

### Overview

- O Introduction/Important Info
- O What is elder abuse?
- O Why do we need to address elder abuse?
- O Elder Abuse in Indian Country
- Model Codes
- O Court Systems
- Partnering

## Introduction/Important Info.

- \*\*\*Disclaimer-I am not a licensed attorney (yet), this is for informational purposes only. Please contact a competent attorney licensed in your jurisdiction for specific issues.
- https://www.youtube.com/watch?v=5ow63gPrXm0

### What is elder abuse?

O Physical, Sexual, Financial, Emotional/Psychological, Neglect & Self-Neglect, Exploitation, and Spiritual Why do we need to address elder abuse?



### Ways to address

- O Education elders and public
- O Removing stigma and shame, by discussing openly
- O Developing elder abuse response teams
- Promote peacekeeping justice initiatives
- AND enacting codes!!

# Federal Effort regarding Elder Abuse in Indian Country

- O 1992 Indian Elder Abuse programs authorized in Title VII, Part B in Older American Act
- 2000 Native American Caregiver Support Programs, authorized in OAA
- O 2005 Elder Abuse Resolution-National priorities at the White House Conference on Aging
- O 2010 National Elder Justice Act

Fact: All 50 states have address
Elder/Adult Protection in some form:

How many of the 566 federally recognized tribes have addressed elder abuse?

Less than 11%

# Tribes with Elder/Adult Protection

O Alaska

Curyung Tribe

- O Dry Creek Rancheria Band of Pomo Indians
- O Tlingit & Haida Indian Tribes of Alaska
- O Hoopa Valley Tribe

Arizona

- O Colorado
- O Colorado River Indian Tribes
- Southern Ute Indian Tribe

O Navajo Nation

O Connecticut

Pascua Yaqui Tribe

O Mohegan Tribe

O Hopi Tribe

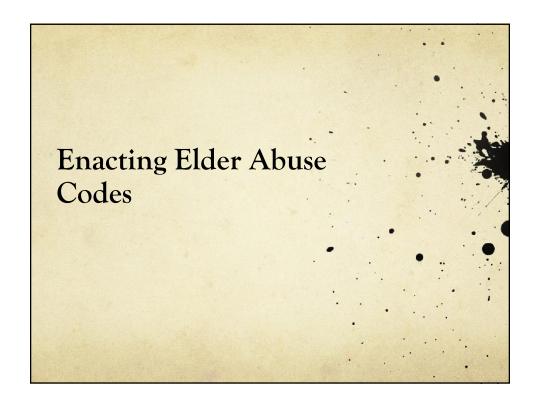
- O Michigan
- O Salt River Pima-Maricopa Indian Community
- Bay Mills Indian Community

O Tohono O'odham Nation

- Neweenaw Bay Indian Community
- O White Mountain Apache Tribe
- Little River Band of Ottawa Indian
- O Pokagon Band of Potawatomi Indians

0	Montana Montana	0	<u>Nevada</u>
0	Blackfeet Nation	0	Pyramid Lake Paiute Tribe
0	Confederated Salish and Kootenai Tribes	0	North Carolina
0	Crow Tribe (Apsaalooke Nation)	0	Eastern Band of Cherokee Indians of North
0	Fort Belknap Indian Community	0	Carolina North Dakota
0	Fort Peck Assiniboine & Sioux Tribes	0	Standing Rock Sioux Tribe
0 0	Northern Cheyenne Tribe  Nebraska	0	Turtle Mountain Band of Chippewa Indians
0	Omaha Tribe of Nebraska	0	<u>Oklahoma</u>
0	Winnebago Tribe of Nebraska	0	Cherokee Nation
		0	Muscogee Creek Nation

	Oregon	0	Washington
	Burns Paiute Tribe	0	Confederated Tribes of the Colville Reservation
)	Confederated Tribes of the Umatilla Indian Reservation	0	Kalispel Tribe of Indians
)	Confederated Tribes of Warm Springs	0	<u>Lummi Nation</u>
	South Dakota	0	Snoqualmie Indian Tribe
,	Oglala Sioux Tribe	0	Squaxin Island Tribe
)	Rosebud Sioux Tribe	0	Swinomish Indian Tribal Community
)	Sisseton Wahpeton Oyate	0	Tulalip Tribes of Washington
	Yankton Sioux Tribe	0	Wisconsin
)	Talikton Gloux Thic	0	Ho-Chunk Nation
		0	Wyoming
		0	Northern Arapaho Nation

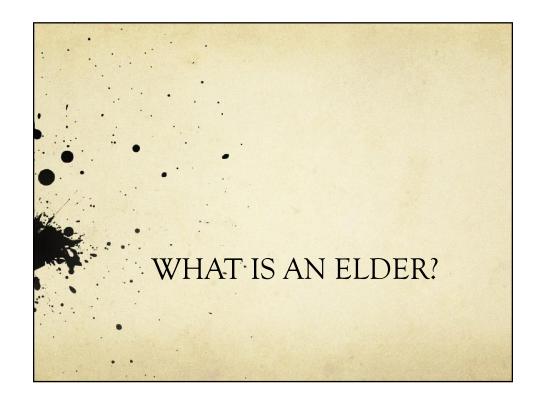


What is the difference between Elder and Adult Protection?

