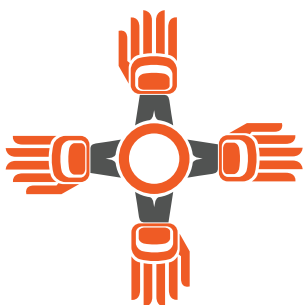




A GUIDEBOOK ON INNOVATIVE AND PROMISING PRACTICES IN INDIAN COUNTRY



TRIBAL ACCESS TO
JUSTICE INNOVATION

ABOUT THIS PUBLICATION

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The Tribal Access to Justice Innovation project was developed in response to the requests and suggestions of tribal justice practitioners, who for years have asked for better ways to learn about innovative and promising approaches to justice that are being used by other tribes around the country. This publication, together with the project's website (tribaljustice.org), offers tribal justice practitioners detailed information about initiatives that might serve as inspiration for their own local innovations. It is our hope that the approaches highlighted through this project will lead to similar initiatives in other communities.

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Tribal Access to Justice Innovation is a project of the Center for Court Innovation's Tribal Justice Exchange. Since its founding in 2008, the Tribal Justice Exchange has worked with dozens of tribal justice systems across the country to address common challenges like substance abuse, domestic violence, and juvenile delinquency. We have offered advice for enhancing tribal justice systems, but we have also learned many lessons about how tribal justice practices can strengthen state and local justice systems. Throughout this work, we have enjoyed the support and encouragement of numerous partner organizations and tribal mentors, without whose guiding hands we would never have gotten off the ground. We extend our thanks to all of the many friends and partners we've made over the years, and we remember fondly those who have passed on.

With your help, we look forward to continuing this important work.





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HOW TO USE THIS GUIDEBOOK ▶▶▶▶▶▶▶▶▶▶

“You’ve done a wonderful job reflecting our program and services.”

– Rebekah Jones, Program Manager for Tribal Victims Services, Prairie Band Potawatomi Nation

Have you ever wondered how other tribes are responding to justice system challenges like substance abuse, juvenile offending, and domestic violence? Are you curious to know if other tribes are implementing programs similar to yours?

The Tribal Access to Justice Innovation project works to provide answers to your questions both in this guidebook and on a new website where tribes can share information about their justice programs with each other. You can find the website at www.tribaljustice.org.

Many tribes are working to address justice-related challenges in ways that are both effective and consistent with their tribe’s culture and traditions. This guidebook attempts to highlight some of the many tribal justice programs that embody this effort.

This guidebook focuses on 10 areas of justice system practice where tribal justice practitioners have responded to community problems using both innovative and traditional strategies. After describing each of the 10 topic areas and providing information about how to implement these strategies, the guidebook offers examples of programs and practices that tribes are currently using. For more detailed information about these programs, and for additional examples of similar work, check out our website at www.tribaljustice.org.

We encourage you to contribute! This is a practitioner-driven project, in which judges, lawyers, treatment providers, law enforcement, and many more have shared their strategies, successes, and challenges. Please add to this catalog of innovative tribal justice programs by visiting www.tribaljustice.org and clicking on the “Share Your Program” tab.

Go beyond the guidebook! Visit our website to connect with practitioners, collaborate on projects, explore effective solutions, and share your program’s story.

PRACTICES




ONE ALTERNATIVES TO INCARCERATION

OVERVIEW

Although incarceration is sometimes necessary to protect community safety, research and experience demonstrate that it is a costly and largely ineffective strategy for changing offenders' behavior. Moreover, incarceration poses special challenges for tribes, many of which do not operate their own jails and must send tribal members to state- or federally-run facilities far away from the tribal community. Those concerned with addressing crime and conflict in culturally-relevant ways point out that confinement is not a traditional form of punishment for most tribes. For all of these reasons, tribes around the country are turning to alternatives to incarceration, such as probation, supervised treatment, community service, cultural education programs, and other approaches that focus on addressing offenders' underlying needs while holding them accountable for the harm they have caused. Sometimes called "community supervision" or "correctional options," alternatives to incarceration are becoming a central component of many tribal justice systems.

TYPES OF PROGRAMS

- 
- A *community court* responds to low-level offending that affects the quality of life of a community by addressing the underlying needs that contribute to criminal offending, working to strengthen the relationship between the court and community, and creating mechanisms that allow defendants to repair the harm caused by their behavior.
 - *Community impact panels* offer community members the chance to express to offenders the impact of their behavior on individual residents, and the community as a whole, in the hope of deterring future offenses.
 - *Community service* that is visible and meaningful provides an opportunity for offenders to repair the harm they've caused and improve the community's trust in the justice system.
 - *Parole* involves monitoring offenders in the community after their release from prison and supporting them in leading law-abiding lives.
 - In *pretrial release*, an offender is released from jail before they've been convicted and is monitored in the community to prevent reoffending and ensure their return to court.
 - *Probation* can be used in place of incarceration to monitor offenders in the community and support them in addressing problems that can lead to reoffending.
 - *Court-mandated treatment programs* may be utilized when a defendant has a substance abuse problem and/or mental health issue that contributes to their criminal offending.
 - *Judicial compliance monitoring* is a feature of many alternative-to-incarceration programs and involves requiring defendants to return to court on a regular basis to review their progress toward completing the court's mandates.

