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Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 13, 2417, 2453, and 2802.

## ***Subpart A--Responsibilities***

### *Sec. 12.1 Who is responsible for the Bureau of Indian Affairs law enforcement function?*

The Deputy Commissioner of Indian Affairs is responsible for Bureau of Indian Affairs operated and contracted law enforcement programs, and for overall policy development and implementation of the Indian Law Enforcement Reform Act, Public Law 101-379 (25 U.S.C. 2801 et seq.).

### *Sec. 12.2 What is the role of the Bureau of Indian Affairs Special Agent in Charge of Law Enforcement Service?*

The Director of Law Enforcement Services for the Bureau of Indian Affairs (Director) has been designed as the single individual responsible for the overall law enforcement and detention policies and standards, and management of all Bureau of Indian Affairs criminal investigations, drug enforcement, training, internal affairs, inspection and evaluation, emergency response forces, and other national level Indian country law enforcement initiatives. The Director publishes these policies and standards in law enforcement manuals and handbooks. The Director is also directly responsible for developing crime prevention and outreach programs within Indian country law enforcement.

### *Sec. 12.3 Who supervises Bureau of Indian Affairs Special Agents?*

All Bureau of Indian Affairs Special Agents are supervised by other Special Agents within the Office of Law Enforcement Services.

### *Sec. 12.4 Who supervises the Bureau of Indian Affairs uniformed police, detention and conservation enforcement functions?*

The agency superintendent is directly responsible for the operation and management of Bureau of Indian Affairs uniformed police operations, detention facilities, and conservation enforcement operations at any agency having these programs. The agency superintendent must also ensure technical support is provided to any agency contracting the law enforcement and/or detention program.

## ***Subpart B--Policies and Standards***

### *Sec. 12.11 Do I have to follow these regulations?*

You must follow the minimum standards outlined in the regulations in this part if you are part of a Bureau of Indian Affairs or tribal law enforcement program receiving Federal funding or operating under a Bureau of Indian Affairs law enforcement commission.

### *Sec. 12.12 What about self-determination?*

The regulations in this part are not intended to discourage contracting of Indian country law enforcement programs under the Indian Self-determination and Education Assistance Act (Public Law 93-638, as amended, 25 U.S.C. 450). The Deputy Commissioner

of Indian Affairs will ensure minimum standards are maintained in high-risk activities where the Federal government retains liability and the responsibility for settling tort claims arising from contracted law enforcement programs.

It is not fair to law-abiding citizens of Indian country to have anything less than a professional law enforcement program in their community. Indian country law enforcement programs that receive Federal funding and/or commissioning will be subject to a periodic inspection or evaluation to provide technical assistance, to insure compliance with minimum Federal standards, and to identify necessary changes or improvements to Bureau of Indian Affairs policies.

*Sec. 12.13 What happens if I do not follow the rules in this part?*

Your Bureau of Indian Affairs law enforcement commission may be revoked, your law enforcement contract may be canceled, and you may no longer be eligible for tribal shares allocated from the law enforcement budget.

*Sec. 12.14 Where can I find specific policies and standards for law enforcement functions in Indian country?*

The Bureau of Indian Affairs will ensure that all Indian country law enforcement programs are provided a copy of the most current policy manuals and handbooks. Every Indian country law enforcement program covered by the regulations in this part must maintain an effective and efficient law enforcement program meeting minimal qualitative standards and procedures specified in Chapter 68 Bureau of Indian Affairs Manual (BIAM) and the Law Enforcement Handbook.

***Subpart C--Authority and Jurisdiction***

*Sec. 12.21 What authority is given to Indian country law enforcement officers to perform their duties?*

Bureau of Indian Affairs law enforcement officers are commissioned under the authority established in Title 25 U.S.C. 2803. The Bureau of Indian Affairs may issue law enforcement commissions to other Federal, State, local and tribal full-time certified law enforcement officers to obtain active assistance in the enforcement of applicable Federal criminal statutes, including Federal hunting and fishing regulations in Indian country. Any such deputization of personnel not employed by the Bureau of Indian Affairs will only be issued after an agreement is completed between the head of the local government or Federal agency requesting the authority and the Deputy Commissioner of Indian Affairs.

Any such agreement will include language that allows the Bureau of Indian Affairs to evaluate the effectiveness of such delegated commissions and to investigate any allegations of misuse of authority involving these commissions. Tribal law enforcement officers operating under a Bureau of Indian Affairs contact or compact are not commissioned Federal officers; however, they may be commissioned on a case-by-case basis.

