

South Dakota Network Against Family Violence and Sexual Assault Newsletter: Sexual Assault Edition



April 2024

Sexual Violence Institute (SVI) Rescheduled for July 2024



Mašitŋčala Luta (Red Rabbit)
Lorri Ann Two Bulls, Oglala Lakota, 2023

We are pleased to let you know that the SVI has been rescheduled for **Wednesday and Thursday, July 10 & 11**. (No snow storms then!)

We realize you were prepared for an awesome learning environment and we were so disappointed with the change of date. Right up to the day of the conference postponement, we were at 250+ registrations and still receiving inquiries from people wanting to attend.

The Sexual Violence Institute is a training event we look forward to each year for all our different disciplines to come together collectively and learn how to serve our relatives and all of those who experience violence.

Each year, we are reminded of the importance of our work, make time to network with other helpers, and remember the necessity of taking care of ourselves. We vow to practice self-care in order to continue helping others find healing in their lives.

Presenters include:

- **Curt L. Muller**, an exceptional presenter, is a Senior Advisor for Investigative Operations, Office of Inspector General - Office of Investigations-U.S. Department of Health & Human Services, and is very highly respected within his own and other agencies.
- **Troy Morley**, (Turtle Mountain Band of Chippewa), Department of Justice MMIP Programs.
- **Marlys Big Eagle**, (Crow Creek Sioux) National Native American Outreach Services Liaison Legal Programs, Victim Witness Executive Office for United States Attorneys.
- **Sherriann Moore**, (Rosebud Sicangu' Lakota) Deputy Director, Tribal Affairs Division, Office on Violence Against Women (OVW), U.S. Department of Justice
- **Melissa Magstadt**, Cabinet Secretary, South Dakota Department of Health
- **Jennifer Marsh**, Grants Management Specialist OVW
- **C. Renée Stapp**, MVSOKOKE (Muscogee Nation), Grants Management Specialist OVW
- **Dr. Carma Corcoran**, (Chippewa-Cree), Native Hope Fellow and Author
- **Hollie Strand**, (Choctaw/Chickasaw) Forensic Examiner-Internet Crimes Against Children (ICAC)-Pennington County Sheriff's Office
- **Jonathan H. Kurland**, Aequitas
- **Kim Nash**, SANE
- **Whitney Nordvold**, MSW (Sicangu Lakota/Yankton Dakota) – MH Therapist
- **Tyesha M. Wood** (Navajo) and **Valerie Bribiescas** (Navajo), Amber Alert In Indian Country
- **Amber Oldfield** -- A Survivor's Voice

For questions or information contact Tanya@sdnafvsa.com

For updated registration information please go to:

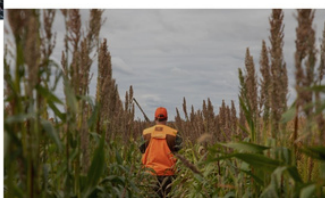
[SVI Conference 2024 \(nativehope.org\)](http://SVI Conference 2024 (nativehope.org))



Human Trafficking is Never in Season
RALLY TOGETHER TO #ENDIT
If you see something, say something.
Call the SD 24-Hour Hotline: 1-888-352-8511 or 211



Together, we are
The Network.
South Dakota Network Against Family Violence and Sexual Assault



SCAN TO VIEW AGENDA AND
SPEAKER BIOS:



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Fast Project

The Network was awarded the Sexual Assault Forensic Medical and Advocacy Services for the Tribes Initiative (aka “The Pipeline Project”, aka “FAST”) as an OVW special initiative in 2020. The initiative was in response to the increasing data surrounding sexual assault and violent crime statistics during large scale projects, like pipelines.

