talking Points: Slides 140 "Advocate's Tribal Protection Order Checklist"**

**Instructors should acknowledge that the legal discussion around civil protection orders can be quite complicated. This checklist is a distilled version of the essential elements needed for enforcing the protection order across jurisdictions.**

**Advocates should try to learn the legal support for the checklist, or have it on hand for conversations with attorneys, law enforcement, or judges. Advocates MUST also rely on their other advocate training and legal assistance to make sure the less complicated, but still essential, "usual" information is included in the protection order. For example, while not included in the *Advocates Tribal Protection Order Checklist: For Ensuring Cross-Jurisdictional Enforcement*, the name of the protected party is always included on a protection order along with the date of issuance. Be sure to let participants know to visit [www.TribalProtectionOrder.org](http://www.TribalProtectionOrder.org) for more comprehensive resources.**

**Use the following talking points:**

Congress has clarified that properly executed tribal protection orders are valid against *any person*, including non-Indians over matters arising in Indian country or otherwise within the

authority of the tribe. And, because such tribal protection orders must receive full faith and credit, it is crucial that they are properly written to be enforceable in other jurisdictions for the safety of victims protected by the order.

**In addition to the usual elements of a tribal protection order**, to ensure enforceability across jurisdictions, advocates should be very careful to make sure—by working with the presiding judge, court clerk, or prosecutor—that the following is also included in their client’s tribal protection order:

1. The tribal court has clearly stated their civil jurisdiction with the language such as
  - a. “This court has jurisdiction over this matter under the law of the Indian tribe” pursuant to (insert the tribal code statute number that allows the tribal court to issue protection orders). (insert the name of your tribe for the words *Indian tribe*)
  - AND
  - b. “This court has jurisdiction over the parties (and then explain how with specific facts, such as: because the acts of domestic violence occurred on the Reservation; because the respondent was served on the Reservation; because the Respondent resides on the Reservation; because the Respondent is a member of the Nation or of another Nation; because the Petitioner is a member of the Nation or resides on the Reservation; because the Petitioner is a member of another Nation but resides on your Reservation; because the Petitioner lives in Tribal housing, is the intimate partner of a Tribal member or has children who are members of the Nation;)
  - AND
  - c. “Reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person’s right to due process.”
  - d. Jurisdiction is also proper under 25 USC 2265.
2. The issuing tribal court has asserted (in the protection order form) that
  - a. The matter has arisen on Indian (the Native nation’s) land
  - OR
  - b. The matter is within the authority of the Indian tribe.
3. The protection order (or attached documentation) demonstrates that the defendant was served with notice.
4. The protection order (or attached documentation) demonstrates that the defendant had an opportunity to be heard or will have an opportunity within the time required by Nation’s laws that will protect Respondent’s due process rights (a court date and time).
5. The issuing tribal court includes “full faith and credit” language in clear compliance with VAWA. 18 U.S.C. 2265(b).

Visit [www.tribalprotectionorder.org](http://www.tribalprotectionorder.org) for more information and resources related to tribal protection orders. For advocates that may be assisting an official drafting a protection order, a more comprehensive checklist is included as Appendix.

If time allows, provide a quick demonstration of [www.TribalProtectionOrder.org](http://www.TribalProtectionOrder.org) so advocates can see the website and find out more about the resources available.

**Talking Points: Slide 142 “Additional Resources”**

Guide participants through the slides on additional resources, which you should create/populate (prior to the training) from the Additional Resources sections at the end of each unit in both the Instructor Guide and Participant Workbook. Be sure to provide additional resources that you may use yourself or that have been recommended by trusted tribal advocates in your community. It is particularly important to provide any regional resources that participants may find useful.

If the empty Additional Resources slides provided in the Trainer’s PowerPoint do not have enough room for you to add all the resources you would like, simply use the slides for your regional resources and direct participants to the Additional Resources section at the end of the unit.

Please Note: If you add extra slides, that will throw off the slide numbers for the talking points in this Instructor Guide. If you find it necessary to add slides, be sure to manually change the talking points in this Instructor Guide to match the new slide numbers in your Trainer’s PowerPoint.

Remind participants of the many resources available at [www.TribalTrafficking.org](http://www.TribalTrafficking.org) and [www.Home.TLPI.org/publications](http://www.Home.TLPI.org/publications).

**Talking Points: Slide 143 “Questions”**

*Field any questions participants may have. If you’re running short on time, let participants know how long you will answer questions with the large group and encourage people to come speak with you after the presentation. Be sure to respect participant’s time, particularly if this training is part of a larger training with limited breaks.*

## Unit 4: Additional Resources

**1. Tribal Law and Policy Institute, “Tribal Sex Trafficking Resources,”**

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

A website created by the Tribal Law and Policy Institute that contains the latest information on sex trafficking in Indian country. Including the [Sex Trafficking Victim Services Directory](#) and blog [Sex Trafficking in Indian Country Update](#).

**2. Tribal Law and Policy Institute, *General Guide to Criminal Jurisdiction in Indian Country*, <http://www.tribal-institute.org/lists/jurisdiction.htm>.**

A detailed tribal criminal jurisdiction chart that provides a general scope of criminal jurisdiction in Indian country among tribal, federal, and state jurisdictions. Please note that this general criminal jurisdiction chart does not apply to jurisdiction where Public Law 280, 18 U.S.C. 1162, or other relevant federal statutes have conferred jurisdiction upon the state.

**3. Kathleen Gless and Lindsay Waldrop, “Human Trafficking and Indian Country,” presented at the 12th National Indian Nations Conference, December 10, 2010, <http://www.tribal-institute.org/2010/D13-LindsayWaldropPP.pdf>.**

A presentation sponsored by the U.S. Department of Justice, OVC at the 12th National Indian Nations Conference. This presentation provides a general overview of human trafficking and current efforts by OVC and the Bureau of Justice Assistance. Also contains recommendations from an August 2010 OVC focus group on Human Trafficking of American Indian and Alaska Native Women and Children.

**4. Angela R. Riley, *Crime and Governance in Indian Country*, 63 UCAL L. Rev. 1564, 1631 (2016).**

This article offers the first comprehensive assessment of the Tribal Law and Order Act and the reauthorization of the Violence Against Women Act, respectively, to show how they relate to one another on the ground and the implications for tribal sovereignty and self-determination based on data compiled for the first time as well as extensive secondary sources.

**5. Administration for Children and Families, Administration for Native Americans, “SOAR for Native Communities now available,” (December 18, 2019), accessed January 9, 2020**

<https://www.acf.hhs.gov/ana/news/soar-for-native-communities-eblast>.

Through a public health approach, the SOAR for Native Communities online module helps those serving indigenous populations to better understand human trafficking and its impact on Native communities. The training includes resources relevant to indigenous populations and supports professionals in building trauma-informed and culturally responsive interventions to human trafficking in American Indian, Alaska Native, Native Hawaiian, and Pacific Islander communities.







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