*Sec. 12.22 Can Bureau of Indian Affairs law enforcement officers enforce tribal laws?*

Bureau of Indian Affairs officers will only enforce tribal laws with the permission of the tribe. Local programs are encouraged to make arrangements and agreements with local jurisdictions to facilitate law enforcement objectives.

*Sec. 12.23 What are the jurisdictional limits in Indian country?*

The Department of the Interior and the Department of Justice must maintain and periodically review and update a memorandum of understanding describing the relationship between the Federal Bureau of Investigation and the Bureau of Indian Affairs in the investigation and prosecution of major crimes in Indian country. The guidelines in this memorandum of understanding and any local United States Attorney's guidelines for the investigation and prosecution of Federal crimes will be followed by any law enforcement programs performing duties or under the authority of 25 U.S.C. 2803.

***Subpart D--Qualifications and Training Requirements***

*Sec. 12.31 Are there any minimum employment standards for Indian country law enforcement personnel?*

The Director must develop, maintain, and periodically review the qualification standards, including medical qualification standards, for all Bureau of Indian Affairs law enforcement, detention and conservation enforcement occupational series. The standards will be no less stringent than the minimum standards established by the U.S. Office of Personnel Management (OPM) for these occupational series, and may exceed the OPM standards. The Bureau of Indian Affairs standards are available for review at any Bureau of Indian Affairs personnel office. All tribal programs are encouraged to develop standards at least as stringent as those established for Bureau of Indian Affairs officers.

*Sec. 12.32 Do minimum employment standards include a background investigation?*

Law enforcement authority is only entrusted to personnel possessing adequate education and/or experience, training, aptitude, and high moral character. All Indian country law enforcement programs receiving Federal funding and/or authority must ensure that all law enforcement officers successfully complete a thorough background investigation no less stringent than required of a Federal officer performing the same duties. Trained and qualified security professionals must adjudicate the background investigations of applicants and employees. All background investigations must be documented and available for inspection by the Bureau of Indian Affairs.

*Sec. 12.33 Are Indian country law enforcement officers paid less than other law enforcement officers?*

The Deputy Commissioner of Indian Affairs must insure that all Bureau of Indian Affairs law enforcement officer positions are established at no lower grade level on the Federal scale than similar Federal law enforcement officer positions in other agencies. No Bureau of Indian Affairs position performing commissioned law enforcement duties will be classified in other than GS 0083, police officer series, for uniformed officers and the GS 1811, criminal investigating series, for Special Agents.

*Sec. 12.34 Do minimum salaries and position classifications apply to a tribe that has contracted or compacted law enforcement under self-determination?*

Any contract or compact with the Bureau of Indian Affairs to provide law enforcement services for an Indian tribe must require a law enforcement officer to be paid at least the same salary as a Bureau of Indian Affairs officer performing the same duties.

*Sec. 12.35 Do Indian country law enforcement officers complete any special training?*

Law enforcement personnel of any program funded by the Bureau of Indian Affairs must not perform law enforcement duties until they have successfully completed a basic law enforcement-training course prescribed by the Director. The Director will also prescribe mandatory supplemental and in-service training courses.

*Sec. 12.36 Does other law enforcement training count?*

All requests for evaluation of equivalent training must be submitted to the Indian Police Academy for review, with final determination made by the Director. Requests for a waiver of training requirements to utilize personnel prior to completing the required courses of instruction must be submitted to the Director and approved or disapproved by the Deputy Commissioner of Indian Affairs. In no case will such a waiver allow personnel to be utilized in any position for more than one year without achieving training standards. Failure to complete basic training requirements will result in removal from a law enforcement position.

### ***Subpart E--Records and Information***

*Sec. 12.41 Who keeps statistics for Indian country law enforcement activities?*

The Director maintains a criminal justice information system for Indian country. The Director will prescribe the types of data to be collected and the reporting format to be used to collect information and assemble reports on crime reported in Indian country. These reports may be provided to the Department of Justice. Any law enforcement program receiving funding from the Bureau of Indian Affairs must use the same reporting format and submit the same statistical reports to the Office of Law Enforcement Services as prescribed by the Director and as are required of all Bureau of Indian Affairs law enforcement programs.

