

# SEX TRAFFICKING IN INDIAN COUNTRY

## INTRODUCTION AND RESOURCES



*A Project of the Minnesota Indian Women's Sexual Assault Coalition*



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# INTRODUCTION

Sex trafficking is an insidious crime and human rights violation that pervades communities throughout the world. The International Labour Organization, a specialized agency of the United Nations, estimates that there are 4.5 million sex trafficking victims worldwide. In the United States alone, over 19,000 sex trafficking reports have been made to the National Human Trafficking Hotline since 2012. Within the United States and Canada, Native peoples experience some of the highest rates of sex trafficking per population compared to any other ethnic or racial groups. Historical racism and sexual violence against Native women, complex jurisdictional mazes in Indian Country, and inadequate resources and funding in tribal communities contribute to the devastating amount of sex trafficking and exploitation of Native people today.

This resource list is designed as a compilation of the most pertinent information that responders might need when they are working with a trafficking survivor. It is not intended to be an exhaustive list of all possible resources available; rather, it is meant to be a way for service providers and responders to identify a few trustworthy sources of baseline information. If you are in need of more in-depth or situation-specific information, please contact the Minnesota Indian Women's Sexual Assault Coalition or one of the other technical assistance providers referenced throughout the resource list.

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<sup>1</sup>Full resource available at: [http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_182109/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_182109/lang--en/index.htm)

<sup>2</sup>Full resource available at: <http://www.ncai.org/policy-research-center/research-data/prc-publications>









# SEX TRAFFICKING 101

## WHAT IS SEX TRAFFICKING?

- Using force, fraud or coercion against another to cause a commercial sex act **or** causing a minor to commit a commercial sex act.

Many countries, including the United States and several tribal nations, have criminalized sex trafficking. In the United States, federal law classifies sex trafficking as a severe form of trafficking in persons, defined as:

- (A) a commercial sex act is ***induced by force, fraud, or coercion***, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) ***the recruitment, harboring, transportation, provision, or obtaining*** a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt, bondage, or slavery.

22 U.S.C § 7108 (9)

## WHAT IS A COMMERCIAL SEX ACT?

- Any sex act on account of which anything of value is given to or received by a person; may include exchange of sex for money, food, clothes, drugs, diapers, transportation, safety, or anything else of value.

## WHAT IS NOT REQUIRED?

- Sex trafficking does **NOT** require: transportation of victims, physical restraint, bodily harm or physical force.
- Initial consent into a relationship with a trafficker does not justify any continued victimization of an individual. Trafficking, even when initial consent is present, is still a crime.

# SEX TRAFFICKING 101

## WHAT ARE SOME EXAMPLES OF FORCE, FRAUD, AND COERCION?

- Force may include the use of physical violence and/or intimidation, kidnapping, sexual violence, holding the survivor against their will, or other means of physically controlling the survivor.
- Fraud refers to instances where the trafficker uses false pretenses or lies to get the survivor to do what they want. This can include fake job posts or offers of modeling or acting gigs, lying to the survivor about what they will be doing, or other situations where the trafficker lies to the survivor to ensure cooperation.
- Coercion can include psychological influence over survivors and manipulation such as threats against family members, friends, and pets, promises of drugs, alcohol, or shelter, withholding affection or care, using the trafficker's intimate relationship with the survivor to manipulate them, taking the survivor's ID or other documents from them to make them comply, and/or emotional manipulation.

All three of these dynamics can create very complex relationships between victims and traffickers. It is important not to assume that all trafficking survivors will look and act the same way, or that all survivors will appreciate systems providers becoming involved in the situation.

## WHERE DOES SEX TRAFFICKING HAPPEN?

Sex trafficking is a multi-billion dollar global industry that operates both publicly and privately, and it occurs in a variety of places, such as businesses, private homes, public streets, and online.

The following are common types of sex trafficking and locations where sex trafficking of Native women is occurring:

- |                             |                              |                                   |
|-----------------------------|------------------------------|-----------------------------------|
| 1. Peep Shows               | 6. Phone Sex                 | 11. Prostitution Tourism          |
| 2. Adult Pornography        | 7. Mail Order Bride Services | 12. Prostitution Rings            |
| 3. Child Pornography        | 8. Casinos                   | 13. International Sex Trafficking |
| 4. Massage Parlors/Saunas   | 9. Street Prostitution       | 14. Domestic Sex Trafficking      |
| 5. Escort Services/Out Call | 10. Online Prostitution      | 15. Working in Strip Clubs        |



# SEX TRAFFICKING 101



## WHO ARE THE VICTIMS?

- Anybody can be a victim of trafficking, regardless of gender. Though women and girls are trafficked at disproportionately high rates, men and boys and Two Spirit/Native LGBTQ individuals also have high rates of victimization.
- Sexual exploitation and trafficking can start at a very young age, often as children or young adults.
- Folks with disabilities are also at high risk of being trafficked.

## WHAT ARE THE RISK FACTORS FOR VICTIMS?

- Homelessness
- Poverty
- Lack of educational and employment opportunity
- Past history of abuse or exploitation, particularly child sexual abuse, sexual assault or domestic violence
- Involvement in the child welfare system
- Neglect
- Substance abuse
- Mental health issues
- Having a disability
- Distrust of law enforcement and social services
- Another family member who has been trafficked
- Jurisdictional mazes created by federal and state legislation that complicate or delay responses by law enforcement and the criminal justice system

## WHO ARE THE TRAFFICKERS?

- Likely to be someone that the survivor knows well or is acquainted with.
- Can be intimate partners, family members/relatives, friends, gang members, employers, or community members.

