

# New Mexico Corrections Department

## 2022 State - Tribal Collaboration Act Agency Report



*Committed to promoting effective communication and  
Collaboration with Indian Nations, Tribes and  
Pueblos*

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# I. EXECUTIVE SUMMARY

The New Mexico Corrections Department (NMCD) is responsible for the care and custody of approximately 5,507 incarcerated persons and 13,443 under community supervision on either probation or parole. NMCD maintains public safety as the top priority through a number of objectives and implementing activities, ranging from checking the perimeter of a prison facility fence line to providing leadership and supervision for offenders, within the walls of our prisons, as well as within the neighborhoods and communities of our State. Through professional internal and community collaborations, NMCD will actively pursue new approaches to improve public safety by better preparing incarcerated persons through appropriate services and programs. Evidence-based planning, aimed at reducing criminal recidivism, offers a sound return on the investment of our resources.

The requirements set forth by the State-Tribal Collaboration Act shall serve as a guide as we continue to improve our partnerships with the tribes, pueblos and nations through effective collaboration and communication. This strengthened partnership will ensure that a culturally sensitive approach is taken as programs and services are further developed for the American Indians and Alaskan Native inmate and offender population. This report will demonstrate the effort and progress NMCD has made in the State-Tribal partnership collaboration, as highlighted below:

- Facilitated Native American spiritual practices including sweat lodges, talking circles and spiritual traditions made available to all verified American Indian or Alaskan Native inmate at all levels.
- Promoted effective communication and collaboration between the state agency and Indian nations, tribes or pueblos.
- Promoted positive government to government relations between the Indian nations, tribes or pueblos and NMCD.
- Promoted cultural competency in providing effective services to American Indians or Alaska Natives (AI/AN).
- Annual review and employee notification of agency policy and procedures regarding the STCA.
- Continued implementation of the State-Tribal Collaboration Act (STCA).

## II. AGENCY OVERVIEW BACKGROUND

### OUR MISSION

Strengthen New Mexico Communities through effective community supervision, creating safe and professional institutional environments and, providing those entrusted to our care with opportunities for positive personal growth and self-development.

### OUR VISION

Building a stronger New Mexico

### CORE VALUES

Courage, Ethics, Responsibility

**Operational Overview** - The New Mexico Corrections Department (NMCD) oversees 18,950 inmates/offenders. Nearly 10% of both the incarcerated population and individuals on supervision are Native Indian or Alaskan Indian.

NMCD operates from a number of functional services components:

**The Office of the Secretary** provides executive direction, policy development and implementation and general department oversight. The Deputy Secretary, Office of General Counsel, and Office of Public Affairs are directly under the Cabinet Secretary.

**The Administrative Services Division (ASD)** monitors financial activity and delivers guidance, information and expertise in the administrative support areas in an efficient and positive manner to ensure that the department meets statutory, regulatory and internal administrative requirements. ASD consists of the Budget, Financial Management and Human Resource Bureaus.

**The Corrections Industries Division (CID)** is an agency within the New Mexico Corrections Department, established in 1978. CID enhances the rehabilitation, education and vocational skills of inmates through productive involvement in enterprises and public works of benefit to state agencies and local public bodies and to minimize inmate idleness. CID is administered without appropriated funds and is self-supporting.

**The Information Technology Division (ITD)** is responsible for providing the highest quality technology-based tools and services to create and maintain strong information technology systems to support agency staff and promote agency efficiency and accountability.

**The Adult Prisons Division (APD)** is the largest division within the New Mexico Corrections Department, incarcerating approximately 5,507 inmates in eight state-operated and two privately-operated correctional facilities. The Classification Bureau, Records Bureau, Disciplinary/Grievance

Appeals Manager, and Emergency Preparedness are also part of the division.

**The Reentry Division (RD)** provides public safety to the citizens of New Mexico by developing and implementing evidence-based programs and other promising practices designed to provide the knowledge and skills that increase success for returning citizens. The Reentry Division houses the Native American Program Coordinator and oversees Native American programs and services.

**The Probation and Parole Division (PPD)** provides public safety through a balance of supervision, enforcement and the provision of program services to increase the probability of offenders becoming Law-abiding citizens by enforcing the conditions of probation and parole and to provide services that assist the offender's rehabilitation and reentry into the community.

**The Training Academy (NMCTA)** prepares correctional officers, probation and parole officers and staff to perform their duty. The Academy develops strong, effective leaders through continual review, revision and adaptation of existing curriculum and the development of new training that addresses current issues and needs.

All New Mexico Corrections Department prisons and divisions are either accredited or in the process of becoming accredited by the American Correctional Association.

The average cost to incarcerate a New Mexico Corrections Department inmate is \$49,610, per inmate per year.

### **III. AGENCY CONTACT INFORMATION**

Karen Cann, Deputy Secretary  
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Cell: 259-6286  
Email: Karen.Cann@state.nm.us

Bob Robinson, Acting Tribal Liaison & Reentry Programs Administrator  
4337 NM 14, Santa Fe, NM, 87508  
Cell: (505) 795-1531  
Email: Bob.Robinson@state.nm.us

Vacant, Native American Program Coordinator & Tribal Liaison

The State-Tribal Liaison and administrative staff maintain a current list of contact information for Tribal and Pueblo Leaders statewide. (*Attached hereto as Appendix 3.*)

## IV. STATE TRIBAL COLLABORATION ACT POLICY

NMCD has maintained a long history of maintaining a working collaboration with Indian nations, tribes and pueblos. NMCD has intensified efforts to collaborate with tribal entities around the state to ensure culturally appropriate programs and services are available to the Native inmates and cultural practices allowed when security operations permit.

In accordance with State-Tribal Collaboration Act (STCA), NMCD first incorporated STCA requirements into policy in December of 2009. The STCA was first incorporated with the department's Native American Counseling Act policy, but due to the importance of this policy, it has been developed as a stand-alone policy, CD-013000, and reflects the language of the STCA Act, ensuring that provisions set forth in the law are honored. (*Attached hereto as Appendix 1.*) The policy is designed to address provisions of the STCA, as follows:

- Promote effective communication and collaboration between the state agency and Indian nations, tribes or pueblos;
- Promote positive government-to-government relations between the state and Indian nations, tribes or pueblos;
- Promote cultural competency in providing effective services to American Indians or Alaska Natives (AI/AN); and
- Establish a method for notifying employees of the state agency of the provisions of the STCA.

The methods for notifying employees of the provisions of the STCA occur primarily through the standalone STCA policy and the administration of the Native American Counseling Act policy, which incorporates the STCA and includes specific programming and service protocols. The Tribal Liaison/Native American Program Coordinator provides direction regarding the STCA for Central Administration and facility staff under the oversight of the Coordinator of Community Outreach and Faith-based Services. The Coordinator of Community Outreach and Faith-based Services and Native American Program Coordinator are responsible for outreach to tribal governments and stakeholders to maintain the effective administration of Native American programs and services, in addition to ensuring staff are informed of the requirements of the policy and objectively investigating grievances related to Native American programs and services. Facility staff are expected to familiarize themselves with the Native American Counseling Act policy and refer to it in matters that concern Native American religious and cultural practice. The correctional facility Chaplains are responsible for knowing the Native American Counseling Act and providing guidance to their facility and incarcerated individuals regarding Native American programs and services. NMCD will be advancing more detailed regular trainings in FY23 once the Native American Program Coordinator position is filled. All policies are publicly available.

## **V. CURRENT AND PLANNED PROGRAM AND SERVICES FOR AMERICAN INDIAN-ALASKAN NATIVES**

### **Current Native American Religious Program Services**

#### **NMCD Holy Days**

Native Americans are allowed to observe the following religious holy days: The Federal Government established American Indian Days of September 24th and 25th as well as their cultural holy days of Spring, March 20th and Fall, September 22nd Equinoxes, and Summer, June 20th and Winter, December 21st Solstices.

#### **Traditional Services**

NMCD provides services to Native Americans in the form of traditional counseling using ceremonial sweat lodges, talking circles, pipe ceremonies, Native American spiritual counseling, and cedar smudging. Native Americans are allowed to have congregated religious items such as sweat lodges, pipes, water drum, ceremonial drums, rattles, staffs, tobacco, herbs and other materials. They are also allowed to have personal religious items such as medicine pouches, and spiritual bundles.

**Sweat Lodge Ceremony:** The Ceremonial Lodge utilizes the elements of earth, water, fire and air to teach and restore physical, mental, emotional and spiritual health and holistic well-being to the practitioner.

**Talking Circle Ceremony:** During the Talking Circle Ceremony, an eagle feather/staff is passed from person to person around the circle. Possession of the eagle feather gives the participant the time, space and opportunity to speak. He/she may unburden him/herself by describing problems, relating negative or traumatic experiences, or simply speaking about issues of interest or concern. Speaking out helps the participant to develop a better understanding of him/herself, cleanse the emotions, and thereby begin the healing process. Other participants benefit when thoughts and feelings are expressed openly and honestly in the safe and supportive container of the ceremony.