COMMON FEATURES OF ALTERNATIVES TO INCARCERATION

- Individualized assessment of each offender's risks and needs, often using a standardized assessment instrument
- Tailoring services and programs to the offender's identified risks and needs
- Incorporation of cultural and traditional practices that reconnect the offender to the community and to their language and culture
- Monitoring of the offender in the community through probation, parole, and/or court
- Creating mechanisms for offenders to repair the harm they've caused to the victim, their family, and their community

FEATURED PRACTICE

LAC COURTE OREILLES COMMUNITY SERVICE PROGRAM

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians operates the Tribal Court Community Service Program, an alternative-to-incarceration initiative that enables participants to fulfill their obligations to the court by completing community service projects. The program coordinator identifies service opportunities within the community, and works with participants on an individual level to involve them in projects that are tailored to their needs, talents, and interests. The program emphasizes both giving back to the community and the holistic wellness of the participating individuals as aspects of community wellness.





TWO CHILD WELFARE & CRIMES AGAINST CHILDREN

OVERVIEW

Tribes across the country regard children as their most precious resource and consider the impact on future generations when making important community decisions. Just like children in non-Native communities, however, Native children face many threats to their well-being, including poverty, child abuse and neglect, exposure to family and community violence, lack of emotional and financial support from non-custodial parents, and exposure to substance abuse. Many of these difficulties are intergenerational in nature and arise from the profoundly negative impacts of colonization on Native families. But tribal leaders have made significant strides in supporting and protecting children and families through initiatives such as holistic, culturally informed child welfare practice, interagency collaboration, parenting programs, child advocacy centers, child support enforcement programs, and efforts to educate community members and prevent harm to children from occurring in the first place.

TYPES OF PROGRAMS

- *Tribal Child Welfare Systems* are one way for tribes to assume responsibility for the prevention and investigation of child abuse and neglect and to provide culture-based support to children and families.
- *Child Advocacy Centers* co-locate specially trained police officers, prosecutors, child welfare staff, medical personnel, and mental health professionals under one roof to streamline the process of investigating and prosecuting child abuse and minimize the secondary trauma experienced by child victims.
- Some tribes have created *Child Support Enforcement Programs* to provide job training, educational services, and parenting resources to non-custodial parents while monitoring their compliance with child support orders.
- *Family Treatment Courts* combine court-mandated substance abuse treatment with rigorous judicial monitoring and other supportive services in civil child abuse and neglect cases in which parental substance abuse is a contributing factor.
- *Court Appointed Special Advocates* are trained volunteers who advocate for children's best interests in court.
- Tribes have engaged in cross-jurisdiction collaboration to monitor state court compliance with the *Indian Child Welfare Act* and work together on shared cases.
- Culture-based *Parenting & Fatherhood Education Programs* are being used in many communities as prevention tools and as mandates for parents involved with the child welfare or justice systems. ([Read about NICWA Positive Indian Parenting on our website.](#))
- *Child Abuse Prevention Programs* seek to strengthen and support families in order to prevent justice system involvement.




KEY FEATURES OF EFFECTIVE CHILDREN'S JUSTICE INITIATIVES

- Viewing children in the context of their families and communities
- Incorporating a child development approach in program design and service delivery
- Using an interdisciplinary, coordinated approach to investigation and prosecution of child abuse
- Supporting non-custodial parents in reaching their educational and employment goals, and in strengthening their relationships with their children
- Providing a “voice” or advocate for children involved in legal proceedings
- Addressing the full range of a family’s needs in a holistic way
- Using culture and tradition for family engagement, strengthening, and healing

FEATURED PRACTICES

TULALIP CHILD ADVOCACY CENTER



The Legacy of Healing Children’s Advocacy Center coordinates criminal investigation and systems response to child abuse in the Tulalip Tribes. The Center collaborates with tribal, local, state, and federal law enforcement to respond on scene and provide services to child victims, including advocacy and therapy. The Center also coordinates preventive programs in the community to educate tribal members about child abuse and the services available to victims, including culturally relevant opportunities for healing. A multidisciplinary team reviews active child abuse and neglect cases. Furthermore, a case protocol signed in 2009 outlines the roles and responsibilities of the various agencies involved. The Center offers services to any Native child, regardless of tribal enrollment status or residency, who is the victim of suspected sexual abuse or severe physical abuse. The Center provides direct services, including forensic interviews and therapy, to 60-70 child victims each year, and prevention services to nearly 100 children each year.



KLAMATH CHILD SUPPORT ENFORCEMENT

The Klamath Tribes Child Support Enforcement Program provides child support enforcement services to tribal members. Services include locating custodial and non-custodial parents, establishing paternity, obtaining and enforcing child support orders, and providing referrals for family-centered services. The program can serve any family in which at least one parent or caretaker is an enrolled member of the tribe or the child is an enrolled member or eligible for membership. According to staff, the program produced a 19 percent increase in collections from 2012-2013 and a 45-50 percent increase since 2011. The program also seeks to help non-custodial fathers become more involved in their children's lives, referring them to fatherhood programs that can help them learn new ways to spend time with their kids.

“This is a small community with a lot of positive family values.”

- Russ Carr, Former Program Manager



THREE



CORRECTIONS & REENTRY

OVERVIEW

Tribal courts sentence thousands of tribal members to incarceration every year. On any given day, more than 2,000 tribal offenders are being held in Indian Country jails, while many more are being held in state and federal facilities under contract with tribes. In the wake of a highly publicized 2004 report highlighting serious concerns about conditions in tribal jails, many tribes have worked to improve conditions and develop jail-based programs to help offenders address substance abuse problems, mental illness, and other challenges. In addition, tribes are placing new emphasis on reentry, developing programs to help incarcerated offenders prepare for release and help newly released offenders make successful transitions back to life in the community.