# SEX TRAFFICKING 101



- Can be of any race or demographic, and may be affiliated with gangs, organized crime, or businesses.

## WHAT UNIQUE FACTORS CONTRIBUTE TO SUCH HIGH RATES OF TRAFFICKING OF NATIVE PEOPLE?

- Native populations and tribal communities experience disproportionate disparities and vulnerabilities, including:
  - Widespread poverty
  - Intergenerational trauma
  - Barriers (geographic, societal, and institutional) to receiving services
  - Jurisdictional issues
  - Historical and ongoing racism against Native people
  - Lack of culturally responsive services
- Historical colonization and sexual violence against Native women has a long history dating back hundreds of years.
- The complex jurisdictional challenges have resulted in traffickers, particularly non-Native traffickers, targeting reservations and tribal lands.
- Traffickers may exploit tribal casinos as a location to recruit victims and have victims meet buyers.

## TRAFFICKING VICTIMS PROTECTION ACT

One of the most important pieces of legislation related to trafficking that all service providers and responders should be aware of is the Trafficking Victims Protection Act (TVPA). The TVPA was enacted by Congress in 2000, and it made both sex and labor trafficking a federal crime with severe penalties. The TVPA has undergone several revisions and reauthorizations and is

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<sup>3</sup>From Relocation Revisited: Sex Trafficking of Native Women in the United States by Sarah Deer, available at: <https://open.mitchellhamline.edu/facsch/157/>



## SEX TRAFFICKING 101



currently under Title XIII of the Violence Against Women Reauthorization Act (VAWA) of 2013. The enactment of the TVPA also created the Office to Monitor and Combat Trafficking in Persons and the Interagency Task Force to Monitor and Combat Trafficking in Persons.

The TVPA is where the definitions earlier in this chapter are drawn from, and it is what guides the work of federal investigators and prosecutors working on trafficking cases. The TVPA also paved the way for state anti-trafficking laws to be enacted so that states would also be able to prosecute trafficking cases. Over the course of its reauthorizations in 2003, 2005, 2008 and 2013, the TVPA's protections for victims and requirements for monitoring and research collection have expanded.

The full text of the Trafficking Victims Protection Act can be found at: <https://www.state.gov/j/tip/laws/>

# RESOURCES FOR FURTHER INFORMATION

## HUMAN & SEX TRAFFICKING: TRIBAL INSIGHTS BRIEF

National Congress of American Indians  
2016

Available at: <http://www.ncai.org/policy-research-center/research-data/prc-publications/TraffickingBrief.pdf>

About this resource: This brief provides a concise overview of trafficking in Indian Country, including historical roots of trafficking all the way up to modern day. Available data on trafficking in Indian Country is discussed, along with recommendations on how to identify survivors and ways that tribes can strengthen their responses to trafficking.

## WHAT IS SEX TRAFFICKING?

Shared Hope International  
2017

Available at: <https://sharedhope.org/the-problem/what-is-sex-trafficking/>

About this resource: An excellent summary of the information covered in this chapter provided in an infographic format. It is easy to follow and covers the basics of trafficking, and would be a strong resource to use when beginning conversations on trafficking with service providers or the community. Note: This resource is not specific to tribal communities, so does not address some of the unique factors that impact Native survivors of trafficking.

## TERMINOLOGY AND DYNAMICS OF SEX TRAFFICKING

Advocates for Human Rights  
(2016)

Available at: [http://www.theadvocatesforhumanrights.org/uploads/terminology\\_and\\_dynamics\\_of\\_sex\\_trafficking\\_2.pdf](http://www.theadvocatesforhumanrights.org/uploads/terminology_and_dynamics_of_sex_trafficking_2.pdf)



## RESOURCES



About this resource: A comprehensive list of terms that may be used or heard when working with trafficking survivors. An excellent place to become more familiar with common terms. victimization of an individual. Trafficking, even when initial consent is present, is still a crime.

### **KNOW THE LANGUAGE OF HUMAN TRAFFICKING: A GLOSSARY OF SEX TRAFFICKING TERMS**

In Public Safety  
(2014)

Available at: <http://inpublicsafety.com/2014/07/know-the-language-of-human-trafficking-a-glossary-of-sex-trafficking-terms/>

About this resource: Another comprehensive list of terms that are helpful to know when working with trafficking survivors.

### **GARDEN OF TRUTH: THE PROSTITUTION AND TRAFFICKING OF NATIVE WOMEN IN MN**

MN Indian Women's Sexual Assault Coalition and Melissa Farley  
(2011)

Available at: <http://prostitutionresearch.com/2011/10/27/garden-of-truth-the-prostitution-and-trafficking-of-native-women-in-minnesota/>

About this resource: 105 Native women used in prostitution and trafficking were interviewed about their experiences and their recommendations on what needs to change in order for survivors to be better supported. Through reading, advocates will be able to gain insight into the experiences of Native women used in trafficking and prostitution, as well as learn how to ensure their advocacy is effective.