FAST started during the pandemic and soon after, the Keystone XL pipeline was abandoned by TC Energy. FAST was then in a wonderfully unique position to have time to grow our multi-disciplinary team, learn about gaps in services, and have robust conversations about emerging issues. Through the OVW FAST Initiative we have cultivated some substantial relationships with our partners across South Dakota. FAST strengthened our cultural responsiveness when working with partners and relatives and was able to add critical staff to agencies. The FAST team has a better understanding of each other’s programs, have enhanced advocacy skills, and are thoughtful in our responses. We also provide each other with current, culturally appropriate, and relevant

resources. This has been done through phone calls, emails, bi-weekly Zoom calls, webinars, on-site visits, quarterly round tables, and annual SVI events.

Focus Areas of the FAST Project:

Cultural Awareness – South Dakota’s nine tribes have many similarities but are unique in many areas from spirituality, employment opportunities, size, location of services, traditions, needs, and resources. Six training events on cultural responsiveness have been provided to our FAST Team, in addition to 4 SVI events, 4 FAST Round Tables and an MMIP Summit, all culturally focused.

Education – Education has been provided on generational trauma, complex relationships with governments, jurisdiction, ACES, Advocacy, Human Trafficking, drug trends, amber alerts, emotional intelligence, SANE response, forensic exams, SART, MDT, DV and SA intersections, HT and MMIP, LBGTO+, data collection, MAVIS, prevention, homelessness, trauma informed, victim centered, truancy, legislation, funding opportunities.

Missing and Murdered Indigenous Relatives (MMIR) – the history of the movement, sharing of information,

identification of cases, and tracking of cases.

Human Trafficking – definition tribal codes, state law, federal law, trends, collaborations, prevention, awareness, and emerging issues.

Sexual Assault – Education and information has been provided on trauma informed care, ACES, victim centered work, and building relationships with SANE, Law Enforcement and other advocates and agencies. This includes information on victim’s services, SART development and maintenance of existing teams. Additionally, the topic of sex offenders has been explored- background characteristics and problems of violent offenders and curriculum to treat offenders and reduce to recidivism and prevention.

Multi-Disciplinary Teams- we have included the following entities in our multi-disciplinary team throughout the grant: Dept of Health, CPCM, Tribal Domestic Violence Shelters, Tribal Coalitions, Tribal Schools, Truancy groups, housing, health care centers, SANE Nurses, transportation, advocates, out of state HT Task Force Members and Coalitions, Help Lines (211, 888, 988) DOJ, DCI, Department of Homeland Security, Sheriff Departments, SD HT groups, elders, educators, community

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based mental health centers, judges and lawyers.

Self - Care – FAST calls and events have created a space that is safe to share successes and difficulties, ask for help, learn, build community, and have included the practice yoga, meditation, and aroma therapy. We continue to address vicarious trauma, biases, and emotional intelligence.

Safety – situational awareness, structure safety, transportation

safety, and safety of our facilities and advocates.

888#/Hotline – In coordination with the 211 helpline, a new hotline was created for victims. 888#/Hotline was created to provide advocacy, access to forensic exams, and transportation to e-SANE health care facilities. This has expanded to include human trafficking in partnership with the West River Human Trafficking Task Force. We are privileged to have

representation and consistent participation from South Dakota subject matter experts in the space of services to victims of violence and all nine tribes in South Dakota who work in various capacities. Our FAST team includes sexual assault advocates, domestic violence advocates, tribal administration, child advocacy, education, health care, victim's services, law enforcement, first responders, prosecutors, housing, and public safety.


Please see the below information for our upcoming Statewide Sexual Assault Meeting. Registration and agenda information will be coming soon.

Save the Date

SPRING 2024
STATEWIDE SEXUAL
ASSAULT MEETING

Wednesday, May 29, 2024
1:00 PM - 5:00 PM CST

SDSU Pheasant and Crest Room
253
Brookings, SD

 Together, we are
The Network.
and we are grateful for your support.
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Spotlight: Heather Knox

Assistant U.S. Attorney - District of South Dakota



What led you to become a prosecutor and what advice would you give to those who are motivated to work in this field?