**Blessing Way Ceremony:** This ceremony is performed for a specific person and a specific issue. It helps to induce a holistic healing in that the participant is touched at all levels of his/her being: physical, mental, emotional and spiritual. During this ceremony, the elements, the four Cardinal Directions, the related teachings, and the energies of the Native American Spiritual Advisor him/herself are used, along with medicinal herbs, to cleanse and bless the participant.

**Pipe Ceremony:** Pipes are used during both private and group ceremonies. The pipe is a symbol of both male and female, both balance and harmony. It is used to facilitate prayer and communication with the Great Spirit/Creator and with the spirit helpers who gave Native Americans this ceremony. A Native American Spiritual Advisor presides over this ceremony and chants the prayer in which the spirit helpers are asked for assistance.

**Smudging or Traditional Cleansing Ceremony:** Smudging is the burning of certain herbs to create a cleansing smoke bath, which is then used to purify people, ceremonial and ritual space, and ceremonial tools and objects. The primary herbs used are sage, cedar or juniper, lavender and sweet grass.

## **Program and Service Funding**

Native American programs and services receive funding support primarily through the position of the Native American Program Coordinator, a full-time state classified pay band 65 position. An essential function of this position is to ensure access to religious events and ceremonies for incarcerated tribal persons and support their organization. Incarcerated tribal members are encouraged to communicate with community supports for their material needs as part of their rehabilitation and coordinate those efforts with their facility Chaplains and the Native American Program Coordinator. These needs are met primarily by donation and the efforts of NMCD staff within the scope of their job duties.

## **FY22 Program and Service Support**

NMCD is committed to ensuring incarcerated indigenous peoples are afforded the opportunity to practice their culture and spirituality. In FY22, NMCD undertook research into updating their practices related to Native American programs and services by reaching out to state correctional agencies with a significant tribal population to ascertain any innovations in best practices. The position of Native American Program Coordinator was reclassified to bring it into alignment with the objective of expanding Native American programs and services, as NMCD seeks to fill the position with someone with expertise in tribal customs. Additional contacts were made with IAD and a handful of tribal organizations and governments to explore supporting the spiritual and material needs of incarcerated tribal members. A discussion was held with the Council of State Governments regarding the current state of NMCD's Native American programming policies, inviting a favorable opinion. Finally, informal discussions with tribal leadership were held at the 2022 Tribal Summit in the effort to promote tribal volunteerism, recruit interest from tribal members in the open Native American Program Coordinator position, and explore pre-release restoration programming to enhance post-release tribal reintegration.

NMCD encourages additional internal support for incarcerated Native people. In FY22, the forestry program at Central New Mexico Correctional Facility continued to supply wood for facility sweat lodges and facility staff made off-site trips to obtain lava rock for lodges. A facility Chaplain was able to secure herbs through a donation by Native Scents in Taos, which support ceremonies. In coordination with the correctional facility Chaplains and command staff religious events were organized by Native American program participants and observed statewide. Ministry Mentors at Central New Mexico Correctional Facility generously provided food for participants at a solstice event. When NMCD assumed control of the private facility in Grants (Western New Mexico Correctional Facility – South), incarcerated Native Americans and the facility Chaplain established a weekly Talking Circle event.

## **FY23 Programming and Service Support**

In FY22, NMCD Reentry Division identified several needs to ensure the delivery of high-quality and consistent programs and services. First, ongoing community support from the tribal community is needed to satisfy the material needs of the traditional ceremonies. While NMCD staff work with incarcerated tribal members to obtain materials for the ceremonies, such as wood and lava rock for the sweat lodges, additional materials and expertise would ensure that the ceremonies operate at full capacity across the state.

Second, with nearly 10% of incarcerated persons identifying as Native American or Alaska Natives throughout ten correctional facilities across the state, NMCD would greatly benefit from the Native American Program Coordinator receiving training and certification from the State Personnel Office to provide in-house instruction to command staff. In addition to increasing sensitivity to indigenous persons, the Native American Program Coordinator would instruct staff regarding the STCA and Native American Counseling Act policies.

Third, NMCD has determined that Native American programs and services would greatly benefit from an active base of spiritual counselors and community partners willing to participate in religious and culturally significant events, and assist in guiding incarcerated tribal members with the traditional ceremonies. Such community participation might contribute to the restoration of these individuals and their success upon release by incorporating community spiritual practice into their lives while incarcerated.

Lastly, NMCD wishes to increase communication with tribal leadership to explore restoration practices that might contribute to the reception of incarcerated tribal members into their communities. Tribal leadership might be able to provide a roadmap for pre-release restorative practices that would satisfy tribal leaders in allowing for the return of individuals upon release who have violated the customs of their communities, which may increase success while under supervision.

## **VI. TRAINING CERTIFICATION**

The NMCD Tribal Liaison last received cultural competency training by the State Personnel Office and the Indian Affairs Department in 2019 and received a certification from the State Personnel Office. Since the onset of the COVID-19 pandemic, no cultural competency training has been provided. The Acting Tribal Liaison did attend a role specific training on June 24 provided by the Indian Affairs Department.

# APPENDIX 1



## NEW MEXICO CORRECTIONS DEPARTMENT

Secretary  
Alisha Tafoya Lucero

CD-013000 State-Tribal Collaboration Act (STCA)	Issued: 12/21/09 Effective: 12/21/09	Reviewed: 05/11/22 Revised: 09/05/13
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

### AUTHORITY

State-Tribal Collaboration Act, NMSA 1978, 11-18-1 et. seq.

### REFERENCE

None

### PURPOSE

- Formalize and strengthen the government-to-government relationship that exists between the 22 sovereign Nations, Tribes, and Pueblos and the Agency in accordance with the requirements of the State-Tribal Collaboration Act (STCA);
- Enhance communication and mutual cooperation, identify issues of mutual concern, and design and implement solutions, programs and services that meet the needs of Native Americans; and,
- Establish a process that can assist in resolving potential conflicts, maximize inter-governmental relations and enhance an exchange of ideas and resources between the entities for the greater good of all New Mexico's citizens.

### APPLICABILITY

New Mexico Corrections Department (NMCD) employees.

### FORMS

None

### ATTACHMENTS

**Sample Procedure for State-Tribal Work Groups Attachment (CD-013000.A)**

### DEFINITIONS

A. American Indian/Alaska Native: (Pursuant the STCA, this means)

1. Individuals who are members of any federally recognized Indian nations tribe, or pueblo;
  2. Individuals who would meet the definition of "Indian" pursuant to 18 USC 1153; or
  3. Individuals who have been deemed eligible for services and programs provided to American Indians and Alaska Natives by the United States public health service, the Bureau of Indian Affairs or other federal programs.
- B. Collaboration: An ongoing process in which two or more parties work together to achieve a common set of goals; may occur between the state and tribes and their respective agencies or departments and may involve other Indian organizations if needed. Collaboration is the timely and accurate day-to-day communication and joint efforts that lay the groundwork for mutually beneficial relations, including identifying issues and problems, generating improvements and solutions, and providing follow up as needed.
- C. Communication: Verbal, electronic or written exchange of information between the state and tribal governments.
- D. Consensus: Consensus is reached when a decision or outcome is mutually satisfactory to the Agency and the Tribes affected and adequately addresses the concerns of those affected. Within this process it is understood that consensus, while a goal, may not always be achieved.
- E. Consultation: Operates as an enhanced form of communication that emphasizes trust and respect. It is a decision making method for reaching agreement through a participatory process that: a) involves the Agency and Tribes through their official representatives; b) actively solicits input and participation by the Agency and Tribes; and c) encourages cooperation in reaching agreement on the best possible decision for those affected. It is a shared responsibility that allows an open, timely and free exchange of information and opinion among parties that, in turn, may lead to mutual understanding and comprehension.
- Consultation with Tribes is uniquely a government-to-government process with two main goals: a) to reach consensus during decision making; and b) whether or not consensus is reached, the parties have considered each other's perspective and honored each other's sovereignty.
- F. Cultural Competency: An individual's or organization's ability to interact effectively with people of different cultures. Operationally, cultural competency is the act of integrating knowledge about individuals and groups of people into specific standards, policies, practices and attitudes that are used in appropriate cultural settings to increase the quality of services.
- G. Culturally Relevant: Describes a condition where programs or services are provided according to the clients' cultural backgrounds.
- H. Linguistic Competency: Refers to one's capacity to communicate effectively and convey information in a manner that is easily understood by diverse audiences including persons

of limited English proficiency, those who have low literacy skills or are not literate, and individuals with disabilities.