TYPES OF PROGRAMS

- *Religious supports for inmates* put elders and religious advisers into jails and prisons to provide religious and cultural supports for inmates and maintain their connection to the community.
- *Inmate education programs*, including literacy and GED classes, offer prosocial activities for inmates and allow them to gain the skills they need to have educational and career success upon their release.
- Given the high prevalence of mental illness among inmates, *mental health screening and treatment* of in-custody offenders allows for the identification of such illnesses and provision of needed treatment.
- *Reentry/reintegration programs* offer holistic, wraparound case management services prior to and after release from prison, to support individuals in being healthy, contributing members of the community.
- *Reentry courts* combine comprehensive reentry programming with regular compliance monitoring by a specially trained judge and probation/parole officers.
- *Supportive housing* allows for community members who have been recently released from jail or prison to re-establish stable lives for themselves and their families.
- Some tribes have designed and operate their own *correctional facilities* that keep the community safe while incorporating the community's cultural values and practices and focusing on offender rehabilitation and wellness. (Watch the Rosebud Sioux Juvenile Detention video on our website: tribaljustice.org)

PROMISING PRACTICES IN TRIBAL CORRECTIONS AND REENTRY

- Correctional facilities should be thoughtfully planned to meet the mental, emotional, physical, and spiritual needs of inmates
- The least intensive supervisory environment should be used whenever possible
- Inmates should be offered meaningful opportunities for work, education, and service to the community
- Planning for reentry should begin as soon as a person is incarcerated and should include assessment of each offender's risks and needs and development of an individualized service plan
- Peer mentoring and support can help former offenders make life changes and build the relationships necessary to lead law-abiding, productive lives in the community

FEATURED PRACTICES

MUSCOGEE (CREEK) NATION REINTEGRATION PROGRAM

The Muscogee (Creek) Nation Reintegration Program seeks to improve public safety by removing barriers to successful community reintegration for Muscogee (Creek) Nation citizens. The program provides intensive case management and reentry services to tribal members who have been incarcerated. When clients are released from custody, the program provides financial assistance for basic needs such as housing, clothing, and groceries, and offers long-term support through educational, vocational, and legal services.



“Traditionally in our culture, once you paid your debt to society, we brought you back in, we restored you back into the tribe. And that’s the philosophy we’re trying to instill in our citizens.”

- Tony Fish, Program Manager



PORT GAMBLE S'KLALLAM TRIBAL RE-ENTRY PROGRAM

The Port Gamble S'Klallam Re-Entry Program helps tribal members with criminal records overcome barriers to employment. Program staff begin by connecting clients to essential services. Clients who complete the initial program requirements are then eligible to receive paid job training with a local employer. The program continues to track clients for three to six months following placement to assist with sustained employment. As a testament to its success, the program has been able to engage in job development with both tribal and non-tribal businesses, and several have agreed to make permanent hires. Furthermore, the program helped to facilitate important changes in hiring practices for positions within tribal departments. During the planning of the reentry program, a tribal government policy disqualified potential job applicants if they had criminal records. Working closely with the Tribal Human Resources Department, the program was able to secure an exception for program participants.



FOUR CROSS-JURISDICTIONAL COLLABORATION

OVERVIEW

Tribes across the country are working hard to address many of the same challenges, including substance abuse, domestic violence, and juvenile delinquency. To strengthen their efforts, some tribes are reaching out to partner with neighboring tribes. For example, intertribal courts enable a regional group of tribes to build a shared court system that spreads costs while serving all of the tribes. In the Pacific Northwest, a number of tribes work together to hold an annual canoe journey. In Alaska, Native villages are working together to develop a collaborative approach to prisoner reentry. And these efforts are not limited to intertribal partnerships. In recent years, some tribal and state justice systems have begun the slow and difficult process of healing deep wounds and working together to face common challenges. State-tribal court forums have been created in nearly a dozen states, providing leaders from both systems the opportunity to address critical issues like compliance with the Indian Child Welfare Act and the recognition of each other's court judgments. Tribal and state law enforcement officers are cross-deputized to better protect both communities. State and tribal courts refer criminal cases back and forth under a variety of creative jurisdiction-sharing agreements meant to ensure that cases are heard in the most appropriate setting. Although much work remains, these efforts at collaboration are producing meaningful results that may encourage more intertribal and tribal-state partnerships.

TYPES OF PROGRAMS & PRACTICES

- *Intertribal courts* allow multiple tribes to combine their resources into one shared justice system that meets the needs of each tribe.
- *State-tribal court forums* provide an opportunity for representatives from state and tribal justice systems to learn from each other, identify jurisdictional challenges, and develop mutually beneficial solutions.
- *Cross-deputization agreements* formalize shared authority and collaboration between tribal and state law enforcement.
- *Joint-jurisdiction courts* allow a tribal court judge and state court judge to preside together over state court cases involving tribal members.
- *Information sharing agreements* delineate how and when tribal and state justice systems will share information about cases that involve both systems, such as ICWA matters. [\(Check out the profile on ICWA E-Notice available on our site.\)](#)



FEATURED PRACTICES

CHEROKEE ICWA E-NOTICE

The National Center for State Courts is currently developing a notification system, known as ICWA e-Notice, that allows states and tribes to communicate electronically regarding Indian Child Welfare Act cases while still complying with federal notification regulations. The Cherokee Nation is testing the new electronic notification system through a pilot project in collaboration with Los Angeles County. Faster than postal mail, e-Notice is anticipated to improve case outcomes for Indian children and families by decreasing the time it takes to confirm a child's membership status and deliver key services and legal protections to the family. Though the Cherokee Nation is the first tribe to implement the electronic notification system, the National Center's long-term project goal is to implement ICWA e-Notice nationwide.