I went to law school with the misguided impression that defense attorneys were the only courtroom players who really helped people. After law school, I clerked for a federal magistrate judge with a very busy criminal docket. Through that experience, I watched prosecutors in the U.S. Attorney's Office fight with everything they had to keep victims and the community safe. I was inspired by the prosecutors' commitment to justice, fairness, and the truth.

Not everyone goes to law school knowing they can be a prosecutor. I certainly didn't. It took mentors who believed in me for me to take the leap and join the Pennington County State's Attorney's Office in 2013. My advice to aspiring prosecutors is to watch as many jury trials as possible and spend as much time in court as you can. Get mentors whom you trust and

soak up what they know like a sponge. Your nervousness will subside in time. Mistakes will come, and so will successes. Just keep setting foot in the courtroom, and refer early and often to Theodore Roosevelt's speech, "The Man in the Arena." It will get you through the tough times.

Could you describe some key challenges you face in combatting human trafficking at the federal level?

Many, if not most, victims of human trafficking do not view themselves as "victims." For example, a survivor who happens to be addicted to fentanyl might say she agreed to be sex trafficked in order to stay high. In reality, her addiction makes it impossible for her to make an informed, free choice, and the physiological distress caused by withdrawal from fentanyl and other highly addictive drugs causes her to engage in behavior she ordinarily would not, if given a true choice.

The shame many survivors feel about their own behavior, and fear of being put in jail themselves, often keeps them from coming forward to police or victim service providers. As a result, law enforcement sometimes has no idea that trafficking is happening, and it can be difficult to gather evidence that corroborates the survivors' experiences and helps take some of the burden off the survivor at trial.

What unique challenges do you face prosecuting sexual assault in Pine Ridge?

There is a culture of silence and shame that surrounds sexual assault that exists everywhere, including on the Pine Ridge Reservation. Many child victims are taught that they did something to deserve being assaulted, or that sexual abuse is a matter to be dealt with within the family, rather than with the assistance of the justice system. Survivors are often not believed, even by their parents and other loved ones, so sexual assaults are often never reported to the police, or are reported beyond the time when law enforcement officers are likely able to gather corroborative evidence of the sexual abuse like DNA or cell phone data. The historical division between Indigenous people and the federal government can lead to an understandable sense of distrust when we work with victims. It is important for federal prosecutors, and all prosecutors of sexual assault, to build trust with survivors and treat them in a humane, gentle way. Failing to do so puts the prosecution at risk, yes, but also is dehumanizing and retraumatizing for survivors.

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What programs do you think are needed in South Dakota to combat sexual assault/human trafficking?

I would love to see digital forensics capabilities within law enforcement agencies expanded, and fully funded. We have extraordinary law enforcement officers in South Dakota who are dedicated to bringing sex offenders and human traffickers to justice. What we don't have are fully-funded digital forensics capabilities in at least every regional police department and sheriff's office throughout the state. Where almost every case of sexual assault and human trafficking involves digital evidence of some kind, we need to stay ahead of the technology and have law enforcement officers who are well-trained to gather, preserve, and explain digital evidence from cell phones and computers.

How has technology affected human trafficking and sexual assault?

It is rare to see any case involving human trafficking or sexual assault not involve digital evidence from cellular phones. The commercial transactions involved in human trafficking are almost always conducted entirely online, using encrypted applications or websites with servers outside the United States that pride themselves on not sharing information with law enforcement. Likewise, most sexual assaults are perpetrated by people known to the victims. That means the chances are good that the communication between the offender and victim occurred before and after the sexual assault.

Apps that use end-to-end encryption and that delete content within a certain period of time are problematic, in the sense that it is impossible for law enforcement to gather important relevant communications between offenders and victims, even in response to court-authorized search warrants, from such apps.

The advent of technology also means that every person with a cellular phone is a potential target of a would-be exploiter or trafficker.