- I. Government-to-Government: The relationship between the State, Tribes and the Federal government.
- J. Indian Organizations: Organizations that represent or provide services to Alaska Natives and/or Native Americans living on tribal lands, and/or urban areas, and/or off tribal land.
- K. Internal Agency Operation Exemption: Internal agency operations and processes not subject to this Policy. The Agency has the authority and discretion to determine what internal operations and processes are exempt from this Policy.
- L. Internal Tribal Government Operations Exemption: Specified internal tribal government operations not subject to this Policy. Each Tribe has the authority and discretion to determine what internal processes are exempt from the processes contained in this Policy.
- M. Participation: Describes an ongoing activity that allows all interested parties to engage one another through negotiation, compromise and problem solving to reach a desired outcome.
- N. SAFER New Mexico: A block of Executive State agencies composed of the Public Defender Department, Department of Military Affairs, New Mexico Corrections Department, Department of Public Safety and the Department of Homeland Security and Emergency Management.
- O. State Sovereignty: Each state is a sovereign entity in our federal system and has governmental powers except to the extent the states have agreed in our constitutional framework to the supremacy of federal laws and treaties.
- P. Tribal Implications: State legislation, regulations and other policy statements or actions that have substantial direct impact on one or more Indian Nations, Tribes or Pueblos, or on the relationship between the state and tribal governments.
- Q. Tribal Officials: Elected or duly appointed officials of Indian Tribal governments or authorized intertribal organizations.
- R. Tribal Sovereignty: Native American tribes are recognized in federal law as possessing sovereignty over their members and their territory. The sovereignty tribes possess is inherent, which means that it comes from within the tribe itself and existed before the founding of the United States. Tribal sovereignty is not absolute, but rather is subject to certain limits resulting from the unique relationship of the tribes to the United States. Under federal law, tribes retain all aspects of their original sovereignty except those that have been given up by treaty or taken away by congressional action

or divested by implication of their dependent status.

In addition to inherent sovereignty, tribal governments may also exercise authority delegated to them by Congress.

- S. Tribes: The New Mexico Indian nations, tribes or pueblos that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a as updated periodically.

## **POLICY**

### **A. Background**

1. In 2003, the State of New Mexico and 21 of 22 Indian Nations, Tribes and Pueblos of New Mexico adopted the *2003 Statement of Policy and Process* (Statement), to “establish and promote a relationship of cooperation, coordination, open communication and good will, and [to] work in good faith to amicably and fairly resolve issues and differences.” The Statement directs state agencies to interact with the tribal governments and provides that such interaction “shall be based on a government-to-government relationship” aimed at furthering the purposes of meaningful government-to-government consultation.
2. In 2005, an Executive Order 2005-004 mandating that the Executive State agencies adopt pilot tribal consultation plans with the input of the 22 New Mexico Nations, Tribes and Pueblos.
3. On March 19, 2009, the State Tribal Collaboration Act was signed into law. The STCA reflects the commitment of the state to work together with tribal leaders on a true government-to-government basis. The STCA institutionalizes the intergovernmental relationship through several interdependent components and provides a consistent approach through which the State and the Nations, Tribes and Pueblos can work together to better collaborate and communicate on issues of mutual concern.
4. In the fall of 2009, pursuant to the STCA, the SAFER New Mexico Group, comprised of the Department of Public Safety, Department of Homeland Security and Emergency Management, Department of Military Affairs, New Mexico Corrections Department and the Public Defender Department, met with representatives from New Mexico’s Indian Nations, Tribes and Pueblos to develop an overarching policy that:
  - a. Promotes effective collaboration and communication between the state agency and New Mexico Indian Nations, Tribes and Pueblos;
  - b. Promotes positive government-to-government relations between the state

and New Mexico Indian Nations, Tribes and Pueblos;

- c. Promotes cultural competence in providing effective services to American Indians or Alaska Native; and
  - d. Establishes a method for notifying employees of the state agency of the provisions of the STCA and the Policy that the Agency adopts.
5. The Policy meets the intent of the STCA and defines the Agency's commitment to collaborate and communicate with the Tribes.

## **B. Principles**

The state and the tribes recognize that several underlying principles contribute to building and maintaining successful and effective government-to-government relationships. At the core of these principles lie cooperation, mutual understanding, respect, communication, process and institutionalization.<sup>1</sup> Proper mechanisms to provide the best forum for the state and tribes to collaborate and communicate on various issues may vary among the state agencies based on the agency structure, needs and available resources. These principles provide the basis for establishing collaboration and communication processes that will ensure durable, effective working relationships to the benefit of all the citizens of the state.

1. **Recognize and Respect Sovereignty** – The State and Tribal Governments are sovereign governments. Government sovereignty must be respected and recognized in government-to-government consultation and collaboration between the Agency and Tribal Governments. Tribal Governments have the inherent sovereignty to govern their own internal Tribal affairs. The recognition and respect of sovereignty is the basis for government-to-government relations and this policy. The State of New Mexico and the Agency recognize and acknowledge the Tribal trust responsibility of the Federal Government to American Indian and Alaska Native Tribes.
2. **Government-to-Government Relations** – The Agency recognizes the importance of full and open one-on-one communication, collaboration, and cooperation with New Mexico's 22 Nations, Tribes, and Pueblos. The Agency further recognizes that the 22 Tribal governments, as sovereign entities, may have an interest in the Agency's policies and programs that affect tribal interests or tribal members. The Agency further recognizes the value of dialogue between Tribal Governments and the Agency with regard to those policies and programs.
3. **Efficiently Addressing Tribal Issues and Concerns** – The Agency recognizes the value of tribal input into the Agency's programs and services. Thus it is important that tribal interests are reviewed and considered in the Agency's policy

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<sup>1</sup> Johnson, Susan et al. Models of State Cooperation between States and Tribes. National Conference of State Legislatures, 2002.

development process. The Agency will make every effort to address and understand past, present and future tribal concerns. Once identified, concerns will be addressed on matters that have a potential to significantly affect protected tribal resources, tribal rights or tribal lands.

4. Mutual Resolution – The Agency and Tribal Governments shall work in good faith to address and mutually resolve concerns. The Agency recognizes that good faith, mutual respect, and trust are fundamental to meaningful collaboration and communication policies.
5. Collaboration – In order to maximize the use of limited resources, the Agency and New Mexico’s 22 Indian Nations, Tribes and Pueblos are encouraged to collaborate on programmatic activities, training, workshops, and areas of mutual interest or concern. The Agency shall strive to facilitate discussion with other parties, intergovernmental organizations, and county and local governments to mutually resolve concerns.
6. Communication and Positive Relations – The Agency shall strive to promote positive government-to-government relations with the Tribes by: 1) interacting with the tribes in a spirit of mutual respect; 2) seeking to understand the varying tribal perspectives; 3) facilitating communication, understanding and appropriate dispute resolution with the tribes; and 4) working towards a shared vision in areas of mutual interest, through the government-to-government process.
7. Informal Communications – The Agency and Tribal Governments recognize that formal consultation may not be required in all situations or interactions. The Agency may seek to communicate outside the consultation process. These communications do not negate the authority of the Agency and Tribal Governments to request formal consultation.

## C. General Provisions

### 1. Collaboration and Communication

- a. Tribal Liaisons. To promote state-tribal interactions, enhance communications and resolve potential issues in improving the delivery of agency services and support to Native Americans, Tribal Liaisons from each SAFER New Mexico participating agency will work with Tribal Leaders, staff and their programs in developing policies or implementing program changes specific to each agency.

Informal Communications. The Agency and the Tribes recognize that consultation meetings may not be required in all situations or interactions involving state-tribal relations. Tribal members may communicate with other agency employees outside the consultation process, including the Tribal Liaisons and Program Managers to ensure programs and services are delivered to their constituents. While less

formal mechanisms of communicating may be more effective at times, this does not negate the State's or the Tribe's ability to request formal consultation on a particular issue or policy.

- b. Role of Tribal Advisory Bodies. The Agency may solicit advice and recommendations from Tribal advisory organizations or committees to involve Tribes in policy development prior to the more formal consultation contained in this Policy. The Agency may convene such Tribal advisory organizations/committees to solicit advice and recommendations on certain departmental policies and program matters that directly impact the Tribes. Input derived from such activities will not be defined as tribal consultation.
- c. Role of Work Groups. The Agency Head, in consultation with recognized Tribal officials, may appoint an agency-tribal work group to develop recommendations and provide input on Agency policies, programs and/or services as they might impact Tribes and American Indians/Alaska Natives. The Agency or the Work Group may develop procedures for the organization and the implementation of work group functions. ( See Attachment A for an example of Work Group Procedures)
- d. Tribal Consultation.
  - 1) The Agency shall endeavor to:
    - a) Communicate with each Indian Nation, Tribe or Pueblo and establish for each:
      - (1) Preferred methods of communication (formal and informal);
      - (2) Issues or areas of tribal interest relating the Agency's programs or activities;
      - (3) Appropriate tribal contacts relating to each program area interest;
      - (4) Tribal interest in collaborative or cooperative opportunities with the Agency.
    - b) Conduct face-to-face meetings between the appropriate state and tribal policy and/or technical level staff to increase understandings of any proposed actions and enhance development of effective outcomes and solutions.
  - 2) Applicability – Tribal consultation is most effective and meaningful when conducted before taking action that impacts Tribal Governments and people. The State and Tribes acknowledge that a

best case scenario may not always exist, and that the parties may not have sufficient time or resources to fully consult on a relevant issue. If a process appropriate for consultation has not already begun, this Policy recommends initiating consultation as soon as possible thereafter.