## RESOURCES



### **HUMAN TRAFFICKING TASK FORCE E-GUIDE**

Office for Victims of Crime

Available at: <https://www.ovcttac.gov/taskforceguide/eguide/>

About this resource: The e-guide provides a comprehensive overview and step-by-step plan for how to implement a human trafficking taskforce. Very helpful for advocates or agencies looking to strengthen collaboration between providers and work on larger scale change to address the issue of sex trafficking.

### **SHATTERED HEARTS**

Minnesota Indian Women's Resource Center  
2009

Available at: <https://www.miwrc.org/graphics/reports/Shattered-Hearts-Full.pdf>

About this resource: This report provides a review of the existing literature related to sex trafficking of Native women and girls in Minnesota. It also includes data about the survivors who sought services from the resource center





# ADVOCACY RESPONSE

**Role of Advocacy.** Advocates for victims of sex trafficking are found in many different fields, including governmental and non-governmental organizations. The duties and responsibilities of each advocate are dependent upon the procedures and requirements of the agency or organization in which they work. However, there is typically a primary/general role that an advocate has:

## ADVOCATE'S PRIMARY ROLE

**“Support** the victim **while advocating for their rights** and **[to help]** victims access and navigate through various societal structures, such as legal, medical systems, housing/shelters, employment and the criminal justice system.”

Advocates apply a victim-focused approach to helping victims of sex trafficking, which requires developing specialized-skills and techniques. Among other things, advocates must have specialized skills in crisis response, victim-centered interventions, cultural competency, safety planning, system navigation to secure resources like financial assistance, transportation, and childcare, and collaboration among other agencies and organizations. Advocates must also provide confidentiality to the victims they serve, which is a crucial part of building trust between an advocate and victims. Furthermore, in one of the steps to make victims feel safe and supported, advocates must often be able to provide accompaniment to medical appointments, interactions or interviews with law enforcement, interviews with prosecutors, and court hearings.

# ADVOCACY RESPONSE

## ISSUES ADVOCATES MAY NEED TO ASSIST WITH

- Providing culturally competent care to survivors
- Housing
- Healing
- Mentorship programs
- Chemical dependency treatment
- Work skills
- Safety from traffickers
- Relocation
- Civil and criminal legal assistance
- Help with children
- Health needs (both physical and mental)
- Access to trauma-informed care

## BARRIERS ADVOCATES FACE

Advocates who specifically serve Native victims of sex trafficking often have to:

- Navigate complex jurisdictional frameworks, such as Public Law 280 and checkerboard reservations
- Collaborate between tribal, state and federal agencies or other organizations
- Navigate tribal politics or community politics
- If language barrier exists, understand and speak that Native language(s)(occurs frequently in Alaska Native communities)
- Travel long distances to help victims access resources from agencies and programs
- Potentially high caseloads with often restricted/limited financial resources

These barriers can make it harder to advocate for victims and to help victims access resources that they need to escape sex trafficking. These barriers can also discourage advocates and increase burnout, depression, and anxiety. Ultimately, more resources for advocates and societal change can help advocates better help victims.



# ADVOCACY RESPONSE

## WORKING WITH SURVIVORS FROM SPECIFIC POPULATIONS

Advocates must be prepared to work with survivors from various communities and tailor their advocacy response accordingly. For example, a Native transgender woman (i.e., a woman who was designated male at birth but identifies as a woman) may need housing advocacy that looks different than housing advocacy for a cisgender (i.e., a woman who was designated female at birth) Native woman. Housing agencies may be less likely to help the transgender survivor due to lack of awareness and/or policies that are discriminatory, so the advocate might need to take a different approach to ensuring that the transgender survivor still receives services.

Similarly, a trafficking survivor who is a man may have unique advocacy needs, and may encounter different barriers than a woman would. Other identities to keep in mind and ensure that advocates are familiar with include sexual orientation, Deaf survivors, survivors with disabilities, survivors with limited English proficiency, youth survivors, and elders. Regardless of the survivor's identities, it is the advocate's responsibility to make sure that all survivors are treated with dignity, respect, and compassion, and that all survivors are able to access a comparable level of services.

# RESOURCES FOR FURTHER INFORMATION

## TRIBAL SEX TRAFFICKING RESOURCES

Tribal Law and Policy Institute  
(2017)

Available at: <https://www.tribaltrafficking.org/>

About this resource: The Tribal Sex Trafficking Resources website contains a wealth of information on sex trafficking in Indian Country. The site provides up to date information on trafficking laws, tribal codes on sex trafficking, and general information that will be helpful to service providers and responders. It also contains an index of service providers around the country, both on reservations and in non-tribal urban and rural areas, who work with sex trafficking survivors.

## ASSISTING TRAFFICKING VICTIMS: A GUIDE FOR VICTIM ADVOCATES

National Sexual Violence Resource Center  
(2012)

Available at: [www.nsvrc.org/sites/default/files/publications\\_nsvrc\\_guides\\_human-trafficking-victim-advocates.pdf](http://www.nsvrc.org/sites/default/files/publications_nsvrc_guides_human-trafficking-victim-advocates.pdf)

About this resource: A detailed overview of what advocates need to know about trafficking in order to provide effective advocacy to survivors. Includes a brief recap of “101” information before transitioning to how an advocate might identify a trafficking survivor, how to respond effectively through collaboration with other agencies, and more detailed discussion of how advocates may interact with other service providers (e.g., housing, employment, legal, etc.).

