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### Using Your Tribal Values to develop an Elder Protection Code: A Step-by-Step Guide For Communities, 2nd edition

Tribal Elder Abuse Task Force

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**Using Your**  
**TRIBAL VALUES**  
**to develop an**  
**ELDER**  
**Protection Code**

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**A Step-by-Step Guide**  
**For Communities**  
*Second Edition, August 2008*

## Table of Contents

Dedication.	3
Purpose of Workbook .	4
Preface. . . . .	5
Acknowledgments. . . . .	6
Introduction. . . . .	7
What is Elder Abuse? Types of Elder Abuse. . . . .	10
Developing a Code to Protect Elders. . . . .	16
Step 1: Obtaining Support of Tribal Government . . . . .	21
Step 2: Establishing a Working Group. . . . .	23
Step 3: Gathering or Collecting Information. . . . .	28
Step 4: Identifying Tribal Values. . . . .	31
Step 5: Writing the Tribal Code. . . . .	38
Step 6: Obtaining Final Approval. . . . .	41
Step 7: Implementing the Code. . . . .	43
Appendix 1: Resources. . . . .	46

## DEDICATION

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This workbook is dedicated to the following individuals:

To Elders who are entitled each day to a safe and peaceful place to live within their community.

To advocates within communities who continue to work toward resolution of problems that interfere with the quality of life for their elders.

To Indian Tribal Governments who seek to create an environment of peace and good health for their elders.

To Elders' caregivers who have committed themselves to their elders' good health and happiness and have called for the creation of this workbook.

To those who have the courage to report elder mistreatment.

To the dedicated health care workers and administrators of elder programs as they are the first line of intervention in keeping elders safe.

And lastly, to the *Tribal Elder Abuse Task Force* members who have been dedicated to completing an appropriate workbook for Tribes that would not sit on the shelf, but would result in codes and programs that would protect elders from mistreatment and keep them safe in their communities.

## **PURPOSE OF WORKBOOK**

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The Elder Abuse Task Force organized in 2005 to address elder abuse in New Mexico tribes and Pueblos. Through many meetings and discussions, the Task Force realized that rather than develop a model code; a process was needed by which the tribes and Pueblos of New Mexico could develop a code specific to a community's governance, traditions, and values. Since the process may be applied to many different communities, the Task Force hopes that this workbook will be a resource used throughout Indian Country.

The purpose of this workbook is to protect elders from abuse in their communities. This workbook proposes that each community develop a process to address the particular elder protection needs within that community. The result of such a process could be the development of a code or law to address the protection of the community's elders. However, many steps can be taken to address community issues, and just beginning the dialogue is a very positive step. If a code is not immediately developed, policies can be developed to address elder protection. The sky is the limit, but it is presumed that any journey to the sky will begin on the ground.

## PREFACE

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Oftentimes in our tribal communities, it is said that the Creator provided the People with all that is necessary to survive in this world and that the answers to many of the problems facing us are contained in traditional teachings. As time passed, new experiences have led to an infinite collection of knowledge being possessed by the People. Traditional knowledge has been used for centuries to address personal and communal circumstances. Wisdom was passed along through stories, song, dance, and prayer, full of ancient knowledge that helped to provide direction for the future. In seeking solutions to contemporary problems, it is important to draw on those traditional teachings that have upheld our communities since creation, and apply them in the modern-day context.

One such problem that exists today is the change in our attitudes toward our elderly population. Elders, traditionally revered for their deep wealth of cultural and life knowledge, now face such things as discrimination and abuse, which can come in many different forms. It has become necessary to address this issue in our newly adopted systems of government and law. Drawing from past knowledge and experience, it is hoped that a balanced relationship between the traditional and the contemporary can be nurtured, leading to a happier and more positive future for all of our People.

It is in this spirit that this workbook has been developed. A people determining their own destiny is a true act of self-determination. Creating a better life for our People is in the hands of our People and this is something that we should never forget. If we can pass on the knowledge of our ancestors and the gifts of our Creator, then we have empowered our future generations with the gift of prosperity. Along with that, if we can pass on to our children the notion that they can create change within their own lives and in the lives of their people, we can go on knowing that our People will always be here as a community in the way our ancestors imagined us to be.

## ACKNOWLEDGMENTS

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The *Elder Abuse Task Force* has had a variety of members and contributors over its three-year tenure in developing this workbook. All of the contributions and feedback provided by the extensive list of participants is greatly appreciated. The *Elder Abuse Task Force* also wishes to gratefully acknowledge the following organizations and individuals who supported this work and/or assisted them in creating this workbook for Indian People.

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New Mexico Indian Council on Aging

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## INTRODUCTION

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Indigenous Nations are at a crossroads. One path leads to a collective cultural awakening. History has shown that despite the attacks on our culture, language, and way of life, our People have survived, and continue to thrive by maintaining an identity that is based on the teachings of our ancestors.

The other road leads to total assimilation into American culture. This is the result of being told and taught that our culture and ways of life had little value in the modern era. This led us to use approaches that were foreign to many of our communities in hopes that these approaches would help us overcome present day obstacles. With varied results, at times these approaches worked for our communities, and sometimes they did not. Very little attention was given to our tribal communities' abilities to utilize or create our own approaches based on the traditional and contemporary values of our People.

Since tribal communities had their ancient practice of community problem-solving disrupted, decision-making often occurred outside of the tribal community. It is generally felt that this process yielded poor, if not destructive results.

Today, tribes and their leaders have the opportunity to reclaim decision-making and community problem-solving processes. Tribal members are supplementing the educations they receive at home with Western education. This is cause for concern. Care needs to be taken to ensure that harmful, imposed policies are not replicated in our own decision-making. Western educational training can influence traditionally Native thinking and core values. When our traditional thinking and knowledge gets replaced as the foundation for our decision-making and problem-solving, we take a turn on another path. This path may follow a Western approach, concepts, and values.

We as Native people could then be modeling the same negative policies and laws on our People, just like those policies and laws made by non-Natives in the days when we were disempowered from partaking in decision-making. We need to change this pattern by identifying Western influences that have had a negative affect on our People and work to undo the harmful effects of these influences.