NEW YORK STATE TRIBAL COURT COMITY RULE

The New York Federal-State-Tribal Courts and Indian Nations Justice Forum meets biannually in Syracuse, New York, to foster mutual understanding between tribal, state, and federal justice systems; collaborate on legislative and jurisdictional issues; and develop training opportunities and resources. One key issue that the forum has worked to address is the failure of state courts and agencies to recognize and enforce tribal court rulings. Beginning in 2014, the forum drafted a rule requiring state courts to accord comity to final judgments, orders, and decrees issued by a court of any tribal nation recognized by the United States or New York State governments. The rule drafted by the forum clarifies existing law and is modeled after a pilot comity protocol established in 2008 between the Oneida Nation and the Fifth Judicial District of New York State. The new, statewide comity rule was approved by the Administrative Board of the Courts of the New York State Unified Court System and signed into law in June 2015. (See 22 NYCRR 202.71)

Working together, members of the Nations and representatives of the state court system have succeeded in establishing New York's courts as national leaders in according respect and recognition to the judgments, orders and decrees of tribal courts."

- Honorable Marcy Kahn



FIVE



DOMESTIC VIOLENCE & SEXUAL ASSAULT

OVERVIEW

Native women experience violence and abuse at higher rates than any other ethnic or racial group in the United States. These alarming rates of violence have motivated tribal communities to take steps to protect Native women and hold offenders accountable. There are numerous barriers to meeting these goals—including jurisdictional concerns, resource limitations, and the silence and stigma that often surround these painful issues—but tribes have developed innovative ways to respond. Recent initiatives include culturally informed victim advocacy programs, community education and prevention efforts, specialized courts and law enforcement units, improved collaboration with state and federal officials, and mobile forensic response teams. Tribes have also established new ways of intervening with offenders and helping them change their behavior, such as specialized probation, registration, monitoring, batterers programs, and cultural healing processes.

TYPES OF PROGRAMS

- *Culturally informed victim services* provide a physically, emotionally, and spiritually safe space and holistic supports for Native victims of crime. ([Learn about one tribe's approach by reading the Puyallup Victim Services profile.](#))
- *Forensic examination teams* are composed of specially trained medical personnel and/or volunteers who collect evidence from victims of sexual assault and provide them with crisis support.
- *Culturally informed batterers intervention programs* utilize the traditional values of Native societies around gender and family to re-educate men about how to have respectful, healthy relationships with women. ([Watch a video on the Oneida Men's Re-Education Program.](#))
- *Specialized units in tribal police agencies, prosecutors' offices, and probation* allow for in-depth training on justice system response to domestic violence and sexual assault.
- *Coordinated Community Response teams* consist of representatives from each agency involved in addressing domestic violence, who work together to ensure that the system is supporting victim safety and holding offenders accountable. ([Check out the Oneida CCR.](#))
- *Screening by medical and mental health service providers* can lead to earlier identification and support of community members who are experiencing violence or abuse.
- *Domestic Violence Courts* are specialized dockets that work with stakeholder agencies to improve case processing, protect victims, and hold offenders accountable. ([Read the Center for Court Innovation's recent publication on DV Courts](#))
- Some tribes have assumed responsibility for *sex offender registration and management* involving offenders who are tribal members, consistent with federal laws.

- Through *community outreach, education, and prevention efforts*, tribes attempt to combat the stigma associated with victimization, publicize available supports for crime victims, and change community norms around violence and abuse.
- Implementation of *Special Criminal Jurisdiction under the Violence Against Women Act of 2013* allows a tribe to prosecute non-Native domestic violence offenders, as long as specific due process protections are in place.
- *Collaborative investigation and prosecution with state and federal authorities* enables a tribe to facilitate and support state and federal efforts to hold perpetrators of violence against tribal members accountable, perhaps with stiffer sentences than are available in tribal court.

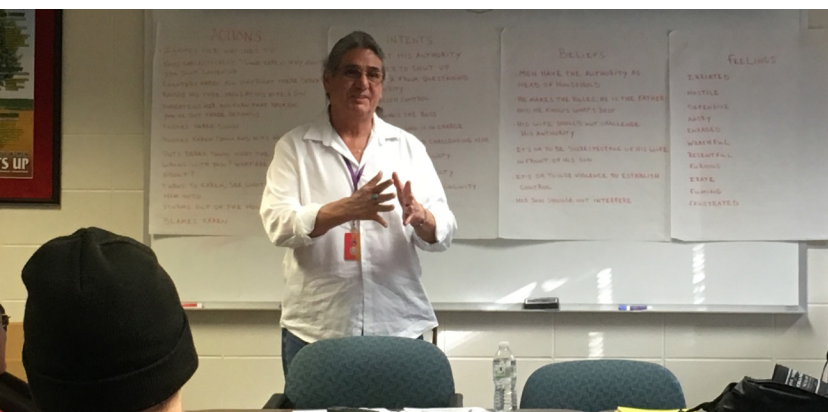
CONSIDERATIONS FOR TRIBAL JUSTICE RESPONSE

- Creation of collaborative, multidisciplinary, inter-jurisdictional coordinated responses
- Specialized, ongoing training for tribal justice practitioners
- Use of culture and tradition for healing victims, families, offenders, and the community
- Role of historical trauma and need for community education and prevention efforts

FEATURED PRACTICES

ONEIDA MEN'S RE-EDUCATION PROGRAM

The Men's Re-Education Program is a 25-week domestic abuse intervention program. The program is educational rather than therapeutic in approach, and uses a Native-specific curriculum to help offenders understand the complex cultural, social, and historical dimensions of violence against Native women. The program also addresses the use of power and control in relationships. Participants are mandated to the program by the tribal court, probation, and the state's Department of Corrections, or may be referred by partnering agencies. Participants attend weekly two-hour sessions and are held accountable for their offending and compliance with court conditions by a multi-agency Coordinated Community Response team.