## GARDEN OF TRUTH: THE PROSTITUTION AND TRAFFICKING OF NATIVE WOMEN IN MN

MN Indian Women’s Sexual Assault Coalition and Melissa Farley  
(2011)

Available at: <http://prostitutionresearch.com/2011/10/27/garden-of-truth-the-prostitution->



## RESOURCES



and-trafficking-of-native-women-in-minnesota/

About this resource: 105 Native women used in prostitution and trafficking were interviewed about their experiences and their recommendations on what needs to change in order for survivors to be better supported. Through reading, advocates will be able to gain insight into the experiences of Native women used in trafficking and prostitution, as well as learn how to ensure their advocacy is effective

### **BREAKING BARRIERS: IMPROVING SERVICES FOR LGBTQ HUMAN TRAFFICKING VICTIMS**

Polaris Project  
(2015)

Available at:

<http://www.polarisproject.org/sites/default/files/breaking-barriers-lgbtq-services.pdf>

About this resource: Contains detailed information on how service providers can ensure their services are inclusive of LGBTQ/Two Spirit survivors. The document includes case studies to help demonstrate how the recommendations can be implemented and how they might impact a survivor.

### **MEASURING CAPACITY TO SERVE SURVIVORS WITH DISABILITIES**

Vera Institute

Available at: <https://www.vera.org/publications/measuring-capacity-to-serve-survivors-with-disabilities>

About this resource: The Vera Institute is a technical assistance provider that has a wealth of information on providing services to survivors with disabilities and ensuring that your agency is accessible to survivors with disabilities and Deaf survivors. This document provides a general overview of some key factors to consider when evaluating whether your agency is adequately prepared to support Deaf survivors and survivors with disabilities.

## RESOURCES



### **HUMAN TRAFFICKING TASK FORCE E-GUIDE**

Office for Victims of Crime

Available at: <https://www.ovcttac.gov/taskforceguide/eguide/>

About this resource: The e-guide provides a comprehensive overview and step-by-step plan for how to implement a human trafficking taskforce. Very helpful for advocates or agencies looking to strengthen collaboration between providers and work on larger scale change to address the issue of sex trafficking.





# LAW ENFORCEMENT RESPONSE

The law enforcement response to trafficking cases is closely linked to the question of jurisdiction. Where the crime took place (in Indian Country or not), the race of the victim and trafficker, if the tribe has trafficking codes, whether the tribe is in a Public Law 280 state, and whether the tribe has MOUs in place with fellow law enforcement agencies are all factors that will ultimately decide whether the federal government, the state, the tribe, or some combination of the above have the authority to investigate the case.

Regardless of who has jurisdiction, there are several strategies that all law enforcement agencies can implement to ensure that they are operating as effectively as possible in a trauma-informed way. According to the Tribal Law and Policy Institute, there are four main principles that tribal, state or federal criminal justice systems should use when working together to helping victims of sex violence:

- 1. Communication**
- 2. Collaboration**
- 3. Cooperation**
- 4. Mutual Respect**

Employing these four principles increases the likelihood of successful prosecutions and convictions of sexual offenders, especially when tribes share jurisdiction with the federal government. For prosecutions, the federal government and tribes often use the same evidence, witnesses and legal arguments. Therefore, employing these four principles streamlines the prosecutions, strengthens both jurisdictions' ability to enforce anti-trafficking laws, and reinforces tribal sovereignty.

## LAW ENFORCEMENT RESPONSE

Furthermore, in order to reduce additional trauma to victims and increase likelihood of a successful prosecution, the Tribal Law and Policy Institute recommends each jurisdiction should meet regularly with their counterpart to determine each jurisdiction's roles and responsibilities. Tribes and the federal government should also establish formal protocols or formulate clearly defined agreements with their counterpart that address, at a minimum, which jurisdiction and agency should:

1. Issue search/arrest warrants
2. Coordinate victim interviews to reduce the number of times a victim must tell their story; and
3. Maintain evidence and chain of custody for evidence

The interaction that victims of sex trafficking have with law enforcement may be either a determining or deterring factor for reporting crimes committed against them. There are certain ways that law enforcement can build trust with a victim to make them feel safer, which in turn can increase their ability to escape sex trafficking and for criminal justice systems to punish traffickers. The Native Trafficking Project of the Center for Human Rights of Children advises several methods that law enforcement should use when interacting with victims of sex trafficking:

- Talk with victims in private, neutral spaces
- When appropriate, provide a female officer to conduct interviews to make victims feel safer
- Immediately involve a victim's advocate
- Ask victim if they are in need of emergency services, especially medical treatment
- Avoid interrogation of victim or judgmental/disrespectful language
- Keep in mind powerful dynamics at play with peers or family members who could be involved in the trafficking of the victim
- Be aware of intergenerational trauma that could affect the victim
- Find out victim's support network, housing/living situation, and access to needs
- Contact other jurisdiction's law enforcement to begin collaboration



## LAW ENFORCEMENT RESPONSE

The Missing and Exploited Children's Support Program, through efforts funded by the U.S. Department of Justice's Office on Juvenile Justice and Delinquency Prevention, explored ways that law enforcement agencies can more effectively work with victims. They advise law enforcement to use the following basic questions with victims, both juvenile and adult:

- Where do you live or sleep?
- Were you ever forced to stay in one place?
- Were you threatened if you left?
- How did you get here?
- Were you ever forced to stay in one place?
- Have you eaten/are you hungry?
- Who are you afraid of?
- Is there anything you would like to tell me?

