

Understanding Problematic Sexual Behavior in American Indian and Alaska Native Youth

What is PSB?

Problematic sexual behavior is youth-initiated behavior that involves sexual body parts in a manner that is developmentally inappropriate and potentially harmful.¹

Much of Native culture is based on the Circle of Life. Culture teaches us that we are all relatives to all things in creation. Some of the threads in the Circle have become broken. Juvenile justice and courts can help mend the Circle by understanding the needs of youth and families.

Roles

The juvenile justice system addresses youth who have failed to follow required laws and policies. Often, child protective services (CPS) work with juvenile justice to provide services for youth with PSB and their victims. Involvement generally includes a report, investigation, arrests, and decisions to prosecute, defer prosecution, divert, or use other triage pathways.

Some cases will involve a trial, adjudication, hearing, and sentence. Investigations may include interview/testimony, medical exam, and victim services. Youth with illegal sexual behaviors may be arrested, and a decision to proceed with adjudication may be made. Depending on the crime, context, responsivity, risk, needs, and protective factors, other triage pathways may be utilized such as deferred prosecution and referral for treatment).²

For additional resources on Practices for the Sacred including protocols, decision trees and more, [CLICK HERE](#).

Addressing Misunderstandings

Truth #1: Many youth with PSB have no history of sexual abuse. There are a variety of other risk factors that may have contributed to the PSB, such as coercive environments, exposure to sexualized materials, and individual factors. PSB may start as curiosity or impulsive behavior that becomes concerning or harmful.

✗ **Misunderstanding:** Youth with PSB have been sexually abused.

Truth #2: When youth receive evidence-based interventions, their risk of future illegal sexual behavior is extremely low, with recidivism rates around 3-5%.

✗ **Misunderstanding:** Youth with PSB are at greater risk for becoming sex offenders.



✓ Protocols and Procedures

Law enforcement officials must create and follow established policies and procedures for investigating PSB cases.

- Create protocols for communicating among parties and **managing consent and release of information**. Consider tribal court prosecutors, referral and access to treatment, levels of care based on risk, need and responsivity, data sharing and tracking cases across systems, mandatory reporters, and reporting cases.



For recommendations on best practices for managing consent and **CLICK HERE**.

- Know and create protocols for addressing jurisdictional issues and **state statutes**. Know who to contact. Consider tribal and state law P.L. 280, P.L. 93-638 or self-governance status, Major Crimes Act, and Indian Country Crimes Act.



For a state statutes resource directory, **CLICK HERE**.

- Outline and know what protects youth and what places youth at risk for PSB.
- Respond to youth based on their developmental stage and legal culpability.

Addressing Misunderstandings

➤ **Truth #3:** It is well known that children present a wide range of developmental abilities. Investigations and clinical decision making can be enhanced by understanding the language, cognitive, social, moral, and sexual development of the children involved. Investigations and clinical assessments can be enhanced by considering the use of psychometric testing in determining the developmental levels of each person involved in situations of problematic sexual behavior of youth.

✗ *Misunderstanding:* The differences in chronological age of the children involved is a reliable way to determine if a case involves problematic sexual behavior.

➤ **Truth #4:** Harsh punishment is more likely to result in behavior becoming covert (hidden) and deceitful. Punishment tends to cause a child to be fearful in the short term, does not improve behavior over the long term and can cause more aggressive behaviors. It fails to teach the appropriate behavior and empathy. More effective and long-term change happens when working with the family to teach safe behaviors, positive coping strategies, accountability, and enhance empathy and social connections.

✗ *Misconception:* The use of harsh punishment is an effective way to teach people appropriate behavior. This technique uses retribution and undesired consequences to obtain desired behavioral outcomes.



FACTSHEET: Juvenile Justice & Courts

Research

PSB does not increase based on sexual orientation, race, ethnicity or socioeconomic status.¹