Are there any specific legislative or policy changes that you believe would strengthen sexual assault prevention and prosecution efforts in the state?

Governor Kristi Noem recently signed a new statute into law that allows the prosecutor to introduce evidence in child sexual abuse cases of other acts of child sexual abuse the perpetrator committed in the past. This rule of evidence is routinely used in prosecuting and convicting sex offenders in federal court. The law states the obvious: that a person who has committed a similar hands-on sex offense against a child in the past has the propensity to do it again. Pennington County State's Attorney and legendary prosecutor in her own right Lara Roetzel is responsible for this important legal development.

A bill that failed this year was a proposal to allow similar evidence in sexual assault cases involving adult victims. That is to say, the proposed law would allow the prosecutor to introduce evidence in a rape case that on some prior occasion, the accused committed a similar offense against a similarly-situated victim. These evidentiary rules are the law of the land in federal court. They encourage victims to come forward and to be brave in numbers to tell their experiences. I hope the State of South Dakota soon adopts the second piece of these two "other act" rules.

Can you highlight any recent milestones in sexual assault prevention or prosecution that you're particularly proud of?

In February, 2024, the Eighth Circuit Court of Appeals affirmed the convictions of Jesse Sierra and Dustin Sierra, two brothers who kidnapped Esther Wolfe from Rapid City to the Pine Ridge Reservation in July of 2019. There, Jesse Sierra repeatedly raped Esther, held her captive for more than a week, and beat her so severely that even he thought she was going to die from her injuries. Then, the two brothers took her to Nebraska and hid her in a hotel until she was finally dropped off at a hospital. The Sierras were convicted

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by a jury of kidnapping, rape, strangulation, and other physical assaults on Esther in October, 2022. Esther testified for five and a half hours during the trial and showed unbelievable courage and resilience. Tragically, Esther was murdered in Rapid City just a few days before the convictions she fought so hard for were affirmed.

More generally, I am very proud of the work my office does to bring justice to victims of sexual assault on the Pine Ridge Reservation. Sexual abuse and sexual assault are pervasive everywhere, but Indigenous persons who live on the Pine Ridge Reservation have particular vulnerabilities that make coming forward very difficult. We take great care to gain the trust of survivors and walk alongside them every step of the way.

What advice would you give to a new prosecutor working on a sexual assault case?

Build rapport with sexual assault survivors, starting immediately. Build your case as if the victim is not going to testify. Gather all the physical evidence you can and all the corroborative evidence you can. But never put the burden of prosecution on the shoulders of the survivor. In my opinion, prosecuting sexual assault cases is the most difficult, most fulfilling work a prosecutor can do.

Upcoming Network

EVENTS

May
13

**NETWORK LEADERSHIP
WEBINAR SERIES, IIAM CT**

Contact Kathy@sdnafvsa.com with questions.

May
20

**ADVANCED SEXUAL ASSAULT LAW
ENFORCEMENT TRAINING,
VERMILLION, 8AM – 5PM CT**

Contact Brandi@sdnafvsa.com with questions.

May
28

**NETWORK MEMBERSHIP
MEETING AND OPEN HOUSE**

For Network Members Only
More Information Coming Soon!

May
29

**SPRING STATEWIDE SEXUAL ASSAULT
MEETING, BROOKINGS, 1PM – 5PM CT**

Contact Brandi@sdnafvsa.com or Raina@sdnafvsa.com
with questions.

July
10-11

**SEXUAL VIOLENCE INSTITUTE,
RAPID CITY**

Contact Tanya@sdnafvsa.com with questions.

September
9

**FALL STATEWIDE SEXUAL
ASSAULT MEETING, SIOUX FALLS**

More Information Coming Soon!

September
10

**SART CONFERENCE, SIOUX
FALLS**

More Information Coming Soon!