It is important for our People to evaluate these processes and, if necessary, re-train ourselves to secure a future for our People that is filled with all of the unique gifts that have been given to us from our Creator. We must look to our traditional ways of problem solving so we can secure a future that is filled with all the gifts that have been given to us from our Creator.

This is not to say that everything developed in the Western world, or non-Native communities, should be excluded from consideration when developing policies for our People. There are many non-Native processes, tools, and models that can be used to help us achieve successful outcomes that will not be in conflict with or compromise the traditional core values of the People. However, by simply including traditional core values when implementing a Western approach or policy does no more than give such policies a tribal appeal, satisfying a superficial need to "incorporate" tradition into non-traditional processes. For example, some codes will contain clauses referring to the "customs" or "traditions" of the tribe or Pueblo when the majority of the language came from federal or state laws. Limiting traditional core values to a few clauses is quite different than developing code from traditional core values.

While there may be general reluctance to incorporate tribal values beyond the ceremonial realm, each community will have to make a decision as to what can or should be disclosed, in written or oral form, in order to protect that knowledge. There are, however, concepts that can be applied in a non-ceremonial environment, such as the values of respect, sacrifice, sharing, humility, relationships, family and

community relations, etc. These types of values come from our ceremonial life and can be implemented into everyday life without violating ceremonial practices. Of primary importance is the fact that our tribal communities are our homes, and our tribal institutions, including our judicial system, schools, and governmental operations should offer a reflection of our People's own values at a very deep and fundamental level.

In a time when many Indigenous Nations are trying to preserve and reincorporate traditional core values into all aspects of life, the law presents a unique opportunity for integrating this thinking into daily community life.

## **WHAT IS ELDER ABUSE?**

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The earliest teaching to most Native children is that they must respect and honor their elders. Such a lesson must never be lost through time or merely because one "grows up." There is a deep, lengthy tradition of respect for an elder's experience, maturity, age and wisdom. When this early teaching is forgotten, there is the potential for elder abuse to occur.

Elders are facing social challenges that result in the increases we see today in elder abuse within tribal communities. Contemporary social and economic issues such as unemployment, alcohol and substance abuse lead to elder abuse which violates fundamental values of Native societies. Elder abuse may be one or several of the following forms of abuse, some more life threatening than others, but all increase health risks for the elders silently suffering from abuse.

### **TYPES OF ELDER ABUSE**

#### **Physical Abuse**

Violence against the elderly is cowardly and criminal. Such acts are more repulsive because of the physical advantages that the young have over the elderly. Any type of abuse, from hitting to confinement to preventing medical treatment constitutes physical abuse.

#### **Emotional and Mental Abuse**

Unfortunately, there are countless ways that the elderly are mentally and emotionally abused. From name-calling to threats, from insults to harassment, elders are terrorized and manipulated in many ways, none of which are excusable or justified. Ever.

#### **Exploitation**

The careless use of an elder's finances or time is abusive. Whether it is the stealing of money, the continual borrowing of cars or other

property, or forcing the elderly to babysit, exploitation of the elderly is a subtle, cruel, and harmful form of abuse.

## **Neglect**

It is difficult to get older, and as people age, they become less able to provide for themselves, both physically and emotionally. While social programs and private businesses may help the elderly with basic needs, family and community must be central in a tribal setting. It is unacceptable to deny tribal elders access to sufficient food or clothing, to deny traditional foods and events, to ignore their difficulties in sustaining their homes and finances, or to prevent them from obtaining medical or social services they may need.

## **Self-Neglect**

When an elder is unable to care for their own health or safety this is considered self-neglect. When others, including family or community members do not try to address the self-neglect and assist the elder in meeting the elder's physical, psychological or social needs, this constitutes another form of abuse.

## **Sexual Abuse**

One of the most horrible offenses against a person of any age is sexual abuse. Sexual abuse is an act of violence against a person less able to defend him or herself from the act. As such, from mere harassment to actual physical assault, sexual abuse is against basic tribal and societal values.

Worksheet 1A provides some scenarios for discussion relative to the various types of elder abuse and Worksheet 1B provides some possible answers. These worksheets are available [here](#).

## Worksheet 1A: Identifying and Thinking About Elder Protection

**Is this elder abuse? *Read these stories and discuss.***

1. "Would you have time to come and look over my checking account statement and the little book?" my friend asked me. "The bank sent me a note telling me that I don't have enough money to write any more checks" she continued. The call came one evening from an elder in my community who requested assistance. Her small Social Security check that went into direct deposit was dwindling at a rapid rate and her account was now overdrawn at the bank. The daughter and three grandchildren who lived in her house were having her sign checks and they filled in the amounts for gasoline for their cars, food, and alcohol for themselves.
2. An elder was brought to the emergency room with bruises and a fractured limb. The family stated that the elder had fallen. Malnutrition and dehydration were noted on her medical assessment as well.
3. A 92-year old male, who lives alone, is found by a "meals on wheels" driver at home. The front door is open but the screen door is hooked. The driver calls into the home, but the elder does not respond. The driver makes his way into the home, and finds the home in total disarray. The kitchen has debris, smelling of spoiled food, and dirty pots and pans are everywhere. The elder is found lying on the floor of the adjacent room, with only his underwear on. There are containers of alcohol also lying around the room. The elder reeks of liquor. The driver tries to wake up the elder, but without success, so the ambulance is called.
4. An 87-year old woman resides with her daughter and two other adult children living in the same community, but in separate households; and is provided care by the daughter living with the elder. The daughter is on the Personnel Care Option (PCO) Program and is getting paid to take care of her mother. The PCO Program in the community trained the daughter on various duties that she needed to do in the care of her mother. Personal care was to be provided, but the elder still needed to be bathed and groomed. In working with the family, the PCO Program has taught her how to bath her mother. The mother continues to be uncared for and the daughter is saying she does the personal care.

5. A 93-year old elderly gentleman resides in a mobile home with his 13-year old grandson. He looks after the grandson; the elder himself is frail and needs assistance with his daily activities of living. For some reason his daughter, who is the parent of the grandson, moved out. He is requesting a "maid" from the Senior Center to come and clean the house for him.
  
