 <p>CD-101100</p>	<p>NEW MEXICO CORRECTIONS DEPARTMENT</p> <p><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i> Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
	<p>ISSUE DATE: 01/03/84</p> <p>EFFECTIVE DATE: 01/03/84</p>	<p>REVIEWED: 03/15/18</p> <p>REVISED: 03/15/18</p>
	<p>TITLE: Native American Counseling Act</p>	

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*, 2nd Edition.
- B. ACA Standards 4-4517 and 4-4520, *Standards for Adult Correctional Institutions*, 4th Edition.

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

- A. To assist Native American inmates and Native American religious practitioner 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 an inmate of Native American Heritage, or a Native American religious practitioner the origin and interpretation of which is from a traditional Native American culture or community, including the Native American Church
- G. Native American Religious Practitioner: An inmate who has a sincerely held religious belief in the Native American Religion's system of faith and worship.
- H. 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 and Native American Religious Practitioner 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.
- 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 and Native American Religious Practitioner of NMCD shall be afforded the right to observe the American Indian Religious Holy Days of September 24th and 25th by being excused from their institutional work or other program assignment upon written request submitted at least ten (10) working days prior to September 24th.
- 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.

David Jablonski, Secretary of Corrections
New Mexico Corrections Department

03/15/18

Date

 <p>CD-101101</p>	<p>NEW MEXICO CORRECTIONS DEPARTMENT</p> <p><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i> Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</p>	
	<p>ISSUE DATE: 01/03/84</p> <p>EFFECTIVE DATE: 01/03/84</p>	<p>REVIEWED: 03/15/18</p> <p>REVISED: 03/15/18</p>
	<p>TITLE: Native American Counseling Act</p>	

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.

The Native American Programs Coordinator is the principal leader and counselor for inmates exploring, seeking and practicing Native American spiritual traditions. The Native American Programs Coordinator shall determine the appropriate level of an inmate's participation in specific Native American Religious Programs. An inmate's Native American heritage, or sincere belief in Native American spirituality, may initially qualify the inmate to participate in Native American Religious Programs. However, the Warden and the Native American Programs Coordinator may restrict participation in specific ceremonies and programs, in the least restrictive manner deemed necessary, to maintain facility security, safety, health and order, or to further inmate rehabilitation, consistent with applicable legal standards.

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. Due to the unique security considerations inherent in the Sweat Lodge Ceremony, the Warden in consultation with the Native American Programs Coordinator and the Chaplain, may restrict or limit individual inmates from participation or joint participation with other inmates, if the Warden determines that the restriction or limitation is the least restrictive means necessary to maintain facility security, safety, health and order, or to further inmate rehabilitation or other penological interest, consistent with applicable legal standards.
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. Inmate eligibility to participate in Talking Circle Ceremony is determined by the Native American Programs Coordinator, who may restrict or limit individual inmates from participation if the Coordinator determines this is the least restrictive means necessary to maintain facility security, safety, health and order, or to further inmate rehabilitation or other penological interest, consistent with applicable legal standards.

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 24th and 25th:

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 24th and 25th 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, or once an inmate has shown he or she holds a sincere belief in a Native American Religion and once the Native American Programs Coordinator has verified and authenticated such documentation information, or belief the Native American Programs Coordinator shall complete the Memorandum of **Native American Religion/Verification Report** form (*CD- 101101.1*) verifying that such inmate's Native American Heritage or sincere belief in a Native American Religion 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 approved to participate in Native American Religions Programs and possess personal religious items 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. Approval to participate in Sweat Lodge Ceremony, and any restrictions on Sweat Lodge Ceremony participation, shall be specially noted.

H. Concerning Status as a "Native American":

1. All questions concerning an inmate's eligibility to participate in Native American ceremonies for purposes of Policy CD-101100 and this Procedure, 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. Inmates may become eligible to participate in "Native American" programs and ceremonies by providing "Documentation of Native American Heritage" to NMCD, or by showing that the inmate holds a sincere belief in Native American religious/spiritual beliefs
 - 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 be immediately eligible to participate in available Native American Religious Programming, according to the Native American

Programs Coordinator's assessment of the appropriate level of participation in the various ceremonies. The assessment may be ongoing, and the inmate's level of participation may be adjusted according to the ongoing assessment. Inmates who have no tribal census or enrollment number, but are eligible to receive one, may at the discretion of the Native American Programs Coordinator be allowed ninety days (90) days to apply for and receive the tribal census or enrollment number, and be provisionally eligible to participate in available Native American Religious Programming.