There are also ways that law enforcement can make victims feel more comfortable, which can make them feel safe to disclose their victimization.

**Food:** many victims are not allowed to or able to eat regular meals and will likely be hungry. Victims should choose what and where they want to eat, as this can make the victim feel like they have the power of choice again.

**Clothes:** many victims are not adequately or appropriately clothed. Law enforcement can store various clothing items in several sizes in the precinct to offer to victims.

**Communication with victims:** law enforcement should always bring victim specialists with them when interviewing victims, as victim specialists are specifically trained to communicate and help victims. Interviews should be conducted in neutral, comfortable locations, and law enforcement should not place victims in interrogation rooms, holding cells, or locked rooms. Law enforcement should also remain patient and compassionate when talking with victims, even if victims are uncooperative. Additionally, law enforcement should always remember that many Native victims do not trust law enforcement, and building that trust can take a long time.

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<sup>4</sup>Full resource available at: <https://vimeo.com/148408291>

# RESOURCES FOR FURTHER INFORMATION

## **THE CRIME OF HUMAN TRAFFICKING: A LAW ENFORCEMENT GUIDE TO IDENTIFICATION AND INVESTIGATION**

International Association of Chiefs of Police

Available at: [www.theiacp.org/portals/0/pdfs/CompleteHTGuide.pdf](http://www.theiacp.org/portals/0/pdfs/CompleteHTGuide.pdf)

About this resource: Contains information written by and for law enforcement officers on best practices for investigating trafficking cases in a victim-centered way. Includes a pocket card that officers can use for quick reference, along with information on other useful resources for departments looking to strengthen their approach to trafficking cases.

## **COMBATING CHILD SEX TRAFFICKING: TOOLS FOR LAW ENFORCEMENT**

International Association of Chiefs of Police

(2016)

Available at: <http://www.theiacp.org/annual-conference-resources/#section-22>

About this resource: Specifically addresses law enforcement response in cases of minor sex trafficking. Contains information for law enforcement leaders, as well as detailed discussion of the benefits of community partnerships in addressing child sex trafficking. Includes training course referrals for agencies interested in training their officers.

## **BUILDING INTERGOVERNMENTAL LAW ENFORCEMENT COLLABORATIONS**

The NCJA Center for Justice Planning

(2017)

Available at: [www.ncjp.org/tribal-collaboration/law-enforcement](http://www.ncjp.org/tribal-collaboration/law-enforcement)

About this resource: This document details the history of jurisdictional challenges, how they impact present-day law enforcement in tribal communities and border towns, and provides examples of jurisdictions that have implemented MOUs and cooperative agreements to ensure



## RESOURCES



### **HUMAN TRAFFICKING INFORMATION AND INVESTIGATIONS STRATEGY TOOLKIT: A GUIDE TO DEVELOPING A LAW ENFORCEMENT STRATEGY TO COMBAT HUMAN TRAFFICKING**

Association of State Criminal Investigative Agencies  
(2016)

Available at: [www.ascia.org/pdf/news/human\\_trafficking\\_toolkit082016\\_copy.pdf](http://www.ascia.org/pdf/news/human_trafficking_toolkit082016_copy.pdf)

About this resource: This toolkit covers topics including best practices in conducting investigations, a review of legislation that impacts law enforcement, available resources for departments, and training opportunities for officers.







# PROSECUTION AND LEGAL RESPONSE

The interaction that a victim has with prosecutors can be a determining or deterring factor as to whether she decides to cooperate with the prosecution of her traffickers or buyers. In Indian Country, many sexual violence cases are declined by federal or state prosecutors to be prosecuted, and tribes often do not have the resources or jurisdiction to prosecute the offenders. Other factors such as coercion, intimidation, fear, shame, a victim's pending criminal charges or warrants, and geographic remoteness can discourage victims from cooperating in the prosecution of traffickers and buyers. However, researchers have identified some recommendations for prosecutors and common characteristics of successful prosecutions:

- Be patient and sensitive with victims
- Set low expectations
- Make a significant investment of time
- Well-trained and effective agents who can develop rapport with victims
- Well-trained and effective investigators
- Collaborative relationships among victims, agencies, jurisdictions, advocacy organizations, and the community
- Gain trust with victims
- Use unique investigative methods
- Think proactively about what charges can be brought against defendants

Prosecutors should also make an effort to speak to victims with language and vernacular that they will understand. Legal or professional jargon that prosecutors often use with their colleagues could make victims feel patronized, confused, and/or isolated. Lastly, prosecutors should strive to make victims feel safe and accepted, even if the victim ultimately chooses not to cooperate with the prosecution.