6. A 68-year old woman is married and cares for her frail spouse who is very hard of hearing. The woman is active and helpful in community social events. Recently, she has some health issues but is very independent. One morning she was found dead on the floor of her bedroom and only partially clothed. Her spouse was sleeping in another bedroom and due to his hearing deficiency did not hear anything during the night.

## Worksheet 1B: Possible Answers/Discussion on Stories

1. In this situation, the elder's family disregarded the elder's financial needs and depleted her checking account. The family members did not pay the money back so that the elder would have the funds she needed for her expenses. This is a case of financial exploitation, which is the most common form of abuse in Indian communities. Family members often ask the elder for money for unnecessary spending without returning the money to the elder. The elder is then left without funds for her basic needs.
2. There should be further investigation into the elder's injuries in this situation, as well as the dehydration and malnutrition. Checking for a history of frequent falls and injury should be done to determine possible physical abuse. Neglect is an issue in this case, as the elder has not been offered liquids and appropriate food leading to dehydration and malnutrition. If there are dental problems, such as ill-fitting dentures or loss of teeth, food should be prepared in a palatable form while dental problems are being addressed. Frail elders often require time-consuming care at home and rely on family members to provide this care 24 hours a day. Conditions may become stressful for the caregiver, creating a greater risk of abuse for the elder.
3. The elder in this case may be suffering from self-neglect and alcoholism. The case should be brought to the attention of family, if they are available, or tribal programs who would assess the elder's situation and provide the support required to keep the elder safe and healthy.
4. If the mother continues to show signs of not being bathed, this is considered intentional neglect on the part of the daughter. Intentional because she has been trained to do personal care and other duties in her mother's care, but is not caring for her.
5. This is a case of exploitation, as the elderly man's daughter has moved out leaving the frail elder with the responsibility of his grandson. This may be considered an issue of neglect for both the grandfather and the grandson. The grandson is too young to care for the daily needs for personal care his grandfather requires.

6. The first response was that this elder's death was due to her health problems, however, police and examination proved that there was evidence of rape. There was no forced entry into her home, so it was surmised that the death was caused by someone she knew. Although rare in Indian country, elder sexual assault and/or molestation does occur. Most often sexual molestation occurs to elders who are unable to speak for themselves and is perpetrated by a family member, friend or neighbor. Often the incident is not discovered until the elder begins to show signs of distress through one or several symptoms.

## **DEVELOPING A CODE TO PROTECT ELDERS**

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To stop elder abuse in Native communities, it is essential that a code be created from within the tribe rather than simply adopting a foreign code. By doing this, each member of the community will have a clear role in compliance with and enforcement of a code. Therefore, it is the goal of this workbook that the code developed will be entirely the product of the community.

While it may be useful, for some purposes, to use other laws or "model codes" as examples of how to confront elder abuse, tribal communities should embrace their sovereignty, tribal governments, and culture when developing an elder abuse code. For this reason, it is suggested that model codes and other sources be used on a limited basis when developing a code for your community.

### **The Process**

The process set out in this workbook outlines the types of information that are needed to put together a plan of action. The process aims to determine strengths and challenges of the community and its members and to build on that foundation. Additionally, it will help identify available services and assist in development of a plan that is consistent with how the People will protect their elders.

There are no special qualifications or training for a person to participate in this work in their community. All that is needed is recognition of a problem, a desire to find a solution to that problem, and the commitment to carry out that solution. Anyone can do it, and everyone should!

To work through this process there needs to be a framework that consists of core values that is the basis for the strategies created. These core values will guide the participants to the desired outcome. These values will be referred to from the beginning to the end of the

process. In the end, you will be able to look back and say that you achieved a solution based upon the values of our People.

While the core group may have the enthusiasm to jump right in and start creating the final solutions, there is a need to make the community aware of the issue and collect their input. The strength of this process is to have community and tribal leader support. This not only allows for all to become a part of the problem solving process, it also allows for more community buy-in that will help ensure a greater chance of reaching the goals.

The steps outlined in this workbook are:

- ❖ Step 1: Obtaining the Support of the Tribal Government;
- ❖ Step 2: Establishing a Working Group;
- ❖ Step 3: Gathering or Collecting Information;
- ❖ Step 4: Identifying Tribal Values;
- ❖ Step 5: Writing the Tribal Code;
- ❖ Step 6: Obtaining Final Approval; and
- ❖ Step 7: Implementing the Code.

## **Developing a Code from Tradition**

Often in tribal communities it is said that the Creator provided the People with all that is necessary to survive in this world, and that the answers to many of the problems affecting the People lay within traditional teachings. Stories are told and songs are sung to invoke ancient knowledge and to provide answers for the future. In seeking solutions to our problems, it is important to look to those traditional teachings that have sustained the People from creation. One important teaching is to care for our elders.

To help sustain teachings and build on tradition we should rely on:

- community
- family
- tribal leadership
- core values

This list is not meant to be a complete list, but a basic list of the ideas and individuals that should be included in the process. Add your community's ideas to the list.

With this in mind, the focus on community in the next section is not meant to define your community. It is meant to facilitate discussion about the best way to engage your community in this process.

### **Community**

Community is central to the success of providing a safe environment for elders. Instilling respect for elders into the everyday lives of tribal members involves bringing the core values identified into the forefront of the minds of the People.

A tribal community solving tribal problems is an ancient practice that has been interrupted within the last few centuries. During this

interruption, decisions have been imposed on Native people that have had negative consequences.

For example, in modern times, when tribal citizens are left out of the problem solving process, they may greet any proposed solution with resentment, simply because their input was not called upon. This is undoubtedly the result of having rules and decisions imposed on our Native communities from non-Native communities. Traditionally, nearly all voices in our communities were allowed to be heard. Oftentimes, this is not the case today.

### **Thoughts on Community**

There is much to be gained by utilizing the collective wisdom of the People to ensure community survival. Coming together collectively to address community issues is what has sustained our People from the beginning.

