

NATIONAL NATIVE JUSTICE INSTITUTE

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EXECUTIVE–LAW ENFORCEMENT RELATIONS TOOLKIT

*Oversight Without Interference — A Governance Resource Guide for Tribal Executive Branch
Leadership*

Prepared for tribal executives, councils, public safety commissions,
and tribal law enforcement leadership

National Native Justice Institute

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1. Purpose & How to Use This Toolkit

Every tribal nation manages the same structural tension: elected leaders are accountable to the membership for public safety, yet the legitimacy of law enforcement depends on its independence from political pressure in individual cases. This toolkit gives tribal executives, councils, public safety commissions, and police leadership a shared framework for getting that balance right — clear enough to adopt into tribal code or council resolution, flexible enough to fit a department of five officers or fifty.

This is a governance resource, not legal advice. Every tribe's constitution, law and order code, and relationship with the Bureau of Indian Affairs, P.L. 93-638 contracting status, and state/federal partners differs. Tribal legal counsel should review any policy or resolution language before adoption.

Who this toolkit is for

- Tribal Chairpersons, Presidents, Governors, and Council members
- Public Safety Commission or Board members
- Chiefs of Police and public safety directors
- Tribal administrators and attorneys drafting or revising law and order codes

How to use it

Work through Sections 2–6 as a governance design exercise — ideally in a joint session with the executive, council, and police leadership present. Sections 7–9 translate that design into day-to-day protocol. Section 10 is a one-page checklist your council can adopt directly. The appendices contain sample resolution and policy language your attorney can adapt to tribal code.

2. Guiding Principles

These five principles are the foundation everything else in this toolkit is built on. When a new situation arises that isn't explicitly covered elsewhere, return to these.

Principle 1 — Separation of Function, Not Separation of Accountability

The executive branch does not lose authority over law enforcement by respecting its independence. Oversight of policy, budget, and performance stays firmly with elected leadership. What moves outside elected reach is the handling of any single case, suspect, or complaint.

Principle 2 — Policy Oversight Yes, Case Interference No

A workable test for any proposed executive action: does this set a rule that applies to everyone (policy), or does it change what happens to one specific person or investigation (interference)? The first is the executive's job. The second is not.

Principle 3 — Transparency Builds Trust; Secrecy Erodes It

Communities forgive honest mistakes far more readily than they forgive the appearance of a cover-up. Written policy, public reporting, and a known complaint process protect both the department and the elected leadership from suspicion.

Principle 4 — Sovereignty Includes the Responsibility to Self-Govern Justly

Tribal sovereignty is strengthened, not weakened, by a tribal justice system that federal partners, state agencies, and the tribe's own membership see as fair and well-governed. Strong internal oversight is an exercise of sovereignty, not a concession of it.

Principle 5 — Written Policy Over Verbal Understanding

Unwritten “understandings” between an executive and a chief of police are where interference and favoritism hide, whether or not anyone intends harm. If a practice is legitimate, it can be written down.

3. Legal & Regulatory Foundation

This toolkit operates inside the framework already established by tribal, federal, and (where applicable) state law. It does not replace tribal code — it helps a tribe use these authorities to build clear internal governance.

Tribal constitution and law and order code

The tribe's constitution and law and order code are the supreme internal authority. Any governance structure recommended in this toolkit — a public safety commission, a fixed-cause removal standard for the chief of police — should be adopted through formal council resolution or code amendment, not informal practice.

Indian Self-Determination and Education Assistance Act (P.L. 93-638)

For tribes operating law enforcement under a 638 contract or compact, the contract's scope of work and the tribe's own personnel policies govern hiring, supervision, and removal of officers, in addition to tribal code. Oversight structures should be written to be consistent with the tribe's 638 agreement.

Tribal Law and Order Act of 2010 (TLOA)

TLOA strengthened tribal courts' sentencing authority and set training, certification, and data-sharing expectations for tribal justice systems. A governance structure that documents officer certification compliance and case data reporting to council supports a tribe's TLOA posture.

Violence Against Women Act — Special Domestic Violence Criminal Jurisdiction (VAWA SDVCJ)

Tribes exercising SDVCJ must meet defendant-rights protections written into the statute. Any executive oversight structure must be built so it cannot be read as compromising the impartiality those protections require.

BIA Office of Justice Services (BIA-OJS) standards

Where a department participates in BIA-OJS certification, accreditation, or funding programs, those standards should be cross-referenced in the tribe's policy manual so oversight structures satisfy both tribal and federal requirements simultaneously.