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<sup>5</sup>Full resource available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>



## PROSECUTION AND LEGAL RESPONSE

**Tribal codes.** There have been several tribes that have passed their own laws prohibiting sex trafficking in their territories within the last few years. By enacting these laws, tribes are exercising their tribal sovereignty and enforcing cultural values that sexual violence will not be tolerated in tribal communities. Also, since tribes are separate sovereigns and often share concurrent jurisdiction with either the federal government or a state government, double jeopardy does not apply, and tribes can prosecute offenders for the same crimes committed within their territories.

The following tribes have passed sex trafficking laws:

**Snoqualmie Tribe.** In 2012, the Snoqualmie Tribe prohibited sex trafficking within its criminal code:

A person is guilty of sex trafficking when they are knowingly involved in the recruitment, harboring, and transportation, provision or obtaining of a person for the purpose of commercial sex act, in which the commercial sex act is induced by fraud, force or coercion, or in which the person induced to perform such an act has not attained 18 years of age. (Snoqualmie Criminal Code, Section 7.21).

Sex trafficking under the Snoqualmie Tribal Code is a Class A offense with a maximum of one (1) in jail and/or \$5,000 fine and/or community service. The Snoqualmie Tribe's anti-trafficking code is available online at: [www.snoqualmietribe.us/TribalCodes](http://www.snoqualmietribe.us/TribalCodes)

**MHA Nation.** In 2014, the Mandan, Hidatsa, and Arikaras Nation (MHA Nation) passed the first tribal anti-trafficking legislation that addressed both labor and sex trafficking. Named as "Loren's Law", the MHA anti-trafficking law prohibits sex trafficking of minors and adults, and provides for a maximum of one (1) year in jail per sentence, \$5,000 fine, and banishment.

A draft of the MHA anti-trafficking code can be found at: [www.mhanation.com/main2/Home\\_News/Home\\_News\\_2014/News\\_2014\\_09\\_September/Human%20Trafficking%20Code%20Final%20Draft.pdf](http://www.mhanation.com/main2/Home_News/Home_News_2014/News_2014_09_September/Human%20Trafficking%20Code%20Final%20Draft.pdf)

## PROSECUTION AND LEGAL RESPONSE

**Fort Peck Tribes of the Assiniboine and Sioux.** In 2016, the Fort Peck Indian Tribes of the Assiniboine and Sioux enacted their anti-trafficking code. Fort Peck's anti-trafficking code is unique because it provides for a broad definition of coercion, allowing the umbrella of the code to cover a wide array of conduct that induces and influences victims into trafficking. The code defines coercion as:

- A) Threatening to use force; or
- B) Abusing a position of power or another individual's position of vulnerability;
- C) Abusing or threatening to abuse the law or legal process;
- D) Controlling or threatening to control an individual's access to an intoxicating beverage, toxic or controlled substance, or narcotic as defined in Chapter 4;
- E) Destroying, taking or threatening to destroy or take an individual's property;
- F) Inducing an individual to provide commercial sexual activity in payment toward a real or purported debt; or
- G) Exploiting an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function.

-Fort Peck Tribes Comprehensive Code of Justice, 7 CCOJ 214-230 (2016).

This broad yet inclusive definition of "coercion" allows that ability to charge and prosecute more traffickers because the code's language provides for the range of conduct that many traffickers and facilitators engage in to traffic their victims.

**Navajo Nation.** On August 7, 2017, the Navajo Nation's President signed the Navajo Nation Law Against Human Trafficking, which criminalized sex trafficking on the Navajo Reservation. The Navajo anti-trafficking code also requires "cooperation among government and civil institutions to define, prevent and combat the illegal 'transporting, trading or dealing' of people." This new law can have a significant impact on sex trafficking in Indian Country, as the Navajo Nation's reservation covers over 17,544,500 acres and a population of over 340,000 tribal members.

# RESOURCES FOR FURTHER INFORMATION

## **COMBATING TRAFFICKING OF NATIVE AMERICANS AND ALASKA NATIVES**

Leslie Hagen and Benjamin Whittemore  
(2017)

Available at: <https://www.justice.gov/usao/page/file/1008856/download>

About this resource: This article contextualizes the issue of trafficking in Indian Country using the available data and historical information. The body of the article examines the application of the federal human trafficking statute to crimes arising in Indian Country and describes Department of Justice training resources.

## **COMMUNITY COURTS, SPECIALIZED DOCKETS, AND OTHER APPROACHES TO ADDRESS SEX TRAFFICKING**

Center for Court Innovation  
(2014)

Available at: <https://www.courtinnovation.org/publications/community-courts-specialized-dockets-and-other-approaches-address-sex-trafficking>

About this resource: This article addresses the variety of ways in which communities have addressed sex trafficking, with the court serving as a centerpiece of several jurisdictions' responses.

## **STRENGTHENING TRIBAL JUSTICE: LAW ENFORCEMENT, PROSECUTION, AND COURTS [IN A ROADMAP FOR MAKING NATIVE AMERICA SAFER]**

Indian Law and Order Commission  
(2015)

Available at: [www.aisc.ucla.edu/iloc/report/files/Chapter\\_3\\_STJ.pdf](http://www.aisc.ucla.edu/iloc/report/files/Chapter_3_STJ.pdf)

About this resource: This document contains recommendations designed to strengthen tribal



## RESOURCES



justice systems and lay the groundwork for practices that fight crime and increase tribal local control and accountability. Numerous suggestions are offered on how to improve tribal criminal justice systems, along with an analysis of the barriers that tribes may encounter.