Much has changed in the way that our People perceive their relationships with one another. It has always been the hope of many that our People will be immersed in family and community, but the reality is that there are many people who do not have the opportunity to be involved with either one. Some people may grow up in the community but remain isolated in many ways. Others may be immersed in family but do not have connections to the cultural aspects of community.

Therefore, the People must ask themselves:

- Should we continue to use policies that rely on community?
- Do we give in to the fact that we are losing parts of the communal aspect of our lives?
- Should we start developing policies that focus more on individuals?

Ideally, policies should be focused on the collective wisdom of the People. Collective wisdom places emphasis on:

- The idea of "community", as a gift and a responsibility, as a traditional core value.
- The strength of relationships with each other empowers the People to accomplish goals that would be difficult to achieve if pursued alone.
- The emphasis on family and community provides an environment of interaction, sharing, and cooperation.
- The importance of unselfish actions that address problems together in a way that benefits all of the People.

The responsibility of maintaining a community falls upon all of the People, whether they are connected to the community or not. In this regard, it is important to be inclusive because everyone has something to contribute.

Together, we should take every opportunity to use our greatest gifts of intelligence and collective wisdom to address the many issues faced today.

## ◆STEP 1: OBTAINING SUPPORT OF TRIBAL GOVERNMENT

Implementing this process will be a task which requires a solid commitment from all involved. Especially important to this process is an ongoing commitment by tribal leaders and the tribal administration. Ultimately, any law drafted to address any issue is only of use if it is adopted by the tribe's governing body. In most cases, enactment occurs when tribal council passes a resolution directing action. While, technically, the final adoption of code by a tribal council is the only official endorsement needed to complete the process, it is recommended that some kind of official tribal leader support be obtained before any considerable amount of work is started.

Each community will have its own political process and climate to work with during this process. In some communities, it may be as simple as having one tribal leader endorse the development of the code. In other communities, it may be better to get a resolution passed by the entire council prior to commencing work. In any event, getting the "support" of the tribal leadership is an important step in this process.

When planning to obtain tribal leadership's support, care should be taken to ensure that as many voices are heard as possible, so that the support obtained is genuine and consistent.

Here are some questions for discussion:

- Will you need a tribal resolution to begin this process?
- If so, who should bring the issue to the tribal leaders?
  - Community members?
  - Tribal service providers?
  - Elders?

- This may be a person or combination of individuals that would be most politically effective.
- What is the most effective method of obtaining tribal leaders' "buy-in" to this effort?
  - Is your council one that will want statistics on the types and incidence of elder abuse in the community before acting?
  - Will sharing a particularly disturbing, real-life example be enough to persuade them?
- Will a turnover in council over the period of several years make it desirable to focus your attention or efforts on certain individuals that are likely to carry significant political weight over a longer period of time?

Depending on the answers to these questions, a decision can be made regarding the proper steps to take to obtain the desired result. Whatever steps are taken, however, it is important that all involved remember that this process is built upon the partnership between the tribal leaders, the community, and the group of individuals who take on the process to address elder abuse.

## ◆STEP 2: ESTABLISHING A WORKING GROUP

It is important at the beginning of this process to establish a core group of individuals who represent the community and who are committed to see the process through to completion.

The process of developing your working group will help in mapping out the actions needed to successfully achieve the intended goals. It will require thinking through and developing the practical aspects of mobilizing your community to develop what will eventually become a tribal solution. The "who, what, where, when and how" will be discussed in detail to ensure most areas will be covered in the plan.

The working group will be tasked with gathering information on your community to identify areas of concern that need to be addressed. The group will then identify the proper individual or individuals that will need to be brought into the process for their insight and expertise.

### **Selecting Members**

The individuals in the working group should have a genuine interest in your community. They should be diverse, meaning that people of all age groups, genders, professions, and religious and political beliefs should be included. Individuals should have a community connection, meaning that they should have a sense of belonging and dedication to your community to make it a safe place.

When selecting individuals for the working group the most important individuals to recruit are:

- Elders - both male and female
- Tribal Leaders - these individuals should either be experienced in working with the tribal government or have authority within the governmental structure of the tribe

Other working group members to consider include:

- School personnel
- Elderly services coordinator
- Health board member
- Title VI Director
- Healthcare provider
- Social services provider
- High School youth
- Police
- Court administrator
- Behavioral health provider
- Spiritual leader
- Housing representative
- Elder organization
- Medicine person
- Community member

### **Naming the Group**

For the purposes of this workbook, this group will be referred to as the "working group." Your community may want to think about the responsibilities that this group will assume and name the group accordingly. The name chosen in your community may be a traditional name in your language, or another descriptive name in English. By naming the working group, your community is taking ownership of the group and the process.

## **Roles of Group Members**

The working group should not be so large that it makes dialogue difficult. A large group may also be inflexible and slower to act. This should be a consideration when forming your working group because you may not want to delay the development of your elder protection code.

In order to ensure that everyone has a role and function, you may want to assign members specific responsibilities within the group.

Here are some ideas on roles within the group:

- **Facilitator**

The working group could designate one or two individuals who facilitate and guide conversation, discussion, and debate regarding this process. The facilitator(s) role might rotate to different members each meeting. The facilitator(s) will elicit different perspectives and creative ideas from other members. The individual(s) will help negotiate agreement among members with differing perspectives. The facilitator's role will be to keep the meeting running smoothly and so that all members have a chance to be heard.

- **Organizer**

The working group could have one or two individuals who coordinate meetings, trips, interviews, and events. The organizer(s) should plan ahead and keep open communication lines with all other members of the group to ensure fluid operation of the logistical aspects. Worksheet 2 provided at the end of this section, may help the organizers in the planning process.

- **Cultural Interpreters (elders)**

Elders should be the cultural interpreters that guide the working group through sensitive issues, competing cultural values and

potential misunderstandings. This may include the ability to interpret tribal language. It may require the interpreter to bring notice of any section of the code that may be incompatible with cultural or community values.

- **Task Groups**

Task groups will need to be developed by the larger working group. These smaller task groups may include members of the working group, as well as community members. As tasks arise, these groups can form through individual interest and expertise. For example, the next step explored in this workbook is "Gathering or Collecting Information." In order to do this, certain information will have to be collected by individuals within the working group. A task group could be organized to collect and summarize information for distribution to the community and tribal leaders.