Disclaimer

This section is a plain-language orientation to well-established federal Indian law frameworks, not legal advice. Tribal legal counsel should confirm how these authorities interact with the tribe's specific constitution, code, and agreements before any structure in this toolkit is adopted.

4. Governance Models — Choosing a Structure

There is no single correct structure. The three models below are the most common starting points; many tribes land on a hybrid. Select the one that matches your population size, department size, and council capacity, then formalize it in code.

Model	How it works	Best fit	Watch for
A. Direct Executive Oversight	Chief of Police reports directly to the Chairperson/President; council retains budget authority.	Small departments, small tribes where a separate board isn't practical.	Highest interference risk — needs the strongest written non-interference policy (Sec. 6) to offset it.
B. Public Safety Commission / Board	An appointed board with staggered, fixed terms handles hiring, policy, and discipline oversight; insulated from single election cycles.	Mid-size to large tribes; departments with prior politicization history.	Needs clear appointment/removal rules for commissioners themselves, or the board becomes just as politicized.
C. Hybrid Model	Commission holds policy, hiring, and discipline oversight; executive/council retains budget and final appointment ratification.	Tribes wanting insulation without fully ceding budget authority.	Requires very clear written division of who decides what — the most common source of later disputes.

Whichever model is chosen, write into code: (1) how members of the oversight body are selected and removed, (2) fixed and staggered terms where a board is used, and (3) an explicit statement that the model may not be restructured to remove a sitting chief or commissioner outside the cause standard in Section 6.

5. Core Oversight Mechanisms — Where the Executive Branch Belongs

These are the levers elected leadership should hold, exercised openly and in writing.

- Budget authority and resource allocation for the department
- Review and adoption of the department's strategic plan and aggregate performance metrics (calls for service, response times, staffing, training compliance) — never individual case outcomes
- Hiring and performance evaluation of the Chief of Police, and removal only for cause defined in writing before any removal action begins
- Approval of department-wide policy manuals: use of force, pursuit, evidence handling, body-worn camera, and complaint intake
- Oversight of training and certification compliance (POST/BIA-OJS standards, TLOA requirements)
- Establishing a community policing advisory channel for membership input on priorities
- Receiving an annual public safety report to council and membership — aggregate data only
- Approving inter-agency MOUs (state cross-deputization, federal task forces) as a matter of policy

6. Impartiality Safeguards — Where the Executive Branch Does Not Reach

These are the boundaries that protect both the department's integrity and the elected officials themselves from allegations of interference.

- No involvement in individual arrest, charging, or investigative decisions
- No influence over which officer or investigator is assigned to a case, or its outcome
- No exceptions for relatives, political allies, or campaign supporters — written and enforced identically for everyone
- Mandatory recusal for any elected official with a personal, family, or business relationship to a case under investigation
- Non-retaliation protection for any officer who declines an improper directive from an elected official
- Any communication from an elected official to law enforcement that touches an active case — even a routine inquiry — is logged in writing and available to the oversight body

The core test

Before acting, ask: “Am I setting a rule, or changing an outcome?” Rules for everyone belong to the executive branch. Outcomes for one person belong to law enforcement and the courts.

7. Roles & Responsibilities Matrix

Adapt column headers to the governance model chosen in Section 4. “X” marks primary decision authority; “Input” marks an advisory or notification role only.

Function	Executive / Council	Public Safety Commission	Chief of Police
Department budget	X	Input	Input

Function	Executive / Council	Public Safety Commission	Chief of Police
Hire / evaluate / remove Chief	X (or ratify)	X (recommend)	—
Department policy manual approval	X (adopt)	X (draft)	Input
Individual arrest / charging decisions	—	—	X (delegated to officers/investigators)
Internal affairs / complaint review	Receives aggregate report only	X	X (initial intake)
Use-of-force incident review	Receives aggregate report only	X	X
Officer discipline	—	X (oversight)	X (day-to-day)
Public statements on active cases	Coordinates via PIO only	—	X (via PIO)
Inter-agency MOUs	X (approve)	Input	X (negotiate)
Emergency operational authority	Declares emergency	—	X (operational command)

8. Complaint & Internal Affairs Protocol

A published, predictable complaint process protects officers from unfounded accusations and gives the community confidence that founded ones are addressed.