*Sec. 12.42 Do Indian country law enforcement programs share information with their own communities or other agencies?*

At intervals established by the Director, each Bureau of Indian Affairs criminal investigations program, and any investigations program-receiving funds from the Bureau of Indian Affairs will consult with local tribal leaders and managers of local patrol and detention programs. They will discuss the quality of the local investigations program and offer feedback and technical assistance. There will be no requirement to disclose confidential investigative information or to compromise on-going investigations during this process.

### ***Subpart F--Conduct***

*Sec. 12.51 Must Indian country law enforcement officers follow a code of conduct?*

All law enforcement programs receiving Bureau of Indian Affairs funding or commissioning must establish a law enforcement code of conduct which establishes specific guidelines for conduct on and off duty, impartiality and professional conduct in the performance of duty, and acceptance of gifts or favors. Each officer must acknowledge receipt and understanding of this code of conduct in writing and it will remain on file with the law enforcement program manager as long as the officer is employed there. Training will be conducted on this code of conduct and other ethics issues at least once each year.

*Sec. 12.52 How do I report misconduct?*

The Director will develop and maintain a reporting system that allows any resident of or visitor to Indian country to report officer misconduct. Each law enforcement program in Indian country will maintain instructions on how to register a complaint. An overview of these steps will be posted for public viewing at each law enforcement facility in Indian country.

*Sec. 12.53 Who investigates officer misconduct?*

The Director, Office of Law Enforcement Services maintains an internal affairs program which investigates all allegations of misconduct by Bureau of Indian Affairs officers, and any officer receiving funding and/or authority from the Bureau of Indian Affairs.

All allegations of misconduct must be thoroughly investigated and appropriate action taken when warranted. Any person having knowledge of officer misconduct must report that information to the officer's supervisor. The supervisor must immediately report allegations to the internal affairs unit.

Depending upon the severity of the allegation, the matter may be dealt with locally or the internal affairs unit will investigate it. Failure of any Bureau of Indian Affairs employee to report known allegations may be considered misconduct in itself. Citizens may report officer misconduct directly to the internal affairs unit if that is more practical.

*Sec. 12.54 What can I do if I believe my civil rights have been violated?*

All allegations of civil rights violations must be reported immediately to the internal affairs unit. That office will insure such allegations are immediately reported to the Civil Rights Division of the U. S. Department of Justice through established procedures. The Bureau of Indian Affairs internal affairs unit may also conduct an investigation into the matter and make recommendations for additional action as necessary.

*Sec. 12.55 Are there any limits on how much force an officer can use when performing law enforcement duties?*

The Director will develop and maintain the use of force policy for all Bureau of Indian Affairs law enforcement personnel, and for programs receiving Bureau of Indian Affairs funding or authority. Training in the use of force, to include non-lethal measures, will be provided annually. All officers will successfully complete a course of instruction in firearms, to

include judgment pistol shooting, approved by the Indian Police Academy prior to carrying a firearm on or off duty.

### ***Subpart G--Support Functions***

#### *Sec. 12.61 Can informants be paid for information that helps solve a crime?*

The Director has the authority to expend money for the purchase of evidence or information, or to offer a reward, in the investigation of a crime. This is subject to the availability of funds. This authority may be delegated in writing to supervisory Special Agents within the Office of Law Enforcement Services in the Bureau of Indian Affairs. The Director must develop policies and procedures for the expenditure, control, and audit of these funds prior to their use.

#### *Sec. 12.62 Who decides what uniform an Indian country law enforcement officer can wear and who pays for it?*

Each local law enforcement program must establish their own uniform requirements for patrol and detention personnel. Uniformed Bureau of Indian Affairs police officers may be paid an annual uniform allowance not to exceed \$400. Local programs may provide uniforms and related equipment to officers in lieu of this payment. All law enforcement officers must also have their official identification on their person at all times when performing law enforcement duties. Uniforms, when worn, will be plainly distinguishable from the uniforms of any non-law enforcement personnel working on the reservation.

#### *Sec. 12.63 Do Indian country law enforcement officers perform other duties as well?*

The Bureau of Indian Affairs will only issue Law enforcement commissions to persons occupying positions as full-time officers. Bureau of Indian Affairs funded or commissioned Special Agents will not be responsible for supervising or managing any patrol, detention, or other uniformed police programs.

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Ada E. Deer, Assistant Secretary--Indian Affairs.

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