## Worksheet 2: Meetings with Community Programs and Officials

Meeting with police officials      Date/Time/Place: \_\_\_\_\_

Meeting with court officials      Date/Time/Place: \_\_\_\_\_

Meeting with tribal leaders      Date/Time/Place: \_\_\_\_\_

Meeting with community members      Date/Time Place: \_\_\_\_\_

Meeting with \_\_\_\_\_      Date/Time Place: \_\_\_\_\_

Meeting with \_\_\_\_\_      Date/Time/Place: \_\_\_\_\_

Meeting with \_\_\_\_\_      Date/Time/Place: \_\_\_\_\_

Meeting with \_\_\_\_\_      Date/Time/Place: \_\_\_\_\_

## ◆STEP 3: GATHERING OR COLLECTING INFORMATION

Gathering information about elder abuse in your community is necessary to understand what issues need to be addressed to ensure that elders are protected. In this process, you will find out whether elder abuse occurs in your community, how often, against whom, and in what way. This information can be collected by looking at statistics that may be available in your community. If no statistics are available, then you will need to collect this information from the community. This information should be kept confidential, meaning that the names of individuals and other identifying information should not be revealed to anyone.

### **Data/statistics**

Does your community have an elder program that would have this information readily available? If not, do hospitals or tribal health centers have this information? What about tribal social service providers? While perhaps not always complete, police and court records are a good start for understanding the scope of reported abuses. If no such information exists or access to this information is difficult to obtain, then you will need to discuss other ways to gather this information. When you collect information, agencies are required to maintain confidentiality, and information released to you will not contain identifying information. Information on the number of incidents and types of abuse against elders will be enough.

### **Community Meetings and Public Hearings**

Setting up public meetings, perhaps at a community or elder center, and inviting tribal leaders, tribal police, and tribal members to these meetings will help begin the public dialogue about the importance of creating an elder protection code. These meetings could serve as opportunities to find out if elder abuse is having a real community

impact. Public meetings are an opportunity to educate the public on what elder abuse is and helps to promote the sharing of information.

## **Surveys**

Does the community hold information that will help identify issues that need to be addressed in order to streamline or facilitate the process of tribal provision of services? Conducting formal or informal surveys in the community can help determine this. Distribution through the community newspaper or personal surveys at places where the community gathers, such as meal sites, health centers, and community celebrations. Gathering this information from various places will ensure that a broad representation of the community is included.

## **Current Law**

An understanding of the current law in your community is important in developing an effective tool for protecting elders. A review of your tribe's current criminal code may reveal that short-term amendments may address current situations without a fully developed elder protection code.

After looking at these issues, you should be able to get a picture of the resources and gaps in your community related to elder protection services.

### Worksheet 3: Gathering Information

This first part of this worksheet will help you think about where you can obtain information on elder abuse in your community and who will volunteer to gather information.

- Potential Sources for Statistics/Data
  - Elderly Nutrition Program: \_\_\_\_\_
  - Police: \_\_\_\_\_
  - Hospitals and tribal health centers: \_\_\_\_\_
  - Tribal social service providers: \_\_\_\_\_
- Scheduled community meetings or public hearings
  - Community meeting \_\_\_\_\_
  - Public hearing \_\_\_\_\_
- Formal or informal surveys
  - Who will prepare the survey?
  - Who will complete the survey?
  - How will you circulate the survey?
  - Who will analyze the results?

The second part of this worksheet will help you think about the current law or policies in your community.

- Are there laws or policies that can be modified or used as an interim protection for the elderly?
- Is there a process or protocol for developing and enacting a code?

## ◆STEP 4: IDENTIFYING TRIBAL VALUES

The heart of this process is the identification of the values which are held by the members of your community. The process of obtaining this information will serve many purposes over time. Unifying and solidifying the vision of the community will ensure that this process is supported by the People. Sharing the values through discussion will help to open up the hearts and the minds of the participants and will help to develop the traditional focus which should come from the process. These values will guide all who use the code: the tribal leaders, the police, service providers, the court, community members, etc.

Some may question the need to identify traditional tribal values. It is important because these values will help lead the process in a direction that is in tune with traditional thinking. For example, without identifying tribal values, the approach developed to solve elder abuse may be focused solely on punishing individuals as a means to prevent future abusive behavior. It may be thought that the more severe the punishment inflicted on the abuser, it is more likely that others will not engage in the abusive behavior. However, when addressing community problems, it is not enough to simply punish a wrongdoer. An abuser may have gone their entire life without knowing the value of respect for elders, which may be the center of the problem behavior. They may have gone through their life being threatened with punishment or actually punished for their behaviors, but never having somebody actually discuss with them the impacts of their actions.

Oftentimes traditional knowledge is vested with the elders of the community. The elders may share the gift of what life is like when those values are used daily. Their collective memory reminds us where we have been so that we may better understand the place we are now. They may give hope to those who are struggling to provide a better life for themselves and their families in a world which places little importance on traditional values.

The power of discussion is important and should not be overlooked in identifying tribal values. Everyone's input must be valued. It is best not to assume that everyone is thinking of the same values, these values must be discussed so that everyone has input. This section is meant to facilitate discussion in your community as to what constitutes your tribal values.

## **Tribal Values**

Defining the values that have woven the fabric of your community over time is an essential element in drafting a code that will continually serve the needs of your community. These values, referred to here as "tribal values," need to be identified because they are the underlying principles which define your community's ideas about success and happiness. These tribal values are often believed to be the values that, when not honored, lead to bad consequences in the community, either through individual behavior or communal suffering. A community with strong connections to traditional tribal values is thought of as a healthy community. While tribal values may vary from one tribe to another, many times they are similar, if not the same. These traditional values can be found within the languages, songs, stories, and collective memories of the People as handed down through the generations. Through identifying these values, your community can begin developing your collective vision. This vision will be sustained throughout the entire planning and implementation process.