### **CREATING A HUMAN TRAFFICKING STRATEGIC PLAN TO PROTECT AND HEAL NATIVE YOUTH**

National Council of Juvenile and Family Court Judges  
(2015)

Available at: <http://www.ncjfcj.org/resource-library/publications/creating-human-trafficking-strategic-plan-protect-and-heal-native>

About this resource: This worksheet walks through several questions that prompt readers to make a plan that is in alignment with the needs and abilities of the community. It includes suggestions for things that communities will be able to work on immediately, as well as ideas for future funding opportunities or chances for collaboration with outside agencies.

### **RELOCATION REVISITED: SEX TRAFFICKING OF NATIVE WOMEN IN THE UNITED STATES**

Sarah Deer  
(2010)

Available at: <https://open.mitchellhamline.edu/facsch/157/>

About this resource: This article details the historical and legal context of sex trafficking in the US and documents the commercial trafficking of Native women over relocation.

## RESOURCES



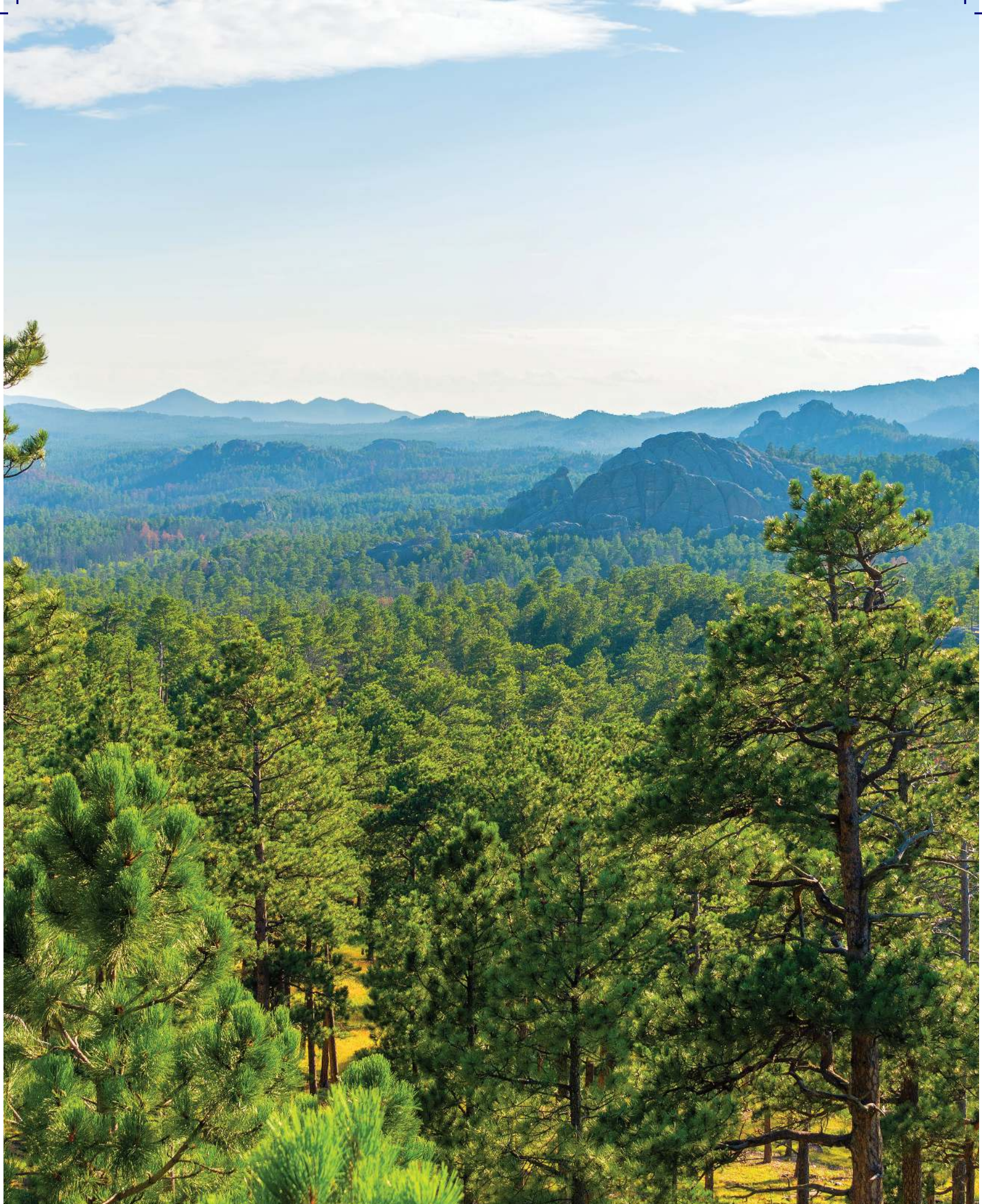
### **PROSECUTING HUMAN TRAFFICKING CASES: LESSONS LEARNED AND PROMISING PRACTICES**

Clawson, Dutch, Lopez, and Tiapula  
(2008)

Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>

About this resource: This report consists of a review of 289 TVPA prosecuted cases, interviews with 11 federal prosecutors, and a survey of state and local prosecutors. The data collected is used to make recommendations on effective strategies for successfully prosecuting trafficking cases, along with increasing the capacity and understanding of prosecutors with regards to how to effectively handle these cases.