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Recap of Legislation Changes

This year the South Dakota legislature passed a significant bill to aid in the fight against childhood sexual abuse. Senate Bill 98 was passed after much debate and signed by Governor Noem on March 6, 2024. This bill is nearly identical to Federal Rule of Evidence 414 and allows for the admission of evidence of similar crimes in cases alleging child sexual abuse. The law reads in part, "In a criminal case in which a defendant is accused of child molestation, the court may admit evidence that the defendant committed any other child molestation. The evidence may be considered on any matter to which it is relevant." The law requires prosecutors who intend to offer evidence of prior acts of child sexual abuse to disclose it to the defendant. This requires the disclosure of witness statements, or a summary of what prosecutors expect witnesses to say. The law does not dictate to judges who they are to decide if the evidence will be admitted, but South Dakota courts will likely find guidance from other state and federal courts that have handled cases using this rule. This Federal Rule of Evidence was first passed by Congress in 1994. A similar bill, SB 97, was also introduced, modeled after Federal Rule of Evidence 413. This rule would have made evidence of prior sexual assaults admissible in sexual assault cases involving adult victims. This bill was defeated in the House of Representatives by five votes.

The Legislature also passed HB 1096, which states, "If an ex parte temporary protection order is in effect and a judge issues a protection order pursuant to § 22-19A-8, the ex parte temporary protection order remains effective until the order issued pursuant to § 22-19A-8 is served on the respondent." This law matches a similar law that has been in effect for domestic violence protection orders since 2000.

Another significant piece of legislation that will help victims of sexual assault and domestic violence in South Dakota is SB 168. This bill delivers funding of \$5 million to crisis shelters around the state. This bill was brought in response to cuts in federal funding. This funding is significant but is a one-time appropriation. Moving forward, crisis shelters in South Dakota will continue to need support from all sources to make sure victims of violence in South Dakota have safe places to seek shelter and resources.

Advanced Sexual Assault Law Enforcement Trainings Now Offered!

The South Dakota Network continues to offer free law enforcement trainings tailored to fit the needs of individual agencies throughout South Dakota. In addition to the necessary training that South Dakota law enforcement and attorneys are required to have under South Dakota statutes 23-3-39.4, 23-3-39.6, and 23-3-42.1, the South Dakota Network's STOP grant allows our team of trainers to train on sexual assault, human trafficking, strangulation, stalking, protection orders, victim

services, and elder abuse.

As of this year we are excited to offer the **advanced sexual assault training**. In addition to understanding the dynamics of sexual violence, SD sexual assault laws, investigation, prosecution, and victim services, the advanced sexual training takes a deeper dive into sexual violence to include understanding the facts and myths about sexual violence, trauma informed response, investigation and interviewing, prosecution, and victim services.

Upcoming Advanced Sexual Assault Training: May 20th from 8am – 5pm in Vermillion, SD. Registration is open.

Link: [New Registration - Coalition Manager!](#)

To schedule a law enforcement training in your area please contact: Brandi Storgaard, Project Specialist
brandi@sdnafvsa.com
605-731-0041

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Tracey's Legal Pad

Attorney Consultant & Advisor from SD Network Against FV & SA

Sexual Assault Forensic Examinations in Prosecution

Seeking medical care and receiving a forensic medical examination after a sexual assault can be an important step in both the criminal case and in ensuring the health of the victim. Many professionals are unclear when forensic exams are needed and how they can impact a case. Let's dive into this further by examining the role sexual assault kits can have in a case from start to finish.

When should a victim of sexual assault undergo a forensic medical examination (rape kit)? This is a question frequently asked by both professionals and victims. National best practices suggest up to 7 days after an assault but ultimately the forensic medical exam can be completed when the assault has occurred within a time frame where a kit could still find evidence, and the victim wants one. First and foremost, seeing a medical provider will help to take care of the victim's immediate physical health and prevent further damage to their health. Collection of evidence should always be secondary to the safety and treatment of a victim. A victim should never be discouraged from completing a rape kit even if police or

prosecutors think it "won't help the case." I would encourage law enforcement to never take this stance.