When code development is discussed, it may be pointed out that a code has already been developed to address a particular issue, usually using Western approaches. Then people will ask, "Why reinvent the wheel?" That's understandable, but it should be noted that you will be reinstating traditional law and customs, not reinventing the wheel. This process may bring out anger, hurt, sadness, guilt, shame, abuse, and many other difficult issues. However, our elders have told us that good things don't always come about on their own; rather they take effort.

Possible questions that may help in this process:

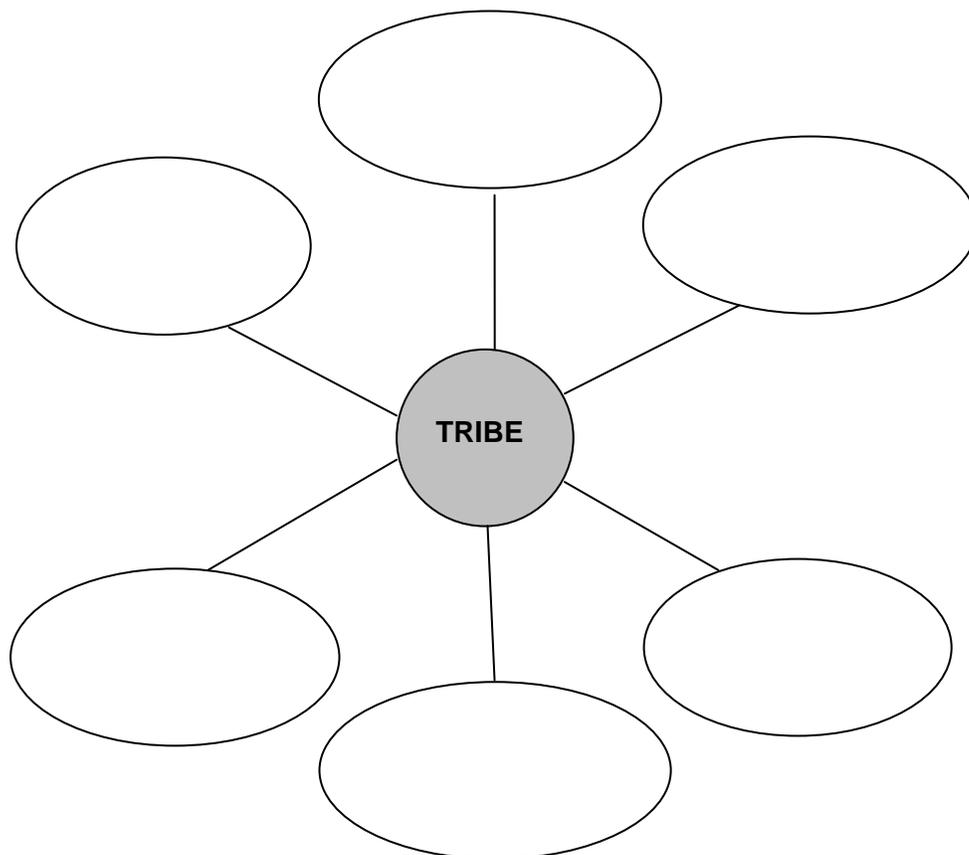
- What are the tribal values in your community?
- What are the tribal values that have helped you in your own life?
- What must we do to sustain these tribal values?
- What stands in the way of sustaining these values? How can the community overcome those obstacles?
- Who should be responsible for maintaining these values?

See Worksheet 4A provided here.

## Worksheet 4A: Identifying Tribal Values

In the diagram below, map out the values that you believe are core values of your tribal community. The center circle represents the tribe as a whole community, and the outer circles are the values that you may view as closest to that community. When you have finished filling in your circles (and you may draw more), consult with your working group and discuss what you will retain as the operative core values going forward.

For example, "loyalty to family" or "respect for all persons" could be, though they need not necessarily be, included.



## After Tribal Values are Identified

Once tribal values are identified, a common starting point has been established in the community, and from this point, the community can begin the journey toward healing, together.

Tribal values will lead the process in a direction that is in tune with the traditional thinking and community. In a tribal community, finding and addressing the cause of a given behavior is just as important as making amends for that behavior if balance is to be restored. Seeking balance will encourage the community to reflect back to their traditional tribal values as a means of healing the cause of negative behavior. It is important to keep the focus on healing and restoring relationships when dealing with community problems. Identifying traditional tribal values will help maintain focus on restoring balance and healing.

When working toward restoring balance in the community, there are three questions that should receive focus:

1. How does our community currently deal with negative behaviors or acts by our People?

*This is an important question in assessing the current situation.*

2. Ideally, how would we deal with such acts?

*This question helps identify community members and governmental entities with shared community responsibilities, such as tribal leaders, tribal courts, and other agencies which can implement traditional law. Articulating this process should lead to a dialogue which can be used to develop a consistent approach in restoring balance in the community.*

3. Will our ideal approach likely prevent that act from occurring in our community in the future?

*This question can help foster a sense of the responsibilities the entire community can fulfill in order to foster an environment where positive behaviors are practiced and negative behaviors are discouraged. The approaches taken by tribal authorities and the community must be consistent if they are to have a maximum effectiveness. Identifying traditional core values will help achieve consistency and bring both sides to an understanding of what their roles are in maintaining balance within the community.*

With this information in hand, the tribal values can blossom into the fruits of this labor: a plan for Elder Protection.

See Worksheet 4B provided here.

## Worksheet 4B: How will you address elder abuse?

This worksheet is designed to help you think about how your community will address elder abuse. You can use this worksheet or write the discussion points on a flipchart.

Discussion Points	Pros	Cons
Policies (rather than a code, are policies enough?)		
Code		
General Code (means that elder abuse would be included in a general criminal code)		
Specific Code (means that your code would specifically address elder abuse)		
Penal (punishment)		
Remedial (a way that abuser can correct the harm to the victim)		
Other:		

## ◆STEP 5: WRITING THE TRIBAL CODE

Once tribal values are clearly identified they will help to determine the next step in your community's solution to elder abuse. Should drafting a code be the decision, tribal values will guide this process. Drafting the code may be the most important step in the process, because the code sets forth how the values will be adopted and used to protect elders in your community. To begin drafting the code, a task group should be identified for this purpose. Anyone who is interested in drafting the code should participate in this task group. While it may be necessary to include certain members, such as attorneys, judges, the police, and elders, others may be able to provide input in the process and traditional language of your community.