1. Intake: complaints are received through a published, tribe-wide known channel — never routed through the Chairperson/President's office or a council member individually.
2. Independent review: assigned to internal affairs or the public safety commission, insulated from the political office of any elected official.
3. Findings: documented in writing with a defined timeline (commonly 30–60 days, adjusted to case complexity).
4. Discipline recommendation: made by the Chief of Police or commission per the tribe's personnel code, with defined appeal rights for the officer.
5. Community access point: the complainant is notified of the outcome category (e.g., sustained/not sustained) consistent with personnel confidentiality law — not case-level investigative detail.
6. Annual aggregate reporting: complaint volume and category (not individual identifying detail) reported to council once a year as part of the public safety report.

9. Communication Protocols

Consistent, coordinated communication protects the department and elected leadership alike, especially during high-visibility incidents such as a Missing or Murdered Indigenous Persons (MMIP) case.

- Designate a single Public Information Officer (PIO) role for law enforcement matters — elected officials do not independently confirm or deny investigative details.
- Establish a written victim/family notification protocol for MMIP and other serious cases, coordinated between law enforcement and any victim advocate program.
- In a crisis, executive and law enforcement leadership issue joint or sequenced statements agreed upon in advance, rather than competing or contradictory ones.
- Elected officials may speak to policy, resources, and community reassurance; they refer investigative questions back to the PIO.

10. Training, Onboarding & Implementation Checklist

Onboarding newly elected leadership

Each election cycle brings new council members and sometimes a new Chairperson or President. Build a standing orientation — even a one-hour briefing — that walks incoming leadership through this toolkit's principles and the tribe's specific oversight structure before they take office.

Coordinating professional development

Tie department training and certification planning to the oversight body's annual review cycle so compliance gaps surface early rather than at audit time. Regional and national tribal public safety training organizations, including NNJI, can support this planning.

Implementation checklist

- Tribal constitution and law and order code reviewed against this toolkit's principles
- Governance model selected (Sec. 4) and formalized by council resolution or code amendment
- Written, in-force cause standard for removal of the Chief of Police adopted before any removal action is contemplated
- Department policy manual current and approved through the adopted governance structure
- Published, tribe-wide known complaint intake process in place
- Non-interference and conflict-of-interest policy adopted and signed by all current elected officials
- Annual public safety report scheduled on the council calendar
- PIO role designated and family/victim notification protocol documented
- New-leadership onboarding briefing scheduled for the next election cycle

Appendix A — Sample Council Resolution Language

For a tribe adopting the Public Safety Commission or Hybrid model (Section 4). Adapt bracketed terms to tribal code and have tribal legal counsel review before adoption.

Sample resolution excerpt

“The [Tribe] Council hereby establishes a Public Safety Commission of [five (5)] members, appointed to staggered [three (3)]-year terms, for the purpose of policy oversight, hiring and discipline oversight of the Chief of Police, and review of department performance. No member of the Commission shall direct, influence, or attempt to influence the outcome of any individual investigation, arrest, or prosecution. Removal of a Commission member or the Chief of Police prior to the end of a term shall be for cause as defined in [Code Section ___], following written notice and opportunity to respond.”

Appendix B — Sample Non-Interference & Conflict-of-Interest Policy

Sample policy excerpt

“No elected official, appointed commissioner, or tribal employee shall attempt to influence the initiation, conduct, or outcome of any individual law enforcement investigation, arrest, or internal affairs matter. Any communication from an elected official to law enforcement personnel regarding a specific pending matter shall be documented in writing and provided to the Public Safety Commission within [five (5)] business days. An elected official with a personal, family, or business relationship to a person under investigation shall recuse from any oversight action touching that matter.”

Appendix C — Glossary

- P.L. 93-638 — Indian Self-Determination and Education Assistance Act; authorizes tribes to contract or compact to operate federal programs, including law enforcement, themselves.
- TLOA — Tribal Law and Order Act of 2010; strengthened tribal court sentencing authority and set training/certification/data expectations.
- VAWA SDVCJ — Violence Against Women Act Special Domestic Violence Criminal Jurisdiction; allows tribes to exercise criminal jurisdiction over certain non-Native defendants in domestic violence cases, subject to defendant-rights protections.
- BIA-OJS — Bureau of Indian Affairs Office of Justice Services; sets certification, accreditation, and funding standards for many tribal law enforcement programs.
- MMIP — Missing or Murdered Indigenous Persons; used here in reference to family notification and communication protocols.
- PIO — Public Information Officer; the single designated spokesperson role for law enforcement communications.

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We don't look away from what's broken in our communities. We also don't let what's broken speak for the whole nation.

— Steven Juneau, President & CEO, National Native Justice Institute