“My program is not meant to shame offenders but to help them understand that violence is not part of being a Native man.”

- Gene Red Hail, Coordinator

PRAIRIE BAND POTAWATOMI NATION TRIBAL VICTIM SERVICES PROGRAM

The Tribal Victim Services Program addresses issues of abuse and violence within the Prairie Band Potawatomi Nation. Program staff advocate for victims and organize specific projects and services to address sexual assault, domestic violence, and elder abuse, including educational presentations, adult and youth group sessions, a batterers intervention program, and art therapy classes. In addition, the tribe has implemented the Sexual Assault Forensic Examination, Support, Training, Access and Resources model, also known as SAFESTAR. The Tribal Victim Services program has won several awards for its various projects.

“We’ve taken a non-conventional approach to outreach. We seek to build relationships everywhere – anyone and everyone.”

- Rebekah Jones, Former Tribal Victim Services Program Director



OVERVIEW

Tribal juvenile justice systems, like many state systems, have seen a significant shift in recent years away from punitive policies that rely heavily on detention and toward community-based interventions that seek to give young offenders the support they need to avoid future justice system involvement. Youth play a special role in many tribal communities, and young tribal members face a unique set of challenges. Native youth experience high rates of substance abuse, mental health disorders, suicide, poverty, and exposure to violence, often the result of historical and intergenerational trauma. Recognizing the need to address these challenges, tribes are connecting justice-involved youth with treatment, counseling, healthy social activities, family supports, cultural programming, mentoring, and other critical services. These programs seek to protect youth from a future of crime and incarceration and build a new generation of tribal leaders.

TYPES OF PROGRAMS

- *Cultural programs* offer youth the opportunity to connect (or reconnect) with their community's culture and traditions, in order to feel a sense of belonging, balance, and well-being. Examples include beading, drumming, canoe trips, dancing, equine therapy, language revitalization, sweat lodge, wilderness trips, and many more. ([Tribal Access to Justice Innovation produced a video on the Puyallup GREAT Summer Camp for tribal youth.](#))
- *Gang prevention programs* aim to teach youth specific skills for resisting involvement in gangs and other criminal activity.
- *Juvenile courts* prioritize rehabilitation and healthy adolescent development, while youth courts allow specially trained teens to process criminal cases involving their peers.
- *Juvenile Healing to Wellness Courts* offer a specialized court response to adolescent substance abuse.
- *Police-sponsored events*, such as basketball tournaments and police-youth dialogues, provide opportunities for development of mutually respectful, trusting relationships between law enforcement and teens.
- *Truancy prevention* and intervention programs attempt to address barriers to children's school attendance and prevent future justice system involvement due to truancy and educational neglect. ([Learn more by reading about the LCO Truancy Prevention Project.](#))



WAYS TO PROMOTE RESILIENCE IN JUSTICE-INVOLVED YOUTH

- Create a sense of safety at home, at school, in the community, at court, and in program services.
- Support strong parent-teen relationships, and engage parents in the court process and in services for their children.
- Create a diverse support network for youth that includes extended family, elders, mentors, and other trusted, supportive adults.
- Incorporate tribal culture, history, and values into the justice process and programmatic interventions.
- Connect youth with educational and employment opportunities and extracurricular activities.
- Minimize use of incarceration, keep youth in the community, and utilize the least restrictive interventions possible.

FEATURED PRACTICES

PUYALLUP GREAT (GANG RESISTANCE EDUCATION AND TRAINING) PROGRAM

After an outbreak of gang-related youth violence, the Puyallup Tribe of Indians implemented the GREAT Program as a school-based intervention for gang-involved youth, with the goals of creating a safer school climate and providing pro-social gang-prevention activities to community youth. The program has since expanded and includes four components: 1) in-school gang-prevention sessions with middle school students; 2) an after-school leadership program for high school students; 3) a summer camp staffed and attended by Puyallup youth; and 4) weekend and spring break camps.



PASCUA YAQUI ATTENDANCE ACHIEVEMENT PROGRAM

The Pascua Yaqui Tribe's Attendance Achievement Program is a court diversion program that strives to improve school attendance rates and reduce truancy among Pascua Yaqui students. The program is administered by the tribal prosecutor's office, tribal education department, and tribal court in collaboration with the Tucson Unified School District and a number of tribal service providers. Program staff work with each participating family to identify the underlying causes of truancy, develop an individualized plan to address their child's unique needs, and engage parents in comprehensive support services.

"Family engagement has been a key to program success."

- Johanna Farmer, Program Coordinator



SEVEN

SPECIALIZED COURTS

OVERVIEW

During the past 25 years, specialized courts—such as drug treatment courts, mental health courts, and community courts—have spread throughout state court systems and have successfully reduced reoffending by combining accountability with help. These courts link offenders with treatment and other services needed to address the underlying problems that bring them to court, while also using enhanced court monitoring to hold offenders accountable and protect public safety. More recently, tribal justice systems have begun experimenting with specialized courts of their own. Healing to Wellness Courts (tribal adaptations of the drug court model) are becoming increasingly common in Indian Country, and some tribes are launching community courts to address persistent low-level offending like vandalism, theft, disorderly conduct, assault, and other common crimes.