In partnership with the tribal leadership, the task group can start to outline the process that the code will represent. The outline that you develop will be the framework for the code and once complete can be filled in.

If your community already has a process and format for code drafting (you would have learned of that during Step 3: *Gathering and Collecting Information on the Community*) now would be the time to follow that process. If there is no established format or process, all that may be required is to gather in a comfortable meeting space to begin putting the code together.

Now that you have tribal support and an outline you can begin writing the code. When you start writing the code, it will begin to take shape. Drafting and re-drafting will occur as the work group and selected community members review the document. The goal is to have an elder protection code that can be adopted by the tribal leaders and used by police, service providers, courts, and the community.

It is hoped, however, that the end product is something that the whole community will be proud of and have ownership in. The result will represent the true will of the People in your community.

Use Worksheet 5 as a simple guide to help you begin drafting the tribal code. It is provided here.

## Worksheet 5: Writing the Code

Drawing on all the previous meetings and worksheets from this workbook, you may use the following outline to begin drafting the tribal elder protection code. The structure is merely suggestive and not required.

**Facilitator:** Use a whiteboard, computer projection, or other means of recording this activity.

Title: [What are you going to call this law?]

Purpose: [In this section, you may want to include all the core values that you have collected over this process.]

What is Elder Abuse: [In addition to the examples initially stated in the first part of this workbook, it is important to draw on the information that you have collected to detail what types of elder abuse the code will address.]

Who will Respond to Abuse: [Here, you may want to decide who handles the many aspects of elder abuse. For example, social services may handle counseling and therapy for victims AND abuser; tribal religious leaders may also be involved; the police may be the first to respond; or a tribal leader may traditionally respond to abuse situations. There are no limits to community involvement.

Furthermore, you may want to outline what types of services, duties, and responsibilities each group might develop. It is not necessarily the responsibility of the core team to tell each group what to do, but rather to delegate authority to the groups.]

Duty to Report: [Tribes may, if they want, explain that tribal members should report instances of elder abuse to the authorities.]

Ongoing Solutions: [Here, the core team may suggest a timeline that victims and abusers may use to ensure progress away from the cycle of abuse. For example, there may be a counseling schedule, therapy or visits to religious elders, probation, or any number of other solutions.]

Other Sections: [As you have worked through the process, what other ideas do you wish to include in the law? Your approach is as broad as any ideas that you might have.]

## ◆STEP 6: OBTAINING FINAL APPROVAL

Once the draft is finalized, you should present the tribal code for approval to your governing body/tribal council. You should be familiar with the process for submitting and obtaining approval based on your earlier research. Ideally, the code will be adopted as tribal law by tribal leaders the first time it is submitted for approval.

### **If Not Approved**

If the code is not approved, the working group should organize and decide what needs to be done or changed. Find out from tribal leaders what concerns with the code they have and their suggestions for changes that will facilitate approval. Make changes and resubmit code for approval. It may be helpful to have community members advocate for passage of the code.

### **Ongoing Upkeep of the Code**

The enacted code will not solve the problem of elder abuse and it will require the continued support of tribal leaders and community members. In this regard, it is important that the code be periodically reviewed to ensure that it continues to protect the elders from abuse. It is suggested that a process for review of the enacted code be developed to include how often and who will review. The review would focus on the effectiveness of the code as observed by elders, community members, service providers, law enforcement, courts and data reports. A survey might be one way to obtain feedback on the code's usefulness.

Here are other options that will serve to continually monitor and improve the code:

- **Elder Protection Team**

It is suggested that a group be formed to ensure that the code is actually protecting the elders. The group may consist of members of the working group or a new group. Different individuals may be involved at different stages of the process. By forming this group, your community will continue to monitor the effectiveness and improve the code.

- **Evaluation**

A process for recording data from elder abuse incidents could be established with regular reports to those involved, including the reviewing group. This data could be designed to determine if the code is effective in protecting elders. On going evaluation of the code will be useful in program development/improvement. In addition, evaluation data will be useful in justifying grant applications for funding for elder abuse programming.

## **Education**

Ongoing education on elder abuse and protection for health providers, service providers, law enforcement, and community members will help keep elder protection at the forefront of everyone's efforts. The Elder Protection Team, elders, or other community members might want to organize an elder awareness campaign during domestic violence month in October or during Older Americans month in May.

Appendix 2 lists resources on elder protection and American Indian health which are available to the public.

## ◆STEP 7: IMPLEMENTING THE CODE

### Elder Abuse and Neglect Provider Agency(ies) Protocol

Your code is approved and ready for implementation. The next step to consider is the development of protocol for the implementation of the code. The Tribal Council on approval of the code would be the most likely body to then designate the authorized agency(ies) who will receive elder abuse reports, such as the Social Services Office. The agency(ies) takes responsibility for following the established protocol for reporting and follow-up on those cases reported. The agency(ies) would then be responsible for following the established protocol.

Some of the areas to consider in establishing protocol would include the following:

- A. List of authorized agency(ies) who will be designated for receiving reports of elder abuse.
  - i. Training of all case workers in the agency(ies)
  - ii. Monitoring of services
- B. Reporting procedures: The team may want to research for any mandatory reporting requirements your Tribe has developed or have been required by other agencies such as the state or federal governments. If none exist, some will need to be developed.
- C. Protection to reporters: Whether mandatory or voluntary, if the report is made in good faith, the reporter is exempt from civil and criminal liability, as well as professional disciplinary action.
- D. Making a report:

- i. Intake: A screening process to determine if there is reasonable cause to suspect abuse.
  - ii. Assessment: A standardized system to respond to abuse reports to determine if abuse occurred.
  - iii. Substantiation: The point at which a determination is made regarding the validity of the allegations.
  - iv. Casework activities: Working with elder on a care plan to stabilize the abusive situation and reduce risk for the elder.
  - v. Case closure: The termination of services at the elder's request or a court appointed guardian; and if the client is no longer at risk.
  - vi. Follow-up: The case reviewed and kept open, usually for 15 months, to monitor the situation and continue to reassess for interventions.
- E. Authority to consent to services: A competent client may refuse assessment and all services and interventions. The case may be kept open if there are subsequent reports of abuse.
- F. Confidentiality: Necessary information that will serve the client's best interests may be shared with other professionals if that person/agency is providing services to the client.
- G. Access to Records: An Individual's records are subject to strict confidentiality. Records should only be disclosed as specifically authorized by your Elder Protection Code or other Tribal Codes in effect.

