

Tribal Elder Protection Team Law Enforcement Officer



The Law Enforcement Officer Role as an EPT Member

Various professional disciplines are represented on the Tribal Elder Protection Team (EPT), one of which is law enforcement. This handout will define the roles and responsibilities of a law enforcement officer EPT member. This representative is designated as the main contact for law enforcement services. You may want to recruit this representative from your local tribal law enforcement agency or choose a Bureau of Indian Affairs (BIA) agent or a federal or state official. Recruit officers who have a vested interest in elder case investigations. The law enforcement officer roles include but are not limited to:

1. Being a designated representative from the agency who participates in regular EPT meetings or arranges for an alternate when the representative is unavailable.
2. Providing information about the EPT to his/her agency staff to increase awareness and referrals.
3. Responding to crisis situations. Each team member may be assigned "on-call" duties during nights and weekends and can make and accept referrals to the EPT.
4. Coordinating medical and emergency response to elder abuse, neglect, and exploitation situations.
5. Making client referrals to the EPT for collaboration of additional community services essential to the well-being of an elderly person.
6. Sharing client information with the EPT, when appropriate.
7. Collaborating with EPT representatives to detect, investigate, intervene, and prevent additional abuse and help minimize further trauma to the elder.
8. Providing expert input of reviewed cases and follows up with the elderly persons to ensure resolution of concerns and that situations have improved.
9. Providing a brief client summary report during designated EPT meetings.
 - ❖ All members should use a standard case summary form, which they will complete and submit to the EPT coordinator for review prior to meetings.
10. Providing support and validation/assistance to other EPT members.

Abuse may make it harder for an older person to stand up for his/her rights. It is often more difficult for people to disclose abuse by relatives and friends than abuse by strangers. People who have been victims of elder abuse, neglect, and exploitation may be unwilling to report the abuse or have the abusers prosecuted. The victims may:

- Believe the abuse is their fault;
- Be ashamed that their children/partner are harming them;
- Be dependent on the abuser for income and social networks;
- Fear legal punishment;
- Worry about losing their family,
- Fear retribution or revenge from the abuser; and
- Worry about having to rebuild their finances if they leave the situation.

These issues must be taken into account when responding to reports of elder abuse. It is important to be mindful that cultural factors may affect perceptions of elder abuse and approaches to problem solving among people from culturally and linguistically diverse communities.¹

All federally recognized Indian tribes that do not reside in states governed by Public Law 280 [67 Stat. 588 (1953)] are required to maintain a three-pronged (executive, legislative, and judicial) democratic government. This includes a law enforcement agency as part of its judicial arm. Indian reservations located in states governed by Public Law 280 are usually policed by local city or county law enforcement agencies and are required to have a democratic government in place. The type of crime often determines who has criminal jurisdiction. Most tribal police departments have jurisdiction only over misdemeanors and ordinances found in the tribal code. Felonies fall under the jurisdiction of either the BIA Law Enforcement Services or the Federal Bureau of Investigation (FBI).²

OFFENDER	VICTIM	JURISDICTION
Indian	Indian	Federal jurisdiction for felonies listed in Major Crimes Act 18 U.S.C. 1153; Tribal jurisdiction for misdemeanors; no jurisdiction for felonies not in 1153.
Indian	Non-Indian	Federal jurisdiction for felonies listed in 1153; felonies and misdemeanors not listed in 1153 (including assimilative crimes) unless the tribe has already punished the defendant; Tribal jurisdiction for misdemeanors.
Non-Indian	Indian	Federal jurisdiction for felonies and misdemeanors, including assimilative crimes.
Non-Indian	Non-Indian	State jurisdiction applies for both felonies and misdemeanors.
Indian	Victimless Crime	Tribal jurisdiction applies in most cases; Federal jurisdiction applies in some cases.
Non-Indian	Victimless Crime	State jurisdiction applies in most cases; Federal jurisdiction applies in some cases.

Tribal codes authorize law enforcement to perform certain duties within the boundaries of the reservation. These duties include responding to calls for service, enforcing tribal laws and ordinances, and maintaining order on the reservation. Power is vested in law enforcement by the members of the tribal community. When tribal members observe officers acting in a positive, unbiased manner, the officers earn the trust and confidence of the community. When this is accomplished, they become more respected and accepted by the majority of the tribal members.

