



Policies & Legislation

Impacting Elder Programs in Indian Country

THE AIM OF THIS RESOURCE IS TO PROVIDE AN INTRODUCTION TO POLICIES AND LEGISLATION IMPACTING ELDER PROGRAMS IN INDIAN COUNTRY.

BACKGROUND INFORMATION:

- Congress passed The Older Americans Act (OAA) in 1965 to address the lack of community services for elderly persons through state grants.
- The OAA authorizes an array of service programs through a network of 56 state agencies, 629 area agencies, nearly 20,000 service providers, 244 tribal organizations, and 2 Native Hawaiian organizations representing over 400 tribes in total.
- 1978 Amendment included Title VI (Part A & B). Part A established that Indian Tribal Organizations may receive grants for delivery of nutrition and supportive services.
- 1992 Amendment included Title VII- Vulnerable Elder Rights Protection Act. It established the need for stronger support to protect and improve basic rights and benefits of vulnerable older people.²
- OAA Reauthorization Act of 2016 includes provisions that strengthen the Long-Term Care Ombudsman program and elder abuse screening and prevention efforts. Administration for Community Living (ACL) formerly Administration on Aging (AoA), designated to carry out the provisions of the OAA.³
- ACL funded resource centers are Indigenous Elder Justice Initiative (NIEJI), The National Indian Council on Aging (NICOA), and National Resource Centers on Native American Aging.²
- Elder Justice Act (EJA) was enacted into law on March 23, 2010, sets forth provisions to address elder abuse, neglect and exploitation.⁵

WHY ESTABLISHING ELDER ABUSE CODE:

- Having an elder abuse code can protect and aid in the process of prosecution of an offender.
- To establish tribal law that protects elderly persons within the jurisdiction of tribe/nation from abuse, exploitation, and neglect as defined in the codes.⁷

ADOPTING AND EXECUTING ELDER PROTECTION CODES:

- Each individual Tribal Elder Abuse Code should reflect own tribal beliefs and values.
- Both criminal and civil codes are needed due to the variety of issues involving elder abuse and neglect.
- In civil court reasonable doubt is not required, a preponderance of evidence is enough in most cases.
- In criminal courts the guilt of the defendant must be proven beyond a reasonable doubt.
- Codes should be tailored to specifically identify the appropriate programs and/or agencies.⁶

ESTABLISHING AN ELDER PROTECTION TEAM (EPT) FOR TRIBAL COMMUNITIES:

- Addresses the issues of elder abuse and is dependent upon the resources of each specific tribe.
- Always includes the older adult. Due to the complexity of elder abuse, the makeup of the team is individualized and may include healthcare, family, legal, senior services, community, and/or caregivers.
- Establishing a multidisciplinary team is necessary to reinforce collaboration and adherence to cultural tradition.⁶

PROMOTING ELDER ABUSE AWARENESS AND VOLUNTEER ACTIVITIES

Elder abuse and neglect often remains a silent crime as elderly persons may not report abuse because of shame, fear of retaliation, and not wanting to appear vulnerable. June 15 is proclaimed as the World Elder Abuse Awareness Day (WEAAD), for the celebration of elderly persons while also promoting the awareness of elder abuse, neglect, and exploitation⁹.

RESTORATIVE JUSTICE APPROACHES:

- Patterned after Native American practices and justice traditions to address crime and abuse as violation of relationship.
- Examples include Family Group Conferencing (FGC), Victim-Offender Meditation, Sentencing Circles, and Family Re-Unification/Family Preservation Services. (BIA Handbook, 2013)

OPERATION GOLDEN SHIELD:

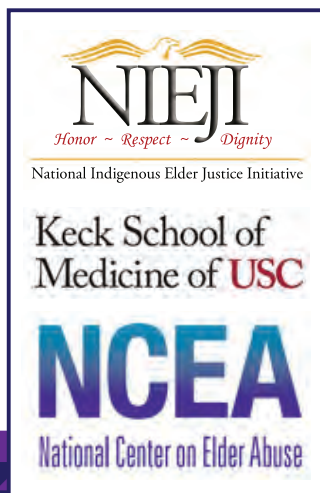
- A voluntary program that provides protections and prevention of elder abuse and neglect on the Anadarko Agency through the collaborative efforts.
- Officers make random “friendly” visits if elder abuse is suspected, the officer would report back to BIA Law Enforcement Agency office and then enlist the Tribal Social Services for assessment. (BIA Handbook, 2013)

ADULT PROTECTIVE SERVICES (APS):

- A person must meet the basic requirement to be eligible for APS.
- APS cooperate with relevant court systems to provide interventions and coordinate services. (BIA handbook, 2013)

COMPETENT ADULTS HAVE THE RIGHT OF SELF-DETERMINATION.⁴

It is important to contact the Eldercare locator at
1 (800) 677-1116 to find the appropriate state number to make a report.



REFERENCES

1. Administration for Community Living. (2017, June 15). Programs. Retrieved from <https://acl.gov/programs/>
2. Administration for Community Living. (2017, April 26). Older American Acts. Retrieved from <https://acl.gov/about-acl/authorizing-statutes/older-americans-act>
3. Administration for Community Living. (2017, June 26). Long-Term Care Ombudsman Program. Retrieved from <https://www.acl.gov/programs/protecting-rights-and-preventing-abuse/long-term-care-ombudsman-program>
4. National Association of Adult Protective Services Administrator, National Center on Elder Abuse. (2001, April). Elder Abuse Awareness Kit: A resource Kit for Protecting Older People and People with Disabilities. Retrieved from <https://www.nieji.org/training/policy/Elder%20Abuse%20Awareness%20Kit.pdf%20.pdf>
5. National Health Policy Forum (2010). The Elder Justice Act: Addressing elder abuse, neglect, and exploitation. Retrieved on 3/15/2016 from http://www.nhpf.org/uploads/announcements/Basics_ElderJustice_11-30-10.pdf
6. National Indian Council on Aging, & United States of America. (2004). Preventing and Responding to Abuse of Elders in Indian Country. Retrieved from <https://nicoa.org/wp-content/uploads/2016/03/Preventing-and-Responding-to-Abuse-of-Elders-in-Indian-Country.pdf>
7. Nerenberg, L., Baldrige, D., & Benson, F.W. (2004). Elder abuse in Indian Country: A review of the literature, research, policy and practice. The National Indian Council on Aging. Retrieved from <http://nicoa.org/wp-content/uploads/2016/03/A-Review-of-the-Literature-Elder-Abuse-in-Indian-Country-Research-Policy-and-Practice.pdf>
8. U.S. Department of the Interior Bureau of Indian Affairs, Office of Indian Services, Division of Human Services (2013). Adult Protective Services Handbook: A guide for Protecting Vulnerable Adult and Elder Indians from Abuse, Neglect, and Exploitation. Retrieved from <https://www.bia.gov/sites/bia.gov/files/assets/bia/ois/.../idc1-026637.pdf>
9. Administration for Community Living (ACL). (2020). World Elder Abuse Awareness Day: The Purpose. National Center on Elder Abuse (NCEA). <https://ncea.acl.gov/WEAAD.aspx#:~:text=World%20Elder%20Abuse%20Awareness%20Day%20is,th&text=The%20purpose%20of%20WEAAD%20is,affecting%20elder%20abuse%20and%20neglect.>

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