H. Access to victims: The Code will designate agencies that will have access to the elder victim in order to assess and validate the report and assess other needs of the elder in order to provide services and interventions in accordance with the code.

I. Referral of Elder Abuse cases:

- i. If an agency(ies) working with elders has access to knowledge of abuse toward any elder, they should report immediately to the designated reporting agency.
- ii. If an agency(ies) has access to knowledge of a misdemeanor or the elder is not in immediate harm, the elder has the right to decide if they will report the incident or not.
- iii. The following criteria may be used to determine if the elder is competent to report:
  1. Does the elder understand the facts of the situation?
  2. Does the elder evidence choice and make her/his wishes known?
  3. Does the elder understand the risks and benefits of the decision?

## Appendix 1: Resources

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### New Mexico

New Mexico Geriatric Education Center. UNM Health Sciences Center. 11 July 2008 <<http://hsc.unm.edu/som/fcm/gec>>. This site provides training and education for health care providers with an emphasis on American Indian Elders.

"New Mexico Health Data." New Mexico Department of Health. 11 July 2008 <<http://www.health.state.nm.us/hdata.html>>. This site includes American Indian specific information, including the New Mexico American Indian Health Status Report 2005.

New Mexico Tribal Report 2002. Office of New Mexico Vital Records and Health Statistics, Public Health Division, Department of Health. 11 July 2008 <<http://dohewbs2.health.state.nm.us/VitalRec/Tribal.pdf>>. This report includes a breakdown by tribe and age.

### National

Administration on Aging. U.S. Department of Health and Human Services. 11 July 2008 <<http://www.aoa.gov/about/over/over.aspx>>. This site provides information on programs and services related to aging.

AgingStats.gov. 2 June 2008. Federal Interagency Forum on Aging-Related Statistics. 11 July 2008 <[http://www.agingstats.gov/Agingstatsdotnet/Main\\_Site/Default.aspx](http://www.agingstats.gov/Agingstatsdotnet/Main_Site/Default.aspx)>. This site has basic information on aging.

"American Indian and Alaska Native (AIAN) Data and Links." U.S. Census Bureau. 20 March 2008. 11 July 2008  
<<http://factfinder.census.gov/home/aian/index.html>>. This site includes a variety of information gathered by the U.S. Census, including links on how to use the page, tribal data, community surveys, economic data, population estimates and maps.

"American Indians & Alaska Native Populations." Centers for Disease Control and Prevention. 22 April 2008. 11 July 2008  
<<http://www.cdc.gov/omh/Populations/AIAN/AIAN.htm>>. This site includes links to U.S. Census bureau documents and a wide variety of reference links.

"CDC A-Z Index: Your Online Source for Credible Health Information." Centers for Disease Control and Prevention. 2 June 2008. 11 July 2008 <<http://www.cdc.gov/az.do>>. This site includes links to aging and elderly health.

FedStats. 12 Mar. 2007. Federal statistics from more than 100 agencies. 11 July 2008 <<http://www.fedstats.gov/>>. This site provides a broad range of information, not specific to a tribe.

"Indian Health Service Division of Program Statistics." U.S. Department of Health and Human Services, Indian Health Service. 9 June 2008. 11 July 2008  
<<http://www.ihs.gov/NonMedicalPrograms/IHS%5FStats/index.cfm>>. This site provides a link to "I.H.S. Publications," which includes Trends in Indian Health and Indian Health Focus-Elders.

Model Tribal Elder Protection Code. 1990. American Indian Law Center, Inc.

"National Center for Health Statistics Trends in Health and Aging." Centers for Disease Control and Prevention. 20 May 2008. 11 July 2008 <<http://www.cdc.gov/nchs/agingact.htm>>. This site includes a data warehouse on trends in health and aging.

National Indian Council on Aging. 11 July 2008 <<http://www.nicoa.org>>. The site explores the special needs of abused or vulnerable Indian elders and promising approaches to prevention. This site includes publications on Preventing and Responding to Abuse of Elders in Indian Country and A Review of the Literature: Elder Abuse in Indian Country - Research, Policy, and Practice.

National Resource Center for American Indian, Alaska Native, and Native Hawaiian Elders. 11 July 2008 <<http://elders.uaa.alaska.edu/>>. This site publications on Health Status of Alaska Native Elders, Qualitative Report: Conferences of Alaska Native Elders, Our View of Dignified Aging, Establishing Best Practices for Alaska Native Elders, and Elder Abuse Among Alaska Natives.

National Society for the Indian Elderly. 11 July 2008 <<http://www.nsaie.org/exist.htm>>. The main purpose of this site is to assign VISTA volunteers to Tribal senior centers.

"Native American Monograph Series." The University of Oklahoma Health Sciences Center, Center for Child Abuse and Neglect, Departmental and Behavioral Pediatrics. 11 July 2008 <<http://devbehavpeds.ouhsc.edu/native.asp>>. This site offers a monograph titled, An Overview of Elder Abuse in Indian Country.

"Statistic Website of the United States." U.S. Census Bureau. 25 June 2008. 11 July 2008 <<http://www.census.gov/prod/www/statistical-abstract.html>>. This site includes a wide variety of different information, and

while it is not AI/AN specific, it may have some useful info, e.g., persons without health insurance by state.

"Tribal Court Codes, Constitutions & Charters." National Tribal Justice Resource Center. 11 July 2008

<<http://www.tribalresourcecenter.org/tribalcourts/codes/default.asp>>. This site provides a full database of tribal laws.