1/3, of sexual offenses against youth are committed by other youth.³

12 to 14 years of age, is when PSB happens the most.⁴

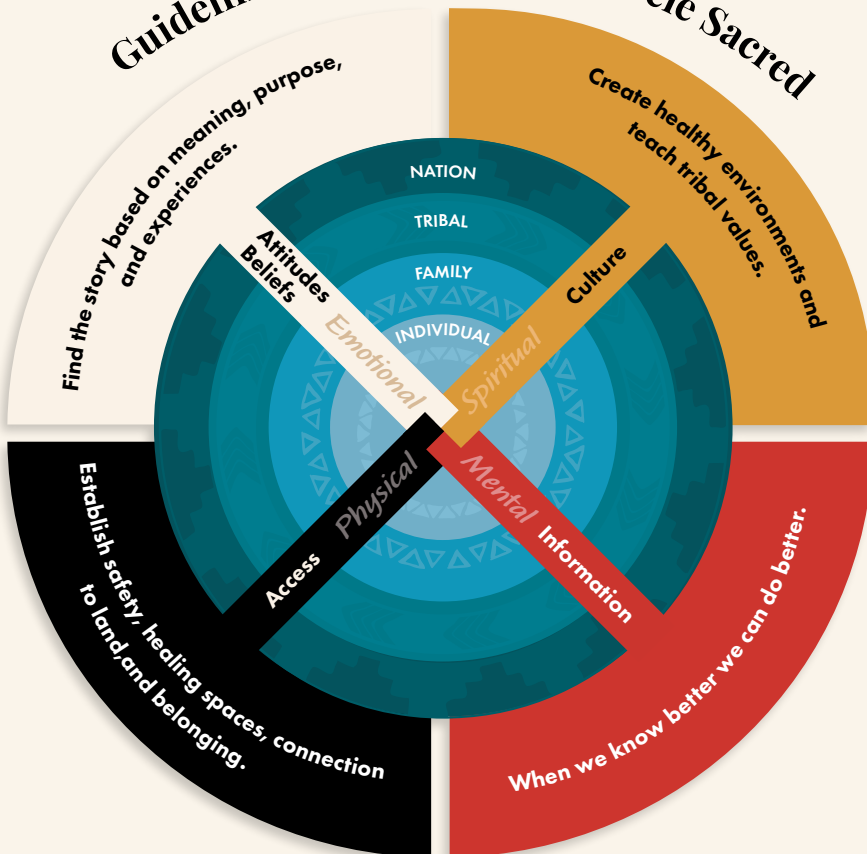
1/2, of child victims of PSB are under 6 years of age.⁴

25% of PSB cases involve family members.⁵

Most PSB occurs between children/youth who know one another.⁵

<3%, is the average sexual recidivism rate for youth with PSB and illegal sexual behavior.⁶

Guidelines for Keeping the Circle Sacred








We stress that children are not offenders or predators, they are children and they are developing these behaviors - give them information. That is all that they need, that there is hope, they are not predators.


– Janet Routzen,
Associate Judge Rosebud Sioux Tribe

Resources




CENTERS, ORGANIZATIONS AND PROJECTS

-  Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking
smart.ojp.gov
-  Indian Country Child Trauma Center
www.icctc.org
-  National Center on the Sexual Behavior of Youth
www.ncsby.org
-  National Child Traumatic Stress Network
www.nctsn.org
-  Office of Juvenile Justice and Delinquency Prevention
www.ojjdp.gov

PROTOCOLS, PROCEDURES & LAWS

-  Child Welfare Information Gateway Laws and Policies
-  Tribal Institute, Example Child Abuse Tribal Protocols
-  Sexting Laws in America
-  Juveniles Who Commit Sex Offenses Against Minors

TOOLKITS AND REPORTS

-  Law Enforcement Response to Child Abuse, Office of Juvenile Justice and Delinquency Prevention
-  How the Justice System Responds to Juvenile Victims: A Comprehensive Model
-  Reports from Indian Country

References

1. Silovsky, J. F., & Bonner, B. L. (2003). Children with Sexual Behavior Problems: Common Misconceptions vs. Current Findings. National Center on Sexual Behavior of Youth.
2. Finkelhor, D., Cross, T., & Cantor, E. (2005). How the Justice System Responds to Juvenile Victims: A Comprehensive Model. Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, December 2005.
3. National Indian Child Welfare Act (2016). NICWA Testimony Task Force on AIAN Children Exposed to Violence, December 2013
4. Finkelhor, D., Ormrod, R., & Chaffin, M. (2009). Juveniles Who Commit Sex Offenses Against Minors. Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin, December 2009.
5. Snyder, H. (2000). Sexual Assault of Young Children as Report to Law Enforcement: Victim, Incident, and Offender Characteristics. NCJ 182990.
6. Caldwell, M. F. (2016). Quantifying the Decline in Juvenile Sexual Recidivism Rates. Psychology, Public Policy, and Law, 22(4), 414.

The information contained in this toolkit and multimedia content represents the views and opinions of the creators and not the views of OUHSC or states, tribes, and agencies. Mandatory reporting requirements and response to PSB varies between jurisdictions. For more information about mandatory reportings of child abuse and neglect, visit: <https://www.childwelfare.gov/pubPDFs/manda.pdf>