- 3) The principle focus for government-to-government consultation is with tribal governments through their respective elected or duly appointed tribal officials. Nothing herein shall restrict or prohibit the ability or willingness of tribal officials and the Agency Head to meet directly on matters that require direct consultation. The Agency and Tribes agree the principle of leader-to-leader communication, collaboration and cooperation is always the first step in government-to-government consultation in accordance with the STCA.
- 4) Areas of Consultation – The Agency shall make a good faith effort to review all proposed policies, rulemakings, or other aspects of programmatic actions that may have tribal impacts and determine whether tribal consultation should be called to provide Tribal Governments with an opportunity for an exchange of information and opinion prior to making a decision. The Agency shall endeavor to notify Tribal Governments and inquire whether Tribal consultation should occur. Tribal Officials have the discretion to decide whether to engage in the consultation process.
- 5) Procedures;
  - a) Initiation,
    - (1) Consultation may be initiated by the Governor of the State of New Mexico.
    - (2) Consultation may be initiated by the Agency either requesting consultation or alerting Tribal Governments as early as possible to allow for sufficient consultation of programmatic actions that the Agency determines to warrant consultation. Additional procedures for consultation may be developed to assist in the implementation of the Consultation Plan. Consultation shall be held wherever practical, including Tribal Government locations.
    - (3) Consultation may be initiated at the request of Tribal Governors or Presidents or duly authorized Tribal Officials.
    - (4) Consultation shall be required when applicable Federal, State, or Tribal law or regulations require consultation.

b) Written Notification – Written notification for consultation by the Agency or Tribal Governments shall:

- (1) Identify the proposed programmatic action to be consulted upon and provide information relating to the programmatic action.
- (2) Identify personnel who are authorized to consult on behalf of the Agency or Tribal Government(s).

c) Delegation – The Agency Head may delegate consultation compliance oversight to the Agency Deputy Secretary or other senior Agency staff. A Tribal Governor or President may delegate consultation compliance oversight to a Tribal Official or delegated representatives. The Agency and Tribal Governments will be responsible for ensuring the implementation of the Agency’s Tribal Collaboration and Communication Policy.

- (1) Consultation shall be between the Agency and Tribal Officials or their delegated representatives with authority to negotiate on their behalf. Consultation on a Programmatic Action requiring compliance with applicable Federal, State, or Tribal laws, shall be undertaken and coordinated by the Agency Secretary, Agency Division Directors and Bureau Chiefs, Agency Offices of General Counsel, and authorized Agency staff.

Agency staff is encouraged to maintain regular informal communication and cooperation with Tribal Governments, Tribal Officials, and Tribal environmental staff.

- (2) The Agency and Tribal Governments shall identify and update points of contact on an annual basis.

6) Consultation Process;

a) Notification,

- (1) Within 10 days of receipt of a written request for consultation by one or more Tribal Governments delivered to the Agency Head, the Agency shall contact the Tribal Government(s) to schedule a Tribal consultation meeting before final agency action.
- (2) Upon a written invitation for consultation by the Agency Head to one or more Tribal Governments:

- (a) The Tribal Government(s) shall accept the invitation within 10 days. If no Tribal Government accepts the invitation, the State shall issue a second written invitation to the Tribal Government(s).

If no Tribal Government accepts the second invitation within 5 days, the Agency will conclude that Tribal consultation is not required and may proceed with the proposed action. The second invitation must indicate that if the Tribal Government chooses not to accept the invitation within 5 days, that the Agency will conclude that no consultation is required.

(b) Consultation;

- (3) The Agency shall contact the Tribal Government(s) within 10 days of receipt of a request for consultation to schedule a meeting. The Agency encourages meeting with all interested Tribal Government(s) at one time, but will meet with individual Tribal Governments at the request of the Tribal Governor, President, or other delegated Tribal Official.
- (4) The Tribal Government(s) may submit written comments to the Agency within 10 days after the initial meeting. The Tribal Government(s) also may request an additional meeting with the Agency.
- (5) The Agency shall schedule additional meetings as deemed necessary by the Agency or as requested by the Tribal Government(s).
- (6) Tribal consultation shall be deemed complete when the initial meeting has been conducted and the Tribal Government(s) have been satisfied, or at the conclusion of the final meeting.

b) Limitation on Consultation;

- (1) The Agency's State Tribal Collaboration and Communication Policy shall not diminish any administrative or legal remedies otherwise available by law to the Agency or a Tribal Government.
- (2) The Agency's State Tribal Collaboration and Communication Policy does not prevent the Agency and Tribal Governments from entering into Memoranda of Understanding, Intergovernmental Agreements, Joint

Powers Agreements, professional service contracts, or other established administrative procedures and practices mandated by Federal, State or Tribal laws or regulations.

- (3) Final Decision Making Authority: The Agency retains the final decision-making authority with respect to actions undertaken by the Agency and within the Agency's jurisdiction.

## **2. Cultural and Linguistic Competency**

- a. Develop an Agency mission statement that articulates the principles, rationale, and values of cultural and linguistically competent service delivery.
- b. Support ongoing professional development and in-service training for all organizational levels for building knowledge, awareness and skills in the area of cultural and linguistic competence.
- c. Review or create policies to assure that new staff is provided with training, technical assistance and other supports necessary to work within culturally and linguistically diverse communities.
- d. Require Agency representatives and designated supervisors to attend periodic training in tribal culture, relations, and legal status designed to create an awareness of the unique nature of tribal governments and an understanding of and sensitivity to, Native American issues.

### **D. Amendments and Review of Policy**

The Agency shall meet periodically with the tribes to evaluate the effectiveness of this Policy.

### **E. Effective Date**

The Agency's State Tribal Collaboration and Communication Policy shall become effective upon the date all necessary signatures and/or approvals to this Policy are obtained.

### **F. Sovereign Immunity**

The Agency's State Tribal Collaboration and Communication Policy shall not be construed to waive the sovereign immunity of the State of New Mexico or a Tribal Government, or to create a right of action by or against the State of New Mexico or a Tribal Government or its officials for failure to comply with the Agency's State Tribal Collaboration and Communication Policy. The Agency and Tribal Governments shall have the authority and discretion to designate internal operations and process

excluded from the Agency's State Tribal Collaboration and Communication Policy.

**G. Confidentiality**

The Agency and Tribes shall keep confidential any documents, materials, or information collected from either party, or generated in connection with programs in which there are tribal and agency interests, to the extent allowed by law.

**H. Closing Statement/Signatures**

The Department of Corrections hereby adopts the State-Tribal Communication and Collaboration Policy.

DISCLAIMER: The following illustration serves only as sample procedures for State-Tribal Work Groups. The inclusion of this Attachment does not mandate the adoption of these procedures by a work group. Whether these, or alternative procedures, are adopted remains at the sole discretion of the Agency Head and/or as duly-delegated to the Work Group.

- Collaboration Through the Use of Work Groups:

1. Establishment of Work Groups –The Agency and tribes may choose to establish a work group and/or task force to develop recommendations. The work group shall, to the extent possible, consist of members from the Agency and the Tribes.
2. Membership on Work Groups – If a Work Group is established, tribal membership on work groups must be requested. The Agency participating in the Work Group shall widely publicize the solicitation with the intent to reach all tribes, and request the tribes appoint tribal members in writing for work groups. Membership should be based on Tribal and Agency members. As state and tribal leadership changes, work group membership shall be designated as appropriate.
3. Meeting Notices – Written notices announcing meetings shall identify the purpose, work group, task force preliminary responsibility, time frame and other specific tasks. All meetings shall be open and widely publicized by Agency offices and tribal offices.
4. Work Group Procedures – The work group may establish procedures to govern the meetings. Such procedures will include, but are not limited to, the following:
  - a) Selection of tribal and state co-chairs to represent the work group and to serve as lead coordinators to ensure the tribal consultation policy is adhered to;
  - b) Defining roles and responsibilities of individual work group members;
  - c) Process for decision-making to arrive at a final product, which may consist of direct participation in work groups or providing timely and written comments from tribal and state agencies or both;
  - d) Process for determining drafting and dissemination of all final work group products, including data sharing materials subject to policy, procedures and/or federal or state statutes; and
  - e) Defining an appropriate timeline; and
  - f) Attendance of meetings related to the work group. Members of the work group shall make good faith effort to attend all meetings.
5. Work Group Responsibility – The work group will develop final recommendations for Agency and tribal review and/or approval.
6. Work Group Parameters – Parameters shall determine the lines of authority,

responsibility and boundaries, definition of issues and delineation of negotiable and non-negotiable points.

