

Why GAO Did This Study

The Justice Department has reported that Indians are at least twice as likely to be raped or sexually assaulted as all other races in the United States. Indians living in remote areas may be days away from health care facilities providing medical forensic exams, which collect evidence related to an assault for use in criminal prosecution. The principal health care provider for Indians, which operates or funds tribes to operate 45 hospitals, is the Department of Health and Human Services' Indian Health Service (IHS).

In response to a Tribal Law and Order Act of 2010 mandate, GAO examined (1) the ability of IHS and tribally operated hospitals to collect and preserve medical forensic evidence involving cases of sexual assault and domestic violence, as needed for criminal prosecution; (2) what challenges, if any, these hospitals face in collecting and preserving such evidence; and (3) what factors besides medical forensic evidence contribute to a decision to prosecute such cases. GAO surveyed all 45 IHS and tribally operated hospitals and interviewed IHS and law enforcement officials and prosecutors.

What GAO Recommends

GAO is making five recommendations aimed at improving IHS's response to sexual assault and domestic violence, including to develop an implementation and monitoring plan for its new sexual assault policy and to modify sections of the policy regarding required training and subpoenas or requests to testify. The Department of Health and Human Services and the state of Alaska generally agreed with GAO's findings and recommendations.

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INDIAN HEALTH SERVICE

Continued Efforts Needed to Help Strengthen Response to Sexual Assaults and Domestic Violence

What GAO Found

GAO's survey of IHS and tribally operated hospitals showed that the ability of these hospitals to collect and preserve medical forensic evidence in cases of sexual assault and domestic violence—that is, to offer medical forensic services—varies from hospital to hospital. Of the 45 hospitals, 26 reported that they are typically able to perform medical forensic exams on site for victims of sexual assault on site, while 19 reported that they choose to refer sexual assault victims to other facilities. The hospitals that provided services began to do so generally in response to an unmet need, not because of direction from IHS headquarters, according to hospital officials. Partly as a result, levels of available services have fluctuated over time. GAO found that the utility of medical forensic evidence in any subsequent criminal prosecution depends on hospital staff's properly preserving an evidentiary chain of custody, which depends largely on coordinating with law enforcement agencies.

IHS has made significant progress since 2010 in developing required policies and procedures on medical forensic services for victims of sexual assault; nevertheless, challenges in standardizing and sustaining the provision of such services remain. In March 2011, IHS took a sound first step in what is planned to be an ongoing effort to standardize medical forensic services by issuing its first agencywide policy on how hospitals should respond to adult and adolescent victims of sexual assault. Remaining challenges include systemic issues such as overcoming long travel distances between Indian reservations or Alaska Native villages and IHS or tribal hospitals and developing staffing models that overcome problems with staff burnout, high turnover, and compensation, so that standardized medical forensic services can be provided over the long term. In addition, other challenges include establishing plans to help ensure that IHS hospitals consistently implement and follow the March 2011 policy, such as with training guidelines, and developing policies on how IHS hospitals should respond to domestic violence incidents and sexual abuse involving children who have not yet reached adolescence—neither of which is included in the March 2011 policy. GAO found that IHS is aware of these challenges and has initiatives under way or under consideration to address them.

Decisions to prosecute sexual assault or domestic violence cases are based on the totality of evidence, one piece of which is medical forensic evidence collected by hospitals. In some cases, medical forensic evidence may be a crucial factor; in other cases, however, it may not be relevant or available. Law enforcement officers and prosecutors said that they also consider several other factors when deciding to refer or accept a case for prosecution. For example, some victims in small reservations or isolated villages may refuse to cooperate or may retract their initial statements because of pressure from community members who may depend on the alleged perpetrator for necessities. As a result, the victim may be unavailable to testify. Several prosecutors also told us that the availability to testify of the providers who perform medical forensic exams is an important factor, because such testimony can help demonstrate that an assault occurred or otherwise support a victim's account. IHS's March 2011 policy, however, does not clearly and comprehensively articulate the agency's processes for responding to subpoenas or requests for employee testimony.