TYPES OF PROGRAMS

- *Healing to Wellness Courts* allow defendants to participate in mandated substance abuse treatment and other services, including cultural supports, while being supervised by the court and supported by a multidisciplinary team. (Check out our [St. Regis HTWC profile](#), our [HTWC podcast](#), and the [Policies and Procedures Guide by Tribal Law and Policy Institute](#) - all available on tribaljustice.org.)
- *Veterans courts* address the unique needs of defendants who are combat veterans, including related to chronic trauma and difficulty transitioning from military to civilian life.
- *Community courts* respond to low-level offending that affects the quality of life of a community by addressing the underlying needs that contribute to criminal offending, working to strengthen the relationship between the court and community, and creating mechanisms that allow defendants to repair the harm caused by their behavior.
- *Mental health courts* provide specialized treatment and court monitoring for defendants whose criminal activity may have been influenced by an underlying mental health issue.
- *Domestic Violence Courts* are specialized dockets that work with stakeholder agencies to improve case processing, protect victims, and hold offenders accountable.
- *Sex offense courts* involve coordinated management and monitoring of sex offenders in the community, as well as supports for victims of sex crimes.

IMPORTANT COMPONENTS OF SPECIALIZED COURT MODELS

- Designated, specially trained staff from the court and partner agencies
- Regularly convening a multidisciplinary team to review cases and help the court make decisions
- Efficient case identification and processing
- Individualized assessment of defendants' levels of risk, strengths, and needs
- Connection of litigants to treatment and other needed supports and services
- Monitoring of defendants' compliance with treatment and court mandates
- Graduated sanctions and rewards
- Use of data to design the project and strengthen it over time
- Procedural justice and respect for litigants

FEATURED PRACTICES

NAVAJO NATION: ANETH COMMUNITY COURT

The Navajo Nation opened the Aneth Community Court in 2012 after an extensive planning process and significant input from community members. During the court's planning, Navajo Nation officials traveled to Brooklyn, New York to observe the Red Hook Community Justice Center, one of the country's first community courts. From this visit, Navajo Nation Chief Justice Herb Yazzie concluded that the community court model offers tribes a way to blend the adversarial court system with more traditional, culturally relevant approaches to justice. Today, the Aneth Community Court links offenders with holistic services, requires offenders to pay back the community through meaningful community service projects, and gives the community a voice in how justice is handled in the Aneth Judicial District. This approach enables the court to address the root causes of criminal behavior and ensure that the court is responding effectively to the community's needs. As the first community court in Indian Country, the Aneth Community Court is a model for other tribes seeking an alternative to the Western adversarial court system.



LEECH LAKE BAND OF OJIBWE-CASS COUNTY & LEECH LAKE BAND OF OJIBWE-ITASCA COUNTY JOINT JURISDICTION HEALING TO WELLNESS COURTS

In 2006, the Leech Lake Band of Ojibwe, in partnership with neighboring Cass County, created a joint jurisdiction Healing to Wellness Court, followed shortly thereafter by a second Wellness Court with Itasca County. These courts were the first of their kind in the nation. Although the state court retains criminal jurisdiction over cases, a tribal court judge and a state court judge share the bench and hear all cases together. This unique collaboration was initiated when a state court judge approached the tribe with his concern that a large number of repeat DWI offenders in his court were tribal members and that the state court system was not adequately addressing their needs. Over time, the tribal and state courts worked to overcome their long-standing mistrust and build a mutually respectful and beneficial relationship. Tribal and state court personnel attended drug court training together, as a team, and have since held Wellness Court every week. The tribal and state flags are installed in each courtroom, and the judges collaboratively lead compliance hearings for Native and non-Native defendants alike. In the Cass County model, hearings are held simultaneously in the tribal and state courtrooms, which are connected through closed circuit television, allowing both judges to communicate with defendants and team members in real time.

“We had a common goal and that’s what made it possible to move past historically bad relationships and begin our partnership.” - Honorable Korey Wahwassuck



EIGHT



SUBSTANCE ABUSE

OVERVIEW

Substance abuse, including the abuse of alcohol, remains one of the most pressing challenges in many tribal communities. Addiction destroys lives, tears apart families, and impacts future generations through childhood trauma, fetal alcohol syndrome, and other lasting effects. In response to this ongoing crisis, tribes across the country are experimenting with a wide array of prevention, intervention, and treatment strategies. Healing to Wellness Courts use judicial monitoring and coordinated treatment to break the cycle of addiction. Youth prevention programs offer young people positive, pro-social activities as an alternative to drugs. And cultural programs teach ceremonies, language, and other traditions to empower tribal members to stay away from destructive influences.

TYPES OF PROGRAMS

- *Healing to Wellness Courts* allow defendants to participate in mandated substance abuse treatment and other services, including cultural supports, while being supervised by the court and supported by a multidisciplinary team.
- *Family Treatment Courts* combine court-mandated substance abuse treatment with rigorous judicial monitoring and other supportive services in civil child abuse and neglect cases in which parental substance abuse is a contributing factor.
- *Substance abuse prevention programs* aim to teach skills to resist use of alcohol and drugs, strengthen individuals and families, and combat community-level contributors to substance abuse.
- *Tribally run substance abuse treatment services* allow community members to remain close to their support networks while in treatment, and are able to incorporate cultural practices and traditions in the service of healing.