7. Work Group Final Products – Once the work group has created a final draft recommendation or policy, it will initiate the following process to facilitate implementation or additional consultation:
  - a) Distribution – The work group will distribute the draft recommendation to the Tribal Governor or President, the Agency Secretary and Agency tribal liaison for review and comment.
  - b) Comment – The Tribes and the Agency will return comments to the work group, which will meet in a timely manner to discuss the comments and determine the next course of action.
    - i) If the work group considers the policy to be substantially complete as written, the work group will forward the proposed policy to the Agency and the Tribes for final approval.
    - ii) The work group will record any contrary comments, disagreements and/or dissention in the final report.
    - iii) If, based on the comments, the work group determines that the policy should be rewritten; it will reinitiate the consultation process to redraft the policy.
    - iv) If the Agency and the Tribes accept the policy as is, the work group will accomplish the final processing of the policy.
8. Recommendations – The Agency and Tribes should seriously consider any work group final recommendations for actions or implementation.
9. Implementation – Once the collaboration process is complete and the Agency and Tribes have finalized the recommendation, the Agency and Tribal work group co-chairs shall be responsible for broadly distributing the final recommendation to the Agency ‘s departments and Tribal leaders.
10. Evaluation – At the conclusion of the work group collaboration process, the work group participants will participate in an evaluation of the work group collaboration process. The evaluation will measure outcomes and make recommendations for improving the work group collaboration process.

# APPENDIX 2



## NEW MEXICO CORRECTIONS DEPARTMENT

Secretary  
Alisha Tafoya Lucero

CD-101100 Native American Counseling Act	Issued: 1/3/84 Effective: 1/3/84	Reviewed: 8/31/18 Revised: 10/20/16
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

### AUTHORITY:

- A. Religious Land Use and Institutionalized Persons Act of 2000, 42 USCA §2000cc to—5.
- B. Native American Counseling Act, NMSA 1978, Section 33-10-1 through -4, as amended.
- C. Policy CD-010100.

### REFERENCE:

- A. ACA Standard 2-CO-5E-01, *Standards for the Administration of Correctional Agencies*, 2<sup>nd</sup> Edition.
- B. ACA Standards 4-4517, 4-4520, and 4-4521, *Standards for Adult Correctional Institutions*, 4<sup>th</sup> Edition.

### PURPOSES: [4-4517] [2-CO-5E-01]

- A. To assist Native American inmates in their spiritual development and growth by encouraging participation in Native American Religious Programs.
- B. To establish policy and procedures for developing and operating Native American Religious Programs within correctional institutions, in accordance with the requirements of the Native American Counseling Act (NMSA 1978, Sections 33-10-1 through 4) and other applicable laws and standards.
- C. To provide guidance to New Mexico Corrections Department (NMCD) employees (including administrators, officers, staff, and chaplains) and volunteers, in making informed decisions concerning Native American religious practices, so that both Native American religious beliefs and practices, and the reasonable security needs and requirements of the correctional environment, may be accommodated.

### FORMS:

- A. **Native American Heritage/Verification Report** form (*CD-101101.1*)
- B. **Evidence of Sincere Belief in Native American Religion** form (*CD-101101.2*)

### ATTACHMENTS:

- A. **Request/Approval for Medicine Bundles, Bag or Pouches** Attachment (*CD-101101.A*)

## APPLICABILITY:

All Native American inmates and all New Mexico Corrections Department (NMCD) employees, especially chaplains and those employees and volunteers who are involved in the management and operation of religious programs.

## DEFINITIONS:

- A. Documentation of Native American Heritage: Evidence which has been verified and authenticated, and which is determined to be satisfactory and sufficient to establish that the inmate is descended from or is a member of an American Indian tribe, pueblo or band; or is a Native Hawaiian or Alaskan Native, in accordance with the terms and conditions of Procedure CD-101101, adopted pursuant to this policy.
- B. Inmate Spiritual Leader: A Native American inmate who has sufficient traditional knowledge and training to allow him/her to perform some or all of the ritual and ceremonial functions of a Native American Spiritual Advisor.
- C. Mountain Smoke: Herbal blend used for smoking in Native American Religious ceremonies.
- D. Native American: Any person who is a descendent from or is a member of an American Indian tribe, pueblo or band or is a native Hawaiian or Alaskan native.
- E. Native American Programs Coordinator: A Native American Spiritual Advisor who is employed by the Corrections Department and whose job is to oversee the development and operation of Native American Religious Programs (as hereinafter defined) within its institutions, and to assist NMCD in carrying out the intents and purposes of the Native American Counseling Act (NMSA 1978, Sections 33-10-1 through 4) and other applicable laws and standards.
- F. Native American Religion: Any sincerely held religion or religious belief that is practiced by a Native American (as hereinafter defined), the origin and interpretation of which is from a traditional Native American culture or community, including the Native American Church.
- G. Native American Spiritual Advisor: Spiritual leader who is generally recognized by his or her tribe or community, who is guided by wisdom, experience and traditional knowledge (e.g., of herbs, chants, prayers and songs), who can assure the authenticity and integrity of religious observances, and who can provide the ceremonial setting necessary for purification and spiritual healing.

## POLICIES: [4-4520]

- A. Native American Religious Programs (group and/or individual) shall be afforded to Native American men and women inmates at correctional facilities that are Security Level I, II, III or IV, consistent with reasonable security requirements. Inmates housed in Special Management will normally not be allowed to participate in group or congregate Native American Religious Programs (such as Sweat Lodge Ceremony)

However, such inmates may be afforded individual access to a Native American Spiritual Advisor, with the Spiritual Advisor providing any required congregate or personal religious items, if approved by the Warden.

- B. NMCD will employ a Native American Programs Coordinator. **[4-4521]**
- C. NMCD through its Native American Programs Coordinator and chaplains shall make reasonable efforts to recruit and provide for Native American Spiritual Advisors who, on a volunteer basis, will provide religious services and guidance to Native American inmates who are confined in correctional institutions.
- D. Only those persons who have submitted satisfactory and sufficient Documentation of Native American Heritage, or evidence of a sincerely held belief in Native American Religion to NMCD shall be allowed to participate in Native American Religious Programs or to have personal religious items (as herein defined) in their possession.
- E. Native American inmates of NMCD shall be afforded the right to observe the American Indian Religious Holy Days of September 24<sup>th</sup> and 25<sup>th</sup> by being excused from their institutional work or other program assignment upon written request submitted at least ten (10) working days prior to September 24<sup>th</sup>.
- F. The term “at least six (6) consecutive hours” as used in this policy and procedure is defined to include three types of religious activity or interactions:
  - a. Native American Spiritual Advisors;
  - b. Items and materials used in religious ceremonies; and
  - c. The sweat lodge.



# NEW MEXICO CORRECTIONS DEPARTMENT

Secretary  
Alisha Tafoya Lucero

CD-101101 Native American Counseling Act	Issued: 1/3/84 Effective: 1/3/84	Reviewed: 8/31/18 Revised: 10/20/16
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

## AUTHORITY:

Policy *CD-101100*

## PROCEDURES: [4-4520] [2-CO-5E-01]

### A. Native American Religious Programs:

Native American spiritual life is founded upon and based in rituals and traditions, rather than writings. Ceremonies are therefore the primary vehicles of religious expression. One of the fundamental precepts of Native American spirituality, which underlies all forms of religious expression, is a belief in the interconnectedness of all natural things and all forms of life with primary importance attached to Mother Earth.

1. Sweat Lodge Ceremony: This ceremony utilizes the elements of earth, water, fire and air to teach and restore physical, mental, emotional and spiritual health and holistic well being to the practitioner.
2. Talking Circle Ceremony: During the Talking Circle Ceremony, an eagle feather/staff is passed from person to person around the circle. Possession of the eagle feather gives the participant the time, space and opportunity to speak. He or she may unburden himself or herself by describing problems, relating negative or traumatic experiences, or simply speaking about issues of interest or concern. Speaking out helps the participant to develop a better understanding of themselves, cleanse the emotions, and thereby begin the healing process. Other participants benefit when thoughts and feelings are expressed openly and honestly in the safe and supportive container of the ceremony.
3. Blessing Way Ceremony. This ceremony is performed for a specific person and a specific issue. It helps to induce a holistic healing in that the participant is touched at all levels of his or her being: physical, mental, emotional and spiritual. During this ceremony, the elements, the four (4) cardinal Directions, the related teachings and the energies of the Native American Spiritual Advisor himself or herself are used, along with medicinal herbs, to cleanse and bless the participant.
4. Pipe Ceremony. Pipes are used during both private and group ceremonies. The pipe is a symbol of both male and female, both balance and harmony. It is used to facilitate prayer and communication with the Great Spirit/Creator and with the spirit helpers who gave Native Americans this ceremony. A Native American Spiritual Advisor presides over this ceremony and chants the prayer in which the spirit helpers are asked for assistance.