## Criminal v. Civil

- O Criminal
- O Indian Civil Rights Act of 1968 25 U.S.C. limits incarceration of Indian Defendants, and no jurisdiction over non-Indians
- O Beyond a reasonable doubt

- O Civil
- O Jurisdiction over non-Indians
- O Preponderance of the Evidence



- O Depending on Native Nations traditions
- O Most Nations have set the minimum age 55

### Provisions

### O 002.0 AUTHORITY

[Cite all relevant sections of Tribe or Nation's constitution, charter or governing documents that grant the Tribe or Nation's legislature or lawmaking body the authority to enact laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Tribe or Nation]

### O 003.0 POLICY

It is the policy of the [Tribe or Nation] to continue the traditional respect the members of the [Tribe or Nation] have had for elders. Elders are a valuable resource to the [Tribe or Nation] because they are repositories and custodians of tribal history, language, culture and tradition; and, they are the best hope of the [Tribe or Nation] to pass on the tribal history, language, culture, and tradition to children of the [Tribe or Nation]. Thus, the interests of the [Tribe or Nation], now and in the future, are advanced when its Elders can be confident they are protected from abuse, neglect, and exploitation and are free to fully participate in the activities and proceedings of the [Tribe or Nation].

### **Definitions**

- O What is:
- Physical
- O Sexual
- O Emotional
- Exploitation
- O Neglect

### Caregiver

- O Who is a caregiver?
- a person who is required by tribal law or custom (or state or federal law) to provide services or resources to an elder;
- a person who has voluntarily undertaken to provide care or resources to an elder;
- o an institution or agency which voluntarily provides or is required by tribal law or custom (state or federal law, or tribal-state agreement) to provide services or resources to an elder; or,
- an employee of any institution or agency specified within this code.

### Mandated Reporters

- O Teachers, principals, and other school personnel
- O Physicians, nurses, and other health-care workers
- O Counselors, therapists, and other mental health professionals
- Child care providers
- Medical examiners or coroners
- Law enforcement officers
- Other persons obligated under the law
- O BUT your code must require that that people report abuse!!

### Duty of Care & Reporting

- O What are duties of care and reporting?
- Ex. Fort Peck: Any person knowing or having reasonable cause to suspect that an adult is or has been abused shall report such abuse to the Adult Protection Team or to the appropriate law enforcement agency the agency shall immediately notify the APT

### Criminal Codes

- O 006.0 MANDATORY ARREST AUTHORITY
- An officer shall arrest and take into custody person(s) whom the officer has probable cause to believe abused/neglected a person defined as an "elder." No warrant is required to make an arrest. This mandatory arrest provision means that the victimized not sign a complaint for an arrest to occur. Further, an officer may arrest under probable cause even though it may be against the express wishes of the victim.
- O Mandatory arrest is required when:
- O The victim is injured;
- O The use of threatened use of a weapon is involved;
- O The violation of a valid restraining order; or
- O Imminent danger through abuse or neglect of a victim
- Any person arrested under this provision shall be held without bail, in custody for a period of [forty-eight (48) hours] as a mandatory "cooling off" period in the best interest of the [Tribe or Nation]

### Protection Orders

- O 008.0 EMERGENCY PROTECTION ORDER
- O The [tribal court] shall issue an emergency protection order authorizing protective services or protective placement on an emergency basis upon petition supported by clear and convincing evidence that:
- o the elder is at risk of immediate (physical) harm;
- the elder is incapacitated and cannot consent to protective services;
- the person possessing power of attorney for the elder is unavailable, or there is no one authorized by law or court order to give consent on an emergency basis; and an emergency exists.

# Court Systems/Partne ring What venue should preside over this hearing? What outside resources are available?

https://www.youtube.com/watch?v=6Fdq30PBX90

### Chi-Miigwetch

- O Jacob Davis & Jeff Davis for developing the model criminal and civil codes.
- O Whitefishwoman for complying the Collection of Data of Elder Abuse Codes & Criteria to Consider when drafting a Model Elder Abuse Code.
- Kim Cowden, Mashanda Smith, Cassie LaBine, and Kenneth Davis, for your amazing work on this conference!!

### Miigwetch bizindawiyeg!!

- O Contact Information:
- O Jennifer Cross
- O National Indigenous Elder Justice Initiative Center for Rural Health The University of North Dakota School of Medicine and Health Sciences 501 North Columbia Road Mail Stop 9037 Grand Forks, ND 58202-9037 Telephone: (855) 834-1572 Fax: (701) 777-6779

Email: jennifer.a.cross@med.und.edu

Website: www.nieji.org