Most descriptions of law enforcement in Indian Country indicate a rural working environment with rural-style policing. Many tribal communities operate with no more than three officers and as few as one officer on duty at any given time. Tribal communities have a government-to-government relationship with the United States. They have significantly more scope for policy-making than individual U.S. cities or states. Tribal nations adopt constitutions, write civil and criminal laws to regulate conduct within their territorial boundaries, and enforce these laws with their own judicial systems.³

Departments in Indian Country face these challenges with a limited resource base. Existing data suggest that tribes have between 55% and 75% of the resource base that is available to non-Native communities. This disparity may stem from the unique culture, geography, and economics on Native American reservations, such as: limited administrative and technological resources available to tribal police departments, inadequate coordination between tribal and federal agencies, and management problems common to tribal and BIA police departments. These disparities create a crisis in reservation policing.³

The experience and research on community policing is congruent with the findings on effective governing institutions in Indian Country. Community policing provides a framework that tribes can use to design and implement new Native approaches to policing. These approaches help align police priorities and values with those of the community, improve the quality of policing in Indian Country, and strengthen the tribe as a whole.³

- **Operation Golden Shield⁴** - is a voluntary program. It has successfully provided protection and prevention of elder abuse and neglect through the Anadarko Agency. Officers make random, friendly visits to vulnerable adults in response to the growing concerns of elder abuse and neglect. Initially, 27 vulnerable elders received a friendly visit from officers. In order to accomplish this task, each officer made three to four elder visits per shift. If elder abuse was suspected, the officer reported back to the BIA Law Enforcement Agency office and then enlist Tribal Social Services for assessment.

Interviewing Victims⁵

Special Concerns When Interviewing Older Victims

1. Interviewing older victims requires special care and patience. Simple measures can help the victim feel less anxious. Always treat the person with respect. Ask permission to enter the home or to be seated, and ask the elderly person if he/she is fluent in English or if he/she would be more comfortable with a translator. Other strategies include:
 - Indicating immediately that you are there to help.
 - Speaking slowly and clearly and being patient while waiting for a response.
 - Keeping your weapon out of sight. Depending on the situation, a weapon can be frightening for the elderly.
 - Addressing the victim by name, but do not use the person's first name. This is considered disrespectful by many elderly persons.
2. Conduct a structured interview using predetermined questions. This is a way to obtain the facts needed to proceed with the case.
3. If the person is having difficulty remembering when an event occurred, offer memory cues.
For example, "At the time of the event, what television program was on?"
4. For hearing impaired persons, eliminate as much background noise as possible and use visual cues. Ask if the person is having difficulty hearing and whether he or she has a hearing aid that would help. Written communication can be used too.
5. Some visually impaired people may not look directly at you because they see better in their peripheral zones.
 *Within the Native American culture, it is a common practice to not maintain eye contact. Averting the eyes is a sign of respect.*
6. Inform the victim about what to expect during the investigation.
7. Minimize the number of interviews and the number of people present.
8. Allow the victim to describe the incident in his/her own words.
9. Be patient and reassuring. Some older people, particularly, those in crisis, may need time to collect their thoughts and to take frequent breaks.
10. Avoid unnecessary pressure.
11. Acknowledge the victim's anxiety, and try to discern its cause.
For example, "You seem nervous. Would you tell me what is making you nervous?"
12. Keep it simple. Phrase questions in a clear, concise fashion.
For example, "Please tell me how you were injured."
13. Keep questions short. Do not ask leading or multi-pronged questions.
An example of how NOT to ask a question: "The disrespect by your son is so bad you would rather be placed in a home for the elderly, right?" Instead, ask, "What do you want to happen for you to have a safer life?"
14. Ask open-ended questions that encourage further discussion.
For example, "What happens when your grandson comes over when he is drinking alcohol?"
15. Accept and use the victim's terminology and language for acts, body parts, etc.
 *When asked directly, many Native elders will not indicate that they have experienced abuse or neglect, but when the terms "disrespect" or "bothering" are used, many elders will discuss incidents that can be abusive acts.⁶*

16. Avoid influencing the victims account of the alleged offense.
17. Even if the victim appears to be somewhat confused, do not discount the information.
18. Make every effort to obtain the fullest possible response before relying on information from others.
19. If you need another person to assist in communicating or providing information for the victim, conduct the conversation in the victim's presence and look for signs of corroboration from the victim.
For example, nodding in agreement. Do not discuss the victim as if he/she is not in the room.
20. Do not discount a complaint because the victim is unwilling to cooperate.
21. Do not argue with the victim.
22. Assess the likelihood of retaliation. If a threat is present, arrange for protection.
23. Determine whom the victim first told about the abuse/neglect/exploitation.
24. Show the victim records or other documents that suggest abuse. Note his/her response to each record or document that is in dispute.
25. Conclude the interview in a way that makes the victim feel free to contact the investigator again.
26. Ensure that the victim is capable and has the means for contact. If not, take measures to facilitate follow-up with the victim.
27. Determine whether the witnesses are likely to be intimidated, made to feel guilty, or threatened with reprisal for providing testimony.
28. Encourage ongoing training about optimal team functioning, including process performance.
29. Encourage skill building for responding to emotionally charged situations.

Content for this document was contributed by Royleen Ross, PhD and Iva Grey Wolf PhD.



This symbol designates important culture information.

References

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The NIEJI project has been retired, but they have granted NIJII permission to share materials.
For the most current information, please contact Wendelin Hume, PhD at
221 Centennial Drive, Stop 8050 • Grand Forks, ND 58202-8050
• Phone: (701) 777-4001 • Email: admin@nijii.org • Web: nijii.org



National Indigenous Elder Justice Initiative