5. Smudging or Traditional Cleansing Ceremony. Smudging is the burning of certain herbs to create a cleansing smoke bath, which is then used to purify people, ceremonial and ritual space, and ceremonial tools and objects. The principle herbs used are sage, cedar or juniper, lavender and sweet grass.

## **B. Congregate Religious Items**

Depending upon local tribal traditions, certain items are required for the traditional rituals and ceremonies that are the primary vehicles of communal Native American religious expression. These items shall be referred to as “Congregate Religious Items.” “Congregate Religious Items” includes, but is not limited to, the following:

1. Sweat Lodge: The Sweat Lodge and its grounds are the sacred ceremonial setting for communal prayer, spiritual healing and purification;
2. Pipe;
3. Water drum;
4. Ceremonial drum;
5. Rattle;
6. Staff;
7. Mountain Smoke / Tobacco Blend; and
8. Herbs and other materials, including: cedar, sage, sweet grass, corn pollen, cornhusks, eagle and other feathers, willow and lava rock.
9. Peyote: Although considered a congregate religious item, the possession or sacramental use of peyote by any inmate of the NMCD is strictly prohibited.

## **C. Personal Religious Items:**

Depending upon local tribal traditions, certain things are required for the traditional rituals and ceremonies that are the primary vehicles of individual Native American religious expression. A **Request/Approval for Medicine Bundles, Bag or Pouches** Attachment (*CD-101101.A*) must be submitted for and approved prior to obtaining any of the following

1. Medicine Pouch or Bag: A Medicine Pouch or Bag is worn around the neck and generally contains some or all of the following: corn pollen, corn meal, sage, cedar and Mountain Smoke / Tobacco Blend. Eagle Talons and Antlers are prohibited.
2. Spiritual Bundle: A Spiritual Bundle is kept in the inmate’s cell and generally contains some or all of the following: prayer pipe, drum, Eagle/Hawk feathers, pieces of animal skin, small amounts of sacred herbs (usually cedar, sage, sweet grass, Mountain Smoke/Tobacco Blend, corn pollen and corn meal), small stones (usually crystal and turquoise), sea shell, religious medallion and corn husks.

**D. Religious Holy Days--American Indian Days--September 24<sup>th</sup> and 25<sup>th</sup>:**

These holy days were established by the Federal Government. They are reserved for prayer and are intended to be days free from work. Since there are so many different tribes, with each tribe observing different holy days, it is difficult to establish common religious holy days. However, a large number of tribes do celebrate Solstice and Equinox. Accordingly, the Federal Government has set aside September 24<sup>th</sup> and 25<sup>th</sup> in symbolic recognition of all

Native American holy days.

**E. Congregate Religious Items:**

1. Congregate Religious Items (including a Sweat Lodge) shall be afforded to Native American men and women inmates at correctional facilities that are Security Level I, II, or III, consistent with reasonable security requirements.
2. Religious items for Security Level IV shall be allowed in accordance with Policies *CD-101300 and CD-150200*

**F. Possession of Personal Religious Items:**

A Request/Approval for Medicine Bundles, Bag or Pouches Attachment (*CD-101101.A*) must be completed, approved, and carried or stored along with any of the following

1. Medicine Bundles: Native American inmates at correctional facilities that are Security Level I, II, III or IV, may be afforded the right to acquire and keep personal Medicine Bundles in their possession with approval from the Warden.
2. Medicine Pouches or Bags: Native American inmate's at all correctional facilities, including Special Management, may be afforded the right to acquire and keep personal Medicine Pouches or Bags with approval from the Warden.

Denial of any authorization to possess any of the above shall be documented in writing by the Warden on the Request/Approval for Medicine Bundles, Bag or Pouches.

**G. Information and Record Keeping:**

1. Each institution within the NMCD shall provide the Native American Programs Coordinator with relevant information on all inmates wishing to participate in Native American Religious Programs.
2. Once an inmate has submitted satisfactory and sufficient Documentation of Native American Heritage, and once the Native American Programs Coordinator has verified and authenticated such documentation and information, the Native American Programs Coordinator shall issue a **Native American Heritage/Verification Report** form (*CD-101101.1*) stating that such inmate's Native American Heritage has been established for purposes of this policy. A copy of this report shall then be placed in each inmate's file.
3. The names of all inmates who have been issued a Memorandum of Native American Heritage shall be kept on a roster at Central Office, and such information shall be

entered as part of the inmates' electronic record on the New Mexico Corrections Department CMIS-Offender Management System.

#### H. Concerning Status as a “Native American”:

1. All questions concerning an inmate's status as a “Native American” for purposes of Policy *CD-101100* and this Procedure, all questions concerning the authenticity or sufficiency of an inmate's Documentation of Native American Heritage, and generally, all questions regarding the eligibility of any inmate to participate in Native American Religious Programs shall be referred to the Native American Programs Coordinator.
2. A “Native American” is an inmate who has provided “Documentation of Native American Heritage” to NMCD, as follows:
  - a. Generally, an inmate who submits a tribal census or enrollment number will be presumed to have provided satisfactory and sufficient “Documentation of Native American Heritage” so as to qualify as a “Native American” for purposes of Policy *CD-101100* and these Procedures, and so as to be immediately—and permanently-- eligible to participate in available Native American Religious Programming.
  - b. If an inmate who wishes to be considered a “Native American” for purposes of Policy *CD-101100* and these Procedures has no valid Tribal Census or Enrollment Number, but appears to the Native American Programs Coordinator to be eligible to apply for and receive one, then the Native American Programs Coordinator may, in his or her discretion, grant such inmate a ninety (90) day grace period. During this grace period, the inmate shall apply for a Tribal Census or Enrollment Number and shall be considered immediately, but provisionally, eligible to participate in available Native American Religious Programming.
  - c. In the rare instance in which an inmate wishes to be considered a “Native American” for purposes of this policy, but is ineligible for, or otherwise unable to obtain, a tribal census or enrollment number, such inmate may qualify himself or herself as a “Native American” by submitting other evidence indicative of a sincerely held religious belief in a Native American Religion in lieu of a tribal census or enrollment number. Such evidence may include, but is not limited to, the following: affidavits from tribal members on the **Evidence of Sincere Belief in Native American Religion** form (*CD-101101.2*) attesting to the inmate's sincerely held religious belief.
  - d. An inmate, who submits satisfactory and sufficient evidence of a sincerely held Native American religious belief in lieu of a valid tribal census or enrollment number in accordance with the provisions of Policy *CD-101100* and these Procedures, will at the conclusion of the review and approval procedure will also qualify for permanent status as a “Native American” and be eligible to participate in available Native American Religious Programming.
  - e. If at the end of the ninety (90) day grace period, the inmate still has no valid

Tribal Census or Enrollment Number, or has failed to submit other sufficient evidence or Documentation of a sincerely held Native American religious belief satisfactory to the Native American Programs Coordinator, then the grace period shall expire and the inmate shall no longer be eligible to participate in Native American Religious Programming.

3. Documentation of Native American Heritage in the form of a Tribal Census or Enrollment number shall be submitted to the Corrections Department through the institutional Chaplain or Deputy Warden for Programs, or through the Native American Programs Coordinator. Documentation of a sincerely held Native American religious belief in the form of Evidence in lieu of valid Tribal Census or Enrollment Number shall be submitted to NMCD through the Native American Programs Coordinator

## **I. Participation**

Participation in Native American Religious Programs shall be restricted to Native Americans inmates who have submitted satisfactory and sufficient Documentation of Native American Heritage or documentation of a sincerely held religious belief to the NMCD, in accordance with the provisions of NMCD Policy *CD-101100* and these Procedures

## **J. Sweat Lodge:**

1. Custody Level I, II, and III: Native American inmates who are classified as Custody Level I, II, III or IV and who are housed at a correctional facility that is designated Custody Level I, II, or III will normally have access to the Sweat Lodge grounds for participation in group or congregate Native American Religious Programs on a regular weekly basis, for at least six (6) consecutive hours, up to maximum of eight (8) hours.
2. Custody Level IV: Native American inmates who are classified as Custody Level IV and who are housed at a correctional facility that is designated to accommodate Custody Level IV inmates will have access to the Sweat Lodge for participation in the Native American Religious Programs on a regular basis once every thirty (30) days for up to six (6) consecutive hours. Group or congregate participation in Sweat Lodge for Level IV is at the discretion of the Warden
3. Special Management Inmates: Native American inmates who are classified as Special Management, or who are housed at a correctional institution designated as Special Management, will normally not be allowed access to the Sweat Lodge for participation in group or congregate Native American Religious Programs.
4. However, Native American inmates who are housed in Special Management may be allowed to participate in group or congregate Native American Religious Programs in the Sweat Lodge to the extent allowed by NMCD Special Management policies.
5. However, Native American inmates who are Special Management may be provided with access to a Native American Spiritual Advisor, on an individual basis, with the spiritual advisor providing any materials needed if approved by the Warden.

