



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #KAN-18-005

### TITLE: Healthcare & Justice for Sexual Assault Survivors through the Tribal Law and Order Act

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#### NCAI HEADQUARTERS

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**WHEREAS**, We, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, nearly 55% of American Indian and Alaska Native women will be sexually assaulted or raped during their lifetime, and over 90% report being victimized by a non-Native; and

**WHEREAS**, Native victims of sexual violence deserve justice for the crimes committed against them, but are often not getting it with the GAO finding that 67% of sexual assault cases are declined by federal prosecutors; and

**WHEREAS**, American Indians and Alaska Natives who are survivors of sexual assault face multiple barriers to receiving justice including jurisdictional complexities and chronic underfunding of tribal justice and health care systems; and

**WHEREAS**, an important step to ensuring a successful prosecution in many cases is an effective sexual assault forensic examination; and

**WHEREAS**, Indian Health Service (IHS) direct, tribal 638, and urban Indian clinics and hospitals in Indian country often do not:

- Consistently provide rape kits;
- Have trained staff on site to administer the rape kit;
- Ensure staff testifies if a rape is ever brought to trial and the rape kit is in evidence;
- Adequately track data on sexual assault services provided; and

**WHEREAS**, the main barriers to post-rape care for American Indian and Alaska Native victims include:

- IHS facilities are severely underfunded and lack resources and trained staff, including sexual assault nurse examiners;
- Survivors may have to travel over 150 miles to reach a facility where a forensic examination can be performed;
- Mistakes are often made by personnel who are responsible for properly storing and analyzing evidence collected in rape kits;
- Indian health care providers who collected evidence are often prevented from testifying in court due to subpoenas rarely being approved in a timely manner by the IHS making evidence useless; and

**WHEREAS**, the Tribal Law and Order Act was passed to improve safety and justice in Indian country; and

**WHEREAS**, a 2011 Government Accountability Office (GAO) report found that:

- IHS headquarters only had limited information on the ability of its facilities to provide forensic examinations; it does not track the number of sexual assault forensic examinations performed at its facilities.
- 19 out of 45 IHS and tribally operated facilities were unable to provide sexual assault forensic evidence collection exams for either adults or children and instead had to refer survivors to other facilities.
- Of the 26 facilities that do provide sexual assault evidence exams to either adults or children, 6 of them did not have providers with any specialized training or certification in sexual assault medical forensic exams.
- The preservation and storage of medical forensic evidence kits is not regulated centrally by IHS, but rather, is coordinated by hospitals and local law enforcement, often resulting in improper evidence preservation; and

**WHEREAS**, since enactment of the Tribal Law and Order Act, the IHS has made some progress in developing policies and procedures regarding rape kit provision for survivors of sexual abuse; and

**WHEREAS**, the IHS was cited in the 2011 GAO Audit for not having developed or implemented the Child Maltreatment Policy, which has still not been implemented, nor has the IHS made it available for review and comment by stakeholders upon request.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) calls upon the IHS to provide survivors of sexual violence with adequate and timely sexual assault forensic exams, ensure that such examination kits are stored properly, and implement sexual assault protocols equally in IHS Facilities throughout Indian Country; and

**BE IT FURTHER RESOLVED**, NCAI asks the Indian Health Service to focus attention on this issue by fully implementing the Tribal Law and Order Act, especially as regards to Native American women and children; and

**BE IT FURTHER RESOLVED**, NCAI calls on the Indian Health Service to standardize and sustain the provision of medical forensic services by:

- Creating solutions to overcome long travel distances for survivors;
- Establishing plans to help ensure that hospitals consistently implement and follow the new policy;
- Developing similar policies for domestic violence and child sexual abuse; and
- Developing sustainable staffing models that overcome problems with staff burnout, high turnover, and compensation; and

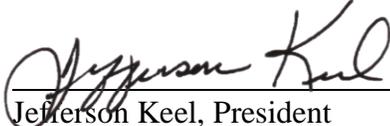
**BE IT FURTHER RESOLVED**, NCAI supports the Native American Women's Health Education Resource Center working with Amnesty International in furthering their advocacy and continuing to monitor these policies on behalf of Native American women and children; and

**BE IT FURTHER RESOLVED**, that NCAI calls on Congress to provide oversight on this issue; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2018 Midyear Session of the National Congress of American Indians, held at the Marriott Kansas City Downtown, June 3-6, 2018, with a quorum present.

  
Jefferson Keel, President

ATTEST:

  
Juana Majel Dixon, Recording Secretary