When a prosecutor takes a rape case to trial, they hope to have physical evidence to support the facts reported by the victim. Why? Because jurors like to see physical evidence. Even as far as we have come in recognizing and enforcing victim's rights, it is still difficult to get a rape conviction based solely on the word of a victim. Jurors want to know they are making the right decision. Society still looks skeptically at a woman who reports being sexually assaulted. This is unfortunate and unfair, but prosecutors know it's the reality they face in trial. Because of this, sexual assault examinations, and the evidence collected from them, are a vital part of any rape trial where the victim had the exam done after the assault. In cases of an unknown assailant, the rape kit has an obvious benefit – the collection of DNA to hopefully identify the rapist. When that type of evidence is submitted to a jury in a case where the victim may not have known who raped her, DNA can be the key to a conviction. However, a

rape kit has benefits even in cases of known assailants – even in cases where the offender admits to having sexual intercourse with the victim but claims it was consensual. No victim should ever be discouraged from having a sexual assault kit done "because it won't make a difference." It can always make a difference. There is no such thing as too much evidence.

Why is a sexual assault case useful in a case of a known assailant that claims consensual sexual intercourse with the victim? Because jurors expect it. A prosecutor is required to prove criminal charges beyond a reasonable doubt. A large part of this is meeting juror expectations, even if professionals within the criminal justice system would not "need" the same amount of evidence to reach the same conclusion. Is this a good enough reason to subject a woman to a sexual assault exam? Yes, if it is her desire to have the exam. Is this a good enough reason for counties that struggle with funding their budgets to have to pay for the exam? If it can tip the scales toward a conviction, hold a

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Tracey's Legal Pad

Attorney Consultant & Advisor from SD Network Against FV & SA

Sexual Assault Forensic Examinations in Prosecution

criminal accountable and protect the community, then yes. It has been noted that juries are 33 times more likely to find a defendant guilty when they see DNA evidence, and that 72% of jurors expect to see DNA during a sexual assault trial. (Sexual Assault Cases: Exploring the Importance of Non-DNA Forensic Evidence | National Institute of Justice, n.d.). I have always been a proponent of giving the jury what they want and expect, even if the evidence appears to not be technically necessary, even in rape trials where the defense is consent.

Investigators and prosecutors always have to keep in mind that a defendant may change his story. While the accused may initially tell the police that he had consensual sexual contact with the victim, that story could change by the time the case gets to trial. If that happens, it is not always

enough for a prosecutor to confront a defendant with the fact that he has changed his story. Many criminals are charming and manipulative and can convince jurors that they had a good reason for first claiming to have consensual sex, then convincing the jury that in reality they didn't have sex at all. As previously mentioned, it is difficult for jurors to base a verdict on the word of a victim alone. However, if a rape kit was done and DNA is present, then the victim's word is supported, and the defendant is stuck with his original story. Proving lack of consent can also be difficult, but that's a discussion for a different newsletter.

Rape kits also collect evidence other than DNA that can be vital in corroborating the victim's account of the rape. Trace evidence can be found that may include hair, dirt, fibers, etc. on the victim's body or on the victim's clothing that

is collected during the exam. This evidence can help investigators build a case. Toxicology tests are often done as a part of a sexual assault examination. Physical injuries, on any part of the victim's body, may be observed and will be photographed. The medical providers that perform the exams can testify about all of their observations, evidence collected, and even statements made by a victim while the victim is receiving medical treatment. If a prosecutor can corroborate even portions of a victim's account, that goes a long way in helping to convince the jury that the victim was raped. When it comes to a crime as serious and traumatic as rape, police and prosecutors should do everything in their power to collect every last piece of evidence available to them. Police and prosecutors must do everything in their power to bring justice to the survivor.

Contact Information

For further information, contact the South Dakota Network Against Family Violence and Sexual Assault

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