## **K. Congregate Religious Items (Including Sweat Lodge):**

1. Sweat Lodge ceremonies are generally conducted on a weekly basis in a correctional setting. Inmates, Inmate Spiritual Leaders, Native American Spiritual Advisors, the Native American Program Coordinator and any other visitors participating in sweat ceremonies are required to wear appropriate outerwear such as shorts.
2. A secure storage place will be provided by the institution within the Sweat Lodge for the storage of Congregate Religious Items in a manner consistent with the reasonable security needs of the institution. In the alternative, pending the preparation of a secure storage place within the Sweat Lodge, Congregate Religious Items may be stored in the Chapel. Congregate Religious Items must be readily accessible and available for use in Native American Religious Programs whenever such programs are scheduled.
3. When not otherwise in use, ceremonial instruments such as feathers, pipe, water drum, rattle and staff shall ordinarily be secured in the storage facility located in the Sweat Lodge grounds.
4. The Native American Spiritual Advisor, the institutional Chaplain, the institutional Deputy Warden for Programs (where appropriate) and the Inmate Spiritual Leaders shall coordinate efforts to assure that an adequate supply of herbs and other materials such as cedar, sage, sweet grass, corn pollen, and corn husks is at all times on hand in the storage facility located on the Sweat Lodge grounds.
5. The Native American Spiritual Advisor or institution's chaplain, the institution's Deputy Warden for Programs (where appropriate) and the Inmate Spiritual Leaders shall coordinate efforts to assure that an adequate supply of lava rocks, kindling and chopped wood is at all times on hand. Similarly, each institution shall arrange for a convenient source of water for dousing the heated rocks during Sweat Lodge.
6. Each institution shall provide and properly maintain a portable chemical toilet for the use of Native American Religious Programs participants. The portable chemical toilet shall be set up within or immediately adjacent to the Sweat Lodge.
7. Native American inmates will be periodically allowed access to the Sweat Lodge to remove ashes, weeds and other debris.
8. The grounds in and around the Sweat Lodge have been blessed and consecrated through ritual and ceremony. At each correctional facility, the grounds of the Sweat Lodge should be treated with the same respect accorded to the Chapel. The grounds should be fenced and secured so as to prevent casual entry by non-Native Americans. Further, if correctional staff is required to enter the grounds in accordance with the reasonable security needs of the facility, they should proceed respectfully and refrain from attempting to enter the lodge itself.
9. Because of the large variety of tribal beliefs and traditions represented in the inmate population, it is difficult to anticipate all the issues, questions and concerns that that could arise. Accordingly, all questions concerning the status of an item as a "Congregate Religious Item" (meaning its legitimacy, authenticity, permissibility, appropriateness, or proper care, etc.) shall, in accordance with Policy *CD-101100* and

this Procedure, be referred to the Native American Programs Coordinator who shall review and resolve such questions and make appropriate dispositions thereof.

**L. Spiritual Advisors:**

1. Qualifications: All Native American Spiritual Advisors will provide written and/or oral proof of knowledge and training to NMCD. It will be the responsibility of the Native American Programs Coordinator, in cooperation with the institutional Chaplain, to verify and authenticate such information.
2. Background Check: All Native American Spiritual Advisors will be required to have an NCIC background check.
3. Orientation: Native American Spiritual Advisors and any assistants will be required to attend the mandatory orientation for all volunteers.
4. Status: Native American Spiritual Advisors shall be afforded the same status as the clergy of any other recognized religion, and should receive the same professional courtesy and access to inmates that is afforded to ordained clergy.

When Native American Spiritual Advisors visit the institution, they will generally have a number of sacred religious items with them. These sacred articles, such as a medicine bundle and small drum, to name a few, should ordinarily not be handled by staff. The sanctity of the religious articles is honored in the same way one honors the sanctity of sacred objects in any house of worship.

It is recommended that they be visually inspected. Botanicals may be tested. In order to expedite entrance procedures, Chaplains are encouraged to request in writing approval from security to allow the Chaplain to visually inspect the sacred items. Advance notice of appropriate inspection procedures will be given to the Spiritual Advisor.

5. Inspection of Native American Spiritual Advisor's Sacred Bundle: The Native American Programs Coordinator and the Chaplains are encouraged to request approval from security ahead of time for them to visually inspect, in the front lobby of the institution, the sacred items carried by a Native American Spiritual Advisor. The security concerns of the institution will dictate, however, whether or not the sacred items need to be x-rayed.

**M. Spiritual Leaders:**

If the congregation of Native American Religion practitioners at a particular institution has organized itself formally as a club with articles and bylaws, then Inmate Spiritual Leaders shall be those qualified persons who have been elected as Spiritual Leaders in accordance with the provisions of the club's articles and bylaws.

**N. Authorization, Approval and Inspection of Personal Religious Items:**

1. Authorization: A Native American inmate may possess Personal Religious Items (Medicine Pouch or Bag, and Medicine Bundle) as defined in NMCD Policy *CD-101100*, and as further provided in this Procedure.
2. Approved Request: A Native American inmate who desires to carry his or her Medicine

Pouch or Bag, and/or to keep a Medicine Bundle in his or her cell shall have in his or her possession, at all times, an approved written “Request for Personal Religious Items” (in the form attached hereto), signed by the Native American Programs Coordinator or the institution’s chaplain, and the institution’s Deputy Warden of Programs.

3. Custodian: The contents of a Medicine Pouch/Bag or Medicine Bundle have great spiritual significance. They have been carefully selected and blessed through ritual and ceremony for the specific use and benefit of the particular individual who is their “custodian”.

In summary, a Medicine Pouch/Bag or Medicine Bundle will be desecrated if:

- a. It is opened without the Custodian’s (the wearer’s or carrier’s) permission;
  - b. It is touched by anyone other than an Elder or its Custodian; and/or,
  - c. It is touched or viewed by a female correctional officer, female duty officer or female shift commander.
4. In a male institution the search of Medicine Pouches/Bags and Medicine Bundles shall be conducted, as follows:
    - a. A male shift commander or duty officer shall conduct any search of Medicine Pouches/Bags or Medicine Bundles but shall not physically touch or open the Pouch/Bag or Bundle or rifle through its contents.
    - b. Rather, the male shift commander or duty officer shall ask the Custodian to open his or her Pouch/Bag or Bundle and allow the officer to view its contents without touching them.
    - c. During this visual inspection, the male shift commander or duty officer shall have the custodian use a metal rod to probe the pouch/bag to ensure that there isn’t any contraband contained within. If the male shift commander or duty officer determines that the Pouch/Bag or Bundle contains some item of contraband, the Custodian will close and secure the Pouch/Bag or Bundle, and deliver it over to the male shift commander or duty officer. The male shift commander or duty officer shall deliver it promptly and directly to the Native American Programs Coordinator for disposition in accordance with the further provisions of Policy *CD-101100* and this Procedure.
  5. In a female institution the search of Medicine Pouches/Bags and Medicine Bundles shall be conducted, as follows.
    - a. A female shift commander or duty officer shall conduct any search of Medicine Pouches/Bags or Medicine Bundles but shall not physically touch or open the Pouch/Bag or Bundle or rifle through its contents.
    - b. Rather, the female shift commander or duty officer shall ask the Custodian to open his or her Pouch/Bag or Bundle and allow the officer to view its contents without touching them.

- c. During this visual inspection, the female shift commander or duty officer shall have the custodian use a metal rod to probe the pouch/bag to ensure that there isn't any contraband contained within.

If the female shift commander or duty officer determines that the Pouch/Bag or Bundle contains some item of contraband, the Custodian will close and secure the Pouch/Bag or Bundle, and deliver it over to the female shift commander or duty officer. The female shift commander or duty officer shall deliver it promptly and directly to the Native American Programs Coordinator for disposition in accordance with the further provisions of Policy *CD-101100* and this Procedure.

6. Because of the large variety of tribal beliefs and traditions represented in the inmate population, it is difficult to anticipate all the issues, questions and concerns that that could arise. Accordingly, all questions concerning the status of an item as a "Personal Religious Item" (meaning its legitimacy, authenticity, permissibility, appropriateness, or proper care, etc.) shall, in accordance with Policy *CD-101100* and this Procedure, be referred to the Native American Programs Coordinator who shall review and resolve such questions and make appropriate recommendations.

**O. Sacred Pipes and Mountain Smoke / Tobacco Blend:**

Many Native American practitioners incorporate the use of Mountain Smoke / Tobacco Blend and the Sacred Pipe into their prayer rituals. While it is possible for a practitioner to keep his or her personal pipe in his or her cell, and to keep a small amount of Mountain Smoke / Tobacco Blend in his or her Medicine Pouch/Bag or Spiritual Bundle, the lighting of pipes and smoking of Mountain Smoke / Tobacco Blend is not permitted in housing units. Accordingly, the lighting of pipes and smoking of Mountain Smoke / Tobacco Blend is restricted to the Sweat Lodge or to other specially designated areas.