KEY FEATURES OF EFFECTIVE SUBSTANCE ABUSE INITIATIVES

- Designing programs and services to meet the unique needs of individuals and the community
- Incorporating culture and traditional practices in program design and services
- Maintaining fidelity to the 10 Key Components of Healing to Wellness Courts while tailoring the components to the geographic, demographic, jurisdictional, and cultural context
- Engaging the community in the healing process
- Utilizing a collaborative, multidisciplinary, coordinated approach in treatment
- Specialized ongoing training and professional development for practitioners

FEATURED PRACTICES

SAINT REGIS MOHAWK HEALING TO WELLNESS COURT

The Saint Regis Mohawk Tribe's Healing to Wellness Court provides offenders an opportunity to access tribally run alcohol and substance abuse treatment services while under tribal court supervision. Based on the 10 Key Components of Healing to Wellness Courts, this program uses a four-phase treatment process, along with community supervision, regular review hearings, and graduated incentives and sanctions to promote compliance. The court collaborates with non-tribal agencies including the assistant U.S. Attorney's Office, state courts, city courts, and federal and state probation offices. Treatment and support services for clients are provided by tribal agencies. Upon completion of the Healing to Wellness Court Program, charges may be reduced or dismissed.



URBAN NATIVE AMERICAN DRUG COURT

The Urban Native American Drug Court is an intertribal drug court serving Native Americans convicted of two or more DWI offenses in Bernalillo County Metropolitan Court in Albuquerque, New Mexico. The goals of the UNADC are to prevent DWI incidents, reduce the number of victims of these crimes, and improve community safety, while changing the lives of each participant through healing and treatment. The court favors a healing approach focused on spiritual and physical recovery rather than punitive practices, and encourages participants to reconnect with their tribal traditions and ceremonies. To be eligible, participants must be Native American, charged with two or three DWIs, and employed or enrolled in an educational program. The process lasts between 9 and 18 months and consists of four phases. Program components include Native American-centered therapy sessions, meditation, talking circles, regular court appearances, victim impact panels, community service (or full-time work or schooling), Alcoholics Anonymous or similar meetings, random drug and alcohol screening, and frequent reporting to the probation officer.

NINE TRADITIONAL PRACTICES

OVERVIEW

Before European contact, indigenous peoples used a diverse range of traditional approaches for resolving disputes and addressing conflict. These practices reflected the unique culture, customs, and traditions of each tribe and were instrumental in maintaining the health and stability of tribal communities. Some tribes have continued using traditional justice practices uninterrupted, but many tribes were forced by the federal government to adopt an adversarial justice system during the 19th and 20th centuries. Today, many of these tribes are seeking to return to traditional justice practices as a way of reasserting their sovereignty and strengthening their communities.

Traditional practices often draw on the wisdom of elders, who can connect tribal members with the culture and traditions of the past. Elder panels, for example, bring together respected elders and vest them with the authority to resolve disputes or impose appropriate sanctions for harmful behavior. Peacemaking programs rely on elders and other respected community members to sit with parties to a dispute and help them find a resolution that is focused on healing and restoration. Traditional practices can include any number of cultural traditions, including sweat lodges, drum circles, canoe journeys, ceremonies, and many others.

HOW TRIBAL JUSTICE SYSTEMS INCORPORATE TRADITIONAL PRACTICES



- Offering youth classes in language, beading, weaving, paddle making, or drum making as part of intervention services or prevention programming
- Ensuring that youth in the child welfare system have access to important community events and ceremonies
- Asking assessment questions about litigants' connection to their culture and community and any cultural needs
- Incorporating ceremonies, referral to a cultural adviser, or other cultural practices into treatment plans
- Inviting elders and cultural leaders to participate in advisory boards
- Connecting youth with elders and cultural leaders for mentoring and community service projects
- Inviting elders to provide input on code revisions
- Smudging and blessing court houses
- Building courthouses in ways that have cultural significance, such as utilizing sacred materials or constructing the building in a circle or other traditional design

- Creating culture-based healing circles for victims of crime
- Referring litigants to treatment providers that offer culturally informed care, such as equine therapy or White Bison support groups
- Peacemaking ([Listen to our podcast on Navajo Peacemaking.](#))
- Convening sentencing circles composed of elders and cultural leaders to hold offenders accountable in culturally-specific ways and support them in their healing process.

FEATURED PRACTICES

TULALIP ELDERS PANEL

The Tulalip Tribes Elders Panel is a diversion program for defendants in the Tulalip Tribal Court. The Elders Panel draws on the wisdom and experience of its elders to help defendants learn what it means to be an honorable member of the Tulalip Tribes. The Elders Panel is run by a committed team of volunteer elders who meet with defendants on a bi-weekly basis. The Elders Panel takes approximately two cases per month. Over the past eight years, they have served between 150-200 participants. The Elders Panel has had over 80 percent success with its defendants, whose cases are then dismissed by the Tulalip Tribal Court.

“This is the kind of thing that more tribes should be doing instead of modeling their programs after the Western court system. It’s more in keeping with the culture and tradition of the tribes.”

- Honorable Gary Bass



KAKE CIRCLE PEACEMAKING

The Kake Circle Peacemaking Program incorporates Tlingit culture into the justice system in the Organized Village of Kake, Alaska. Using a traditional circle peacemaking approach, the program seeks to address the underlying issues that lead to crime and conflict. Circle peacemaking focuses on healing relationships and preventing further disputes. The Circle Peacemaking Program focuses primarily on cases involving youth, but has expanded to handle adult cases as well. By reintroducing peacemaking in Kake, the program has led to a renewed appreciation for Tlingit culture in the community. During its first four years of operation, 78 of the 80 youth referred to the Circle Peacemaking Program completed the program and complied with their circle-imposed sentence—a 97 percent success rate. Further, all of the 24 young people assigned to peacemaking for underage drinking successfully completed the program and complied with the terms of their sentences.