# CONCLUSION

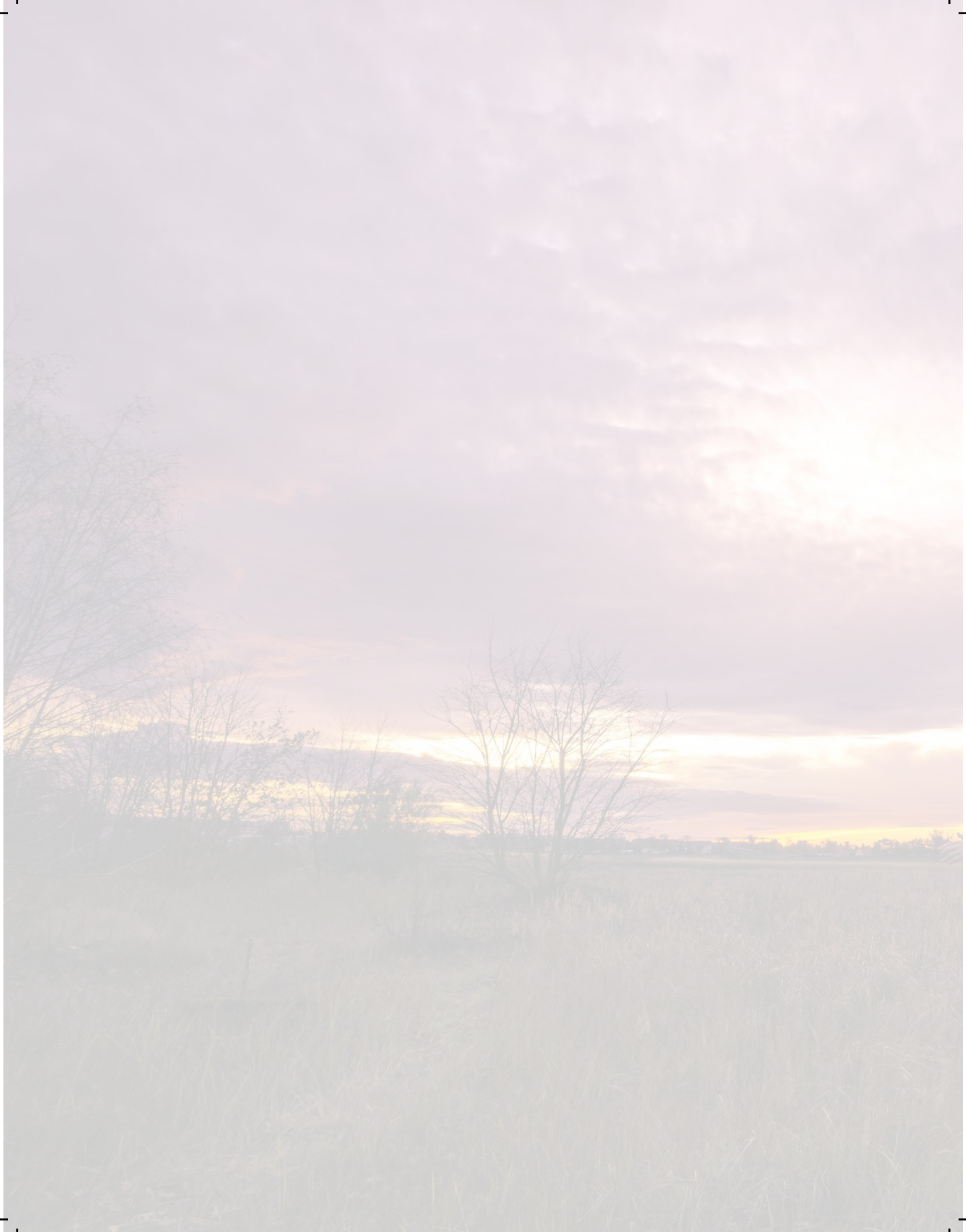
The information contained in this resource is intended to be a starting point for further learning about the issue of trafficking. There is an incredible amount of information not covered here, and there are phenomenal advocates and activists putting together new research and new practices on a regular basis. Additionally, there is no one-size-fits-all approach when it comes to responding to trafficking in tribal communities. Each tribe has a different history and faces issues unique to their community, and a successful approach to addressing sex trafficking must therefore be carefully tailored to meet the needs of the community. As you work on applying the information from this resource list to your own work, here are some organizations that are able to provide training and technical assistance on the topic should you want it:

Minnesota Indian Women's Sexual Assault Coalition  
651-646-4800  
[awatson@miwsac.org](mailto:awatson@miwsac.org)  
[www.miwsac.org](http://www.miwsac.org)

Tribal Law and Policy Institute  
323-650-5467  
<http://www.home.tlpi.org/>

National Indigenous Women's Resource Center  
406-477-3896  
[www.niwrc.org](http://www.niwrc.org)

Futures Without Violence  
415-678-5500  
<https://www.futureswithoutviolence.org/>







*A Project of the Minnesota Indian Women's Sexual Assault Coalition*