**P. Hair Length:**

No Native American shall be required to cut his hair if so doing would conflict with the religious exercise of his sincerely held traditional Native American religious beliefs after he has requested and is granted a hair exemption, based on religious considerations, from the Chaplain, Unit Manager, and Deputy Warden.



**NEW MEXICO CORRECTIONS DEPARTMENT**

**Request/Approval for Medicine Bundles, Bag or Pouches**

**MEMORANDUM**

TO: \_\_\_\_\_, Warden  
THRU: \_\_\_\_\_, Deputy Warden  
FROM: \_\_\_\_\_, (Native American Coordinator / Rec. Supervisor / Chaplin)  
DATE: \_\_\_\_\_, FACILITY: \_\_\_\_\_  
RE: Request/Approval to Wear Medicine Bundles, Bag or Pouches

.....  
In accordance with Policy CD-101101 (Native American Counseling Act), the following inmate  
\_\_\_\_\_ NMCD # \_\_\_\_\_ is requesting

permission to wear/keep in his possession one, Medicine Bundle, Bag or Pouch (circle one). The inmate's Census Number is \_\_\_\_\_. Evidence of Sincere Religious Belief in Native American Religion is attached hereto.

**List all contents of Bundle, Bag, or Pouch.**

(Circle one)

(Remember that the Warden prohibits the use of arrow heads, eagle talons, or antlers in any Bundle, Bag, or Pouch.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Medicine Bundles, Bags and Pouches are subject to visual searches only upon the authorization of the Duty Officer and/or a Shift Commander. These Sacred Pouches will be treated with respect at all times and will not be handled by officers. The Native American inmates who practice the Native American Religion will be issued a copy of this authorization to present during any searches and to keep with his religious items in the living unit.

Inmate Signature: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Date: \_\_\_\_\_

.....  
**WARDEN'S REVIEW**

[ ] Approved [ ] Disapproved with comments  
Warden: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
(Print) (Sign)

Comments:  
\_\_\_\_\_



# APPENDIX 3

## 2022 List of Nations Tribes and Pueblo Leadership

### PUEBLO LEADERSHIP

#### [Pueblo of Acoma](#)

Governor Brian Vallo  
P.O. Box 309  
Acoma, NM 87034  
Phone: [\(505\) 552-6604](tel:(505)552-6604)  
Fax: (505) 552-7204  
1st Lt. Gov. Pierson Siow  
2nd Lt. Gov. Bernard E. Lewis

#### [Pueblo of Cochiti](#)

Governor Joseph Herrera  
P.O. Box 70  
Cochiti Pueblo, NM 87072  
Phone: [\(505\) 465-2244](tel:(505)465-2244)  
Fax: (505) 465-1135  
Lt. Gov. Salvador G. Romero

#### [Pueblo of Isleta](#)

Governor Vernon B. Albeita  
P.O. Box 1270  
Isleta Pueblo, NM 87022  
Phone: [\(505\) 869-3111](tel:(505)869-3111)  
Fax: (505) 869-7596  
1st Lt. Gov. Virgil N. Lucero  
2nd Lt. Gov. Blane Sanchez

#### [Pueblo of Jemez](#)

Governor Michael Toledo, Jr.  
P.O. Box 100  
Jemez Pueblo, NM 87024  
Phone: [\(575\) 834-7359](tel:(575)834-7359)  
Fax: (575) 834-7331  
1st Lt. Gov. Michael Chinana  
2nd Lt. Gov. Kurt MOra

#### [Pueblo of Laguna](#)

Governor John Antonio Sr.  
P.O. Box 194  
Laguna Pueblo, NM 87026  
Phone: [\(505\) 552-6654](tel:(505)552-6654)  
Fax: (505) 552-6941  
1st Lt. Gov. Martin Koweny, Jr.  
2nd Lt. Gov. Kenneth J. Tiller

#### [Pueblo of Nambe](#)

Governor Nathaniel Porter  
15A NP102 West  
Santa Fe, NM 87506  
Phone: [\(505\) 455-2036](tel:(505)455-2036)  
Fax: (505) 455-2038  
Lt. Gov. Natividad Herrera

#### [Ohkay Owingeh](#)

Governor Patrick Aguino  
P.O. Box 1099  
San Juan Pueblo, NM 87566  
Phone: [\(505\) 852-4400](tel:(505)852-4400)  
Fax: (505) 852-4820  
1st Lt. Gov. Michael Cata  
2nd Lt. Gov. Marcello Povijua

#### [Pueblo of Picuris](#)

Governor Craig Quanchello  
P.O. Box 127  
Penasco, NM 87553  
Phone: [\(575\) 587-2519](tel:(575)587-2519)  
Fax: (575) 587-1071  
Lt. Gov. Anthony Knitter

#### [Pueblo of Pojoaque](#)

Governor Jenelle Roybal  
Pueblo of Pojoaque  
78 Cities of Gold Road  
Santa Fe, NM 87506  
Phone: [\(505\) 455-4500](tel:(505)455-4500)  
Fax: (505) 455-0174  
Lt. Gov. Rafaela Sanchez

#### [Pueblo of San Felipe](#)

Governor Carl Valencia  
P.O. Box 4339  
San Felipe Pueblo, NM 87001  
Phone: [\(505\) 867-3381](tel:(505)867-3381)  
Fax: (505) 867-3383  
Lt. Gov. Joseph Trancosa

#### [Pueblo of San Ildefonso](#)

Governor Christopher Moquino  
02 Tunyo Po  
Santa Fe, NM 87506  
Phone: [\(505\) 455-2273](tel:(505)455-2273)  
Fax: (505) 455-7351  
Lt. Gov. Raymond John Martinez

#### [Pueblo of Sandia](#)

Governor Stuart Paisano  
481 Sandia Loop  
Bernalillo, NM 87004  
Phone: [\(505\) 867-3317](tel:(505)867-3317)  
Fax: (505) 867-9235  
Lt. Gov. Felix Chavez

#### [Pueblo of Santa Clara](#)

Governor J. Michael Chavarria  
P.O. Box 580  
Española, NM 87532  
Phone: [\(505\) 753-7330](tel:(505)753-7330)  
Fax: (505) 753-8988  
Lt. Gov. James Naranjo

**Pueblo of Santo Domingo**

Governor Sidelio Tenorio  
P.O. Box 99  
Santo Domingo Pueblo, NM 87052  
Phone: **(505) 465-2214** / 2215  
Fax: (505) 465-2688  
Lt. Gov. Herman Tenorio

**Pueblo of Taos**

Governor Clyde M. Romero  
P.O. Box 1846  
Taos, NM 87571  
Phone: **(575) 758-9593**  
Fax: (575) 758-4604  
Lt. Gov. Samuel Gomez

**Pueblo of Tesuque**

Governor Earl Samuel  
Route 42, Box 360-T  
Santa Fe, NM 87506  
Phone: **(505) 983-2667**  
Fax: (505) 982-2331  
Lt. Gov. Louie Hena

**Pueblo of Zia**

Governor Gabriel Galvan  
135 Capitol Square Dr.  
Zia Pueblo, NM 87053  
Phone: **(505) 867-3304**  
Fax: (505) 867-3308  
Lt. Gov. Bruce Shije

**Pueblo of Zuni**

Governor Val R. Panteah, Sr.  
P.O. Box 339  
Zuni, NM 87327  
Phone: **(505) 782-7000**  
Fax: (505) 782-7202  
Lt. Gov. Carleton R. Bowekaty

**Ysleta Del Sur** (APCG Member)

Governor E. Michael Silvas  
117 S. Old Pueblo Road, P.O. Box  
17579  
El Paso, TX 79907  
Phone: **(915) 859-8053**  
Fax: (915) 859-4252  
Lt. Gov. Adam Torres

**APACHE LEADERSHIP**

**Jicarilla Apache Nation**

President Edward Velarde  
P.O. Box 507  
Dulce, NM 87528  
Phone: **(575) 759-3242**  
Fax: (575) 759-3005  
Vice President Sonja A. Newton

**Mescalero Apache Tribe**

President Eddie Martinez  
P.O. Box 227  
Mescalero, NM 88340  
Phone: **(575) 464-4494**  
Fax: (575) 464-9191  
Vice President Bernalyn "Gina" Via

**Fort Sill Apache Tribe**

Chairwoman Lori Gooday-Ware  
Rt. 2, Box 121  
Apache, OK 73006  
Phone: **(580) 588-2298**  
Fax: (580) 588-3133  
Vice-Chairman Pamela Eaglesfield

**NAVAJO NATION LEADERSHIP**

**Navajo Nation**

President Jonathan Nez  
P.O. Box 7440  
Window Rock, AZ 86515  
Phone: **(928) 871-7000**  
Fax: (928) 871-4025  
Vice President Myron Lizer

**Navajo Nation Council**

Seth Damon, Office of the Speaker  
P.O. Box 3390  
Window Rock, AZ 86515  
Phone: **(928) 871-7160**  
Fax: (928) 871-7255