“The benefits don’t show up overnight but, on the other hand, there will be generations and generations of children yet to come who might not be affected by the same problems.”

- Mike Jackson, Keeper of the Circle



TEN TRIBAL CONSTITUTIONS & CODES

OVERVIEW

During the late 19th and early 20th centuries, tribes began to adopt written constitutions and codes of law under pressure from federal authorities. These constitutions and codes were often based on boilerplate templates pressed onto the tribes by the federal government, particularly those adopted pursuant to the Indian Reorganization Act of 1934. These outdated and culturally inappropriate constitutions and codes remain in force in many tribes, often making it difficult for tribes to make desired changes to their governing structure and their systems of justice. In recent years, however, some tribes have begun the arduous task of rewriting their constitutions and codes to better reflect their unique histories, traditions, and needs. This movement has accelerated in the wake of recent federal legislation, like the Tribal Law and Order Act of 2010 and the Violence Against Women Act of 2013, both of which authorize the expansion of tribal court authority if certain constitutional and procedural requirements are met.

TYPES OF PRACTICES

- Many tribes are revising and updating their constitutions to better reflect their current needs, as well as their unique histories, traditions, and languages.
- Similarly, some tribes have undertaken significant revisions of their tribal codes. These include procedural changes that authorize more alternatives to incarceration, substantive changes in law that strengthen tribal child welfare systems or create tribal foster care programs, and changes designed to implement federal laws like the Tribal Law and Order Act or Violence Against Women Act.

RESOURCES ON CONSTITUTION/CODE WRITING & REVISION

- VAWA/TLOA jurisdictional implementation:
<http://www.tribal-institute.org/lists/TLOA-VAWA-Guide.htm#Chapter8>
- Guide for Drafting or Revising Tribal Juvenile Delinquency and Status Offense Laws by the Tribal Law and Policy Institute, June 2015
<http://www.tribal-institute.org/lists/JJWorkbook.html>
- A Victim-Centered Approach to Crimes Against American Indian & Alaska Native Children: RESOURCE GUIDE AND WORKBOOK FOR DRAFTING NEW OR AMENDED TRIBAL LAWS ON CRIMES AGAINST CHILDREN by the Tribal Law and Policy Institute, August 2008 http://www.tribal-institute.org/download/CCC_February_2009.pdf
- Tribal Legal Code Resource: Domestic Violence Laws Guide for Drafting or Revising Victim-Centered Tribal Laws Against Domestic Violence, a product of the Tribal Law and Policy Institute, Revised and Updated February 2015 http://www.tribal-institute.org/download/Amended%2520Domestic_Violence_Code_Resource_2015.pdf

FEATURED PRACTICES

PASCUA YAQUI TRIBE VAWA SPECIAL JURISDICTION CODE REVISIONS

The Pascua Yaqui Tribe was one of the first three tribes selected by the U.S. Department of Justice to pilot enhanced criminal court jurisdiction pursuant to the Violence Against Women Reauthorization Act of 2013. This law vested tribes with the authority, subject to certain conditions, to arrest and prosecute non-Indians who commit domestic violence crimes within their territory. As part of the pilot project, the Pascua Yaqui Tribe formed an advisory board that worked with state and federal agencies, as well as with an intertribal working group, to prepare for implementation of the law. These preparations included substantive revisions to the tribe's criminal code and court rules that: strengthened procedural safeguards to ensure defendants' due process rights; expanded the tribe's jurisdiction to allow for prosecution of non-Indians; and provided means to ensure that a cross-section of the community, including non-Natives, would be represented in the jury pool. With these amendments in place, the tribe was able to begin exercising Special Domestic Violence Criminal Jurisdiction in February 2014, and prosecuted the country's first domestic violence case against a non-Native offender under VAWA. With the law fully implemented, the Pascua Yaqui Tribe now has the ability to protect women, children, and families within its reservation from non-Indian domestic violence offenders.

ONGLALA SIOUX CHILD AND FAMILY CODE

The Oglala Sioux Tribe Youth and Family Code instituted a unique approach to the tribe's child welfare system and family court model that is based upon the traditional customs of the tribe. Developing the code was a multi-year process that began in the late 1990s with the formation of a grassroots team of multidisciplinary justice system practitioners, child welfare system practitioners, and community members. This team, known as the Oglala Oyate Iwicakiyapi Oko-lakiciye, was formed to address issues affecting the tribe's child welfare system. The group formed a subcommittee to focus on rewriting the tribe's child advocacy laws in order to strengthen the tribe's involvement with child welfare matters. The subcommittee conducted an extensive needs assessment process, spanning the course of several years, to gather input from the community, elders, and cultural leaders about the tribe's traditions and customs regarding children and families. Through intensive community engagement, the subcommittee and multi-disciplinary team worked to ensure that traditional customs regarding children and families would be expressed within the provisions of the code. In 2007, the revised code was passed with the unanimous support of the Oglala Sioux Tribal Council. The code acknowledged the inherent rights of children, tiwahe (immediate families), and tiospaye (extended families), and created opportunities for cultural engagement and healing for families.

“With the collaboration of our federal partners and our fellow tribes across Indian Country, we seek to attack all barriers head on in an effort to expand our jurisdictional reach and to demonstrate that we not only have the capacity but the ability to administer justice fairly.” - OJ Flores, Chief Prosecutor, Pascua Yaqui Tribe



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