- b. Inmates who are not of Native American Heritage may declare their religious preference to be of the Native American spiritual/religious faith, utilizing *Form CD-101301.1*, and may submit evidence indicative of a sincerely held religious belief in Native American spiritual/religious faith. The inmate may consult with the Native American Programs Coordinator prior to declaring this religious preference.
 - 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 to the NMCD or submitted evidence indicative of a sincerely held religious belief in Native American spiritual/religious faith, in accordance with the provisions of NMCD Policy *CD-101100* and these Procedures.

J. Sweat Lodge:

1. Because the Sweat Lodge Ceremony presents unique security concerns, the Warden, in consultation with the Native American Programs Coordinator and the Chaplain, may restrict or limit individual inmates from participation, or joint participation with other inmates, in the least restrictive manner necessary to maintain facility security, safety, health and order, or to further inmate rehabilitation or other penological interest, consistent with applicable legal standards. All such determinations must be documented and reevaluated according to changed circumstances. An inmate who formerly was determined to be appropriate to participate in Sweat Lodge Ceremony may subsequently be determined to be inappropriate to participate in Sweat Lodge Ceremony temporarily or even permanently, provided that such restriction is the least restrictive alternative necessary to maintain facility security, safety, health and order, or to further inmate rehabilitation or other penological interest, consistent with applicable legal standards. The determinations shall take into consideration the inmate's disciplinary history, gang affiliation (if any), individual security risk assessment, and ability to participate cooperatively and harmoniously with other inmates in this largely unsupervised ceremony.. Any violence, threatening behavior, or unreasonable argumentation in the sweat lodge or involving other sweat lodge participants, should cause reassessment of the inmate's eligibility to participate in Sweat Lodge Ceremony, and may render the inmate temporarily or even permanently ineligible to participate in Sweat Lodge Ceremony, provided that such restriction is the least restrictive means necessary to maintain facility security, safety, health and order, or to further inmate rehabilitation or other penological interest, consistent with applicable legal standards. Individual sweat lodge sessions for inmates who are not appropriate for group sweat lodge may be arranged if the prison facility has the resources to make appropriate arrangements that do not present an unreasonable security risk.
2. 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 up to at least six (6) consecutive hours.
3. 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 normally 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.

4. Special Management Inmates: Native American practitioners who are classified as Special Management, or who are housed at a correctional institution designated as Special Management (formerly designated as Security Levels V and VI), will normally not be allowed access to the Sweat Lodge for participation in group or congregate Native American Religious Programs. However, Native American practitioners who are housed in Special Management will be allowed individual, but less frequent, sessions in the Sweat Lodge, , and 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 and the Warden's assessment of security considerations (such as which inmates are appropriate to participate with which other inmates). Native American religious practitioners 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.
5. 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.
6. 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.

David Jablonski, Secretary of Corrections
New Mexico Corrections Department

03/15/18
Date

NEW MEXICO CORRECTIONS DEPARTMENT
Native American Religion Verification Report

MEMORANDUM

TO: Native American Program Coordinator

THRU: _____, Deputy Warden

FROM: _____, FACILITY: _____

DATE: _____

RE: Native American Heritage/Verification Report

.....

This memorandum is for your review/verification of the following Native Americans, who wish to participate in the Native American Religious Ceremonies.

<u>Inmate Name</u>	<u>NMCD #</u>	<u>Tribe Affiliation</u>	<u>Census #</u>	<u>Verified Y/N</u>

Reviewed and Verified by: _____ / _____ Date: _____
(Print) (Sign)

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: _____

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WARDEN'S REVIEW

[] Approved [] Disapproved with comments

Warden: _____ / _____ Date: _____
(Print